

## **Validity of Sale and Purchase Binding Agreement in Pre-Project Selling Transaction**

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### **Abstract**

This research aims to analyze the legal aspects of the PPJB, identify factors that affect its validity, and evaluate the legal protection provided to consumers. In recent years, there have been increasing cases of consumers being harmed when buying property on a pre-project selling basis because the PPJB often disregards consumer rights according to applicable laws, thus favoring developers. This research is important to contribute to the development of regulations that are more comprehensive and provide legal certainty for all parties involved in pre-project selling property transactions. This topic has not been comprehensively addressed in previous studies. The research method used in this study is normative legal research with a statutory approach, and the data collection technique employed is a literature study. The results of this research indicate that developers must fulfill all existing requirements before selling property through pre-project selling, which should be formalized in a PPJB executed before a notary or in an informal PPJB. The PPJB is binding, and the parties must comply with its contents. Developers are obligated to compensate consumers if their actions have caused harm.

**Keywords:** Agreement; Pre Project Selling; Sale and Purchase

### **1. INTRODUCTION**

Basic human needs consist of primary, secondary, and tertiary needs. The most important human needs are clothing, food, and shelter. Given this essential requirement, individuals need a place to live to protect themselves and their families. As a result, there is intense competition to acquire desired homes due to the increasing population and limited available land.<sup>1</sup>

As these needs grow, the property industry in Indonesia is expanding. Consequently, many developers are employing various strategies to attract consumers. One common strategy is marketing properties through pre-project selling. Pre-project selling involves advertising properties before they are ready, based only on their concept or design.<sup>2</sup> This means that consumers purchase properties that are still under construction.

This method allows developers to secure the initial capital needed to complete a project while providing consumers with the opportunity to purchase properties at a relatively lower price compared to completed properties.

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<sup>1</sup> Nandy, “Pengertian Kebutuhan Primer, Sekunder, Dan Tersier Disertai Contohnya,” Gramedia Blog, n.d., <https://www.gramedia.com/literasi/kebutuhan-primer-sekunder-dan-tersier/>.

<sup>2</sup> Jhon Haward Hutagaol and Anna Maria Tri Anggraini, “Perlindungan Konsumen Perumahan Dalam Jual Beli Rumah Dengan Sistem Pre Project Selling,” *Reformasi Hukum Trisakti* 4, no. 2 (April 22, 2022): 363–74, <https://doi.org/10.25105/refor.v4i2.13611>.

The object in pre-project selling is a property that is still under construction, which means it is not yet built. Therefore, pre-project selling does not align with the Basic Agrarian Law (UUPA).<sup>3</sup>

Pre-project selling is based on several legal frameworks, including the Civil Code, Law No. 1 Year 2011 on Housing and Settlement Areas, Law No. 20 Year 2011 on Flats, Law No. 8 Year 1999 on Consumer Protection, and Government Regulation (PP) Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas.<sup>4</sup> The Housing and Settlement Area Law and the Flat Law, which generally regulate property development and property sales either vertically or horizontally, are often used as references in pre project selling. Law 1/2011, Article 42 Paragraph (1) uses a Preliminary Agreement, while Law 20/2011, Article 42 Paragraph (3) employs a conditional Agreement for pre-project selling.<sup>5</sup>

However, these legal rules lack explicit regulations for pre-project selling, making it difficult to provide clear guidance. Thus, utilizing Article 1339 of the Civil Code and the principle of freedom of contract is necessary to establish a standard Sale and Purchase Binding Agreement (PPJB).<sup>6</sup> In the practice of pre project selling, PPJB is the main legal instrument that binds both parties, namely developers and consumers. PPJB regulates the rights and obligations of each party and provides guarantees to consumers for the ownership of the property purchased.

However, using PPJB in pre-project selling transactions often causes legal problems. An example of the legal issues that occurred can be seen in the Meikarta case, a project promoted by PT Mahkota Sentosa Utama (a subsidiary of Lippo Group). In this case, the PPJB has been signed by many consumers, but various problems have caused legal uncertainty and losses for consumers.

First, there is the issue of the legal certainty of the property being sold. When development permits are not fully complied with, this raises doubts about the validity of the agreements made. Second, the risk of delay or failure of project completion puts consumers in a vulnerable position, especially if the developer is unable to fulfill its promises. Thirdly, consumer protection in these transactions is

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<sup>3</sup> Subekti and Veronika Nugraheni, *Perlindungan Hukum Bagi Konsumen Rumah Tapak Dalam Kontrak Jual Beli Berdasarkan Perjanjian Pengikatan Jual Beli* (Surabaya: Jakad Media Publishing, 2020).

<sup>4</sup> Meliana, Joni Emirzon, and Firman Muntaqo, "Perlindungan Hukum Developer Dan Konsumen Rumah Susun Dalam Perjanjian Dengan Sistem Pre Project Selling Di Indonesia," *Lex Lata* 3, no. 1 (2022): 87–103, <https://doi.org/10.28946/lexl.v3i1.918>.

<sup>5</sup> Noor Rahmad and Deni Setiyawan, "Pertanggungjawaban Dalam Penipuan Bisnis Property Melalui Pemasaran Pre Project Selling Kepada Konsumen," *Justisi* 8, no. 3 (2022): 198–208, <https://doi.org/https://doi.org/10.33506/jurnaljustisi.v8i3.1832>.

<sup>6</sup> Subekti and Suyanto, "Perlindungan Hukum Bagi Konsumen Pada Jual Beli Rumah Deret Dengan Sistem Pre Project Selling Berdasarkan PPJB," *Lex Journal* 4, no. 1 (2021): 1–23, <https://doi.org/https://doi.org/10.25139/lex.v4i1.3367>.

often inadequate, as many PPJBs do not meet the requirements set out by legislation.

The Meikarta case also raises questions about the effectiveness of current regulations in protecting consumers and ensuring transparency in property transactions. Many consumers feel their rights are inadequately protected in disputes with developers, highlighting the necessity for more robust and comprehensive regulatory reforms

Regarding previous research relevant to this study, the first piece by Andalusia (2023).<sup>7</sup> The journal discusses how legal protection for consumers in purchasing property begins with PPJB. The result of the research is the establishment of a legal relationship between prospective buyers and developers under a sale and purchase agreement. In this case, the developer acts as a housing provider and the consumer as a buyer. The bank as the beneficiary of the power of attorney of the potential buyer is a partner of the developer. The strength of this research lies in the discussion of cases on related issues, but this research does not examine the position of PPJB in pre-project selling.

Second, research by Halim (2022).<sup>8</sup> The research aims to determine the position of the Sale and Purchase Agreement (PPJB) which has standard clauses made by the developer. The research results from the journal show that PPJB in the form of a standard contract is allowed as long as it does not violate the provisions of Article 18 of Law No. 8 of 1999 and fulfills the requirements in Article 1320 of the Civil Code. This research effectively discusses the PPJB's role in pre-project selling, but it falls short of explaining the legal ramifications if the developer defaults.

Third, research by Rimbawa (2022).<sup>9</sup> The research aims to examine the agreement in the Pre Project Selling system and consumer protection in the agreement in the Pre Project Selling system. The results of the study explain that the Consumer Protection Law has regulated legal protection to property consumers with a pre-project selling system and the weak position of consumers which makes it vulnerable to disputes between consumers and developers, due to the existence of standard clauses. The research benefits from its discussion of consumer protection

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<sup>7</sup> Andalusia, Linda Elmis, and Neneng Oktarina, "Perlindungan Hukum Terhadap Konsumen Dalam Perjanjian Jual Beli Perumahan Dengan Sistem Pre Project Selling Di Sumatera Barat," *UNES Journal of Swara Justicia* 6, no. 4 (2023), <https://doi.org/10.31933/ujsj.v6i4>.

<sup>8</sup> Arivan Halim, "Kedudukan Perjanjian Pengikatan Jual Beli (PPJB) Yang Dibuat Pengembang Dalam Pre Project Selling," *Justice Voice* 1, no. 2 (December 24, 2022): 53–69, <https://doi.org/10.37893/jv.v1i2.192>.

<sup>9</sup> I Made Artha Rimbawa, "Perlindungan Hukum Terhadap Konsumen Properti Sistem Pre Project Selling Berdasarkan Prinsip Perlindungan Konsumen Dalam UU Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," *Vyavahara Duta* XVI, no. 2 (2021): 137–48, <https://doi.org/https://doi.org/10.25078/vd.v16i2.2421>.

under Law No. 8 of 1999. However, it lacks an examination of the PPJB's validity in pre-project selling.

Therefore, it is important to examine more deeply the validity of PPJB in pre-project selling property transactions. This research aims to analyze the legal aspects of the PPJB, identify factors that affect the validity of the PPJB, and evaluate the legal protection provided to consumers. Thus, this research is expected to contribute to the development of regulations to be more comprehensive and provide legal certainty for all parties involved in pre-project selling property transactions.

## **2. METHOD**

The research method used is a normative legal research method, namely legal research conducted by examining library materials and using a legislative approach, which is carried out by analyzing legal regulations related to pre project selling in this writing.<sup>10</sup> The research utilizes a literature study, gathering data from library sources.<sup>11</sup> The data used is secondary data with primary legal materials including the Civil Code, Law No. 1 of 2011 concerning Housing and Settlement Areas, Law No. 20 of 2011 concerning Flats, Law No. 8 of 1999 concerning Consumer Protection, and Government Regulation (PP) Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas. This research uses descriptive analytical data analysis techniques by providing an overview of the subject and object of research and does not justify the research.<sup>12</sup>

## **3. RESULTS AND DISCUSSION**

### **3.1 Validity of PPJB in Pre-Project Selling Transaction**

In recent years, more and more property developments such as housing or apartments have led to intense competition among developers to attract buyers. This causes developers to market their properties before the property exists, which is usually called pre-project selling.<sup>13</sup> Pre-project selling involves selling a property unit that is still under construction and has been marketed in advance to the general public or consumers.<sup>14</sup>

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<sup>10</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Prenada Media, 2019).

<sup>11</sup> Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021).

<sup>12</sup> Ali.

<sup>13</sup> Rizki Tri Anugrah Bhakti, "Perlindungan Hukum Konsumen Properti Atas Sistem Pre Project Selling Di Kota Batam," *Jurnal Cahaya Keadilan* 7, no. 1 (April 18, 2019): 228–47, <https://doi.org/10.33884/jck.v7i1.1196>.

<sup>14</sup> Nawal Zidan El Muniefiy, Budi Santoso, and Ranitya Ganindha, "Perlindungan Hukum Terhadap Konsumen Pre Project Selling Perusahaan Pengembang Properti Yang Dinyatakan Pailit," *Warkat* 3, no. 2 (2023): 134–54, <https://doi.org/10.21776/warkat.v3n2.4>.

The advantage of pre-project selling for developers is that it facilitates the developer's cash flow. This is because the developer's investment burden in property development can be reduced by funds ordered from consumers, the amount ranges from 20% (twenty percent) to 30% (thirty percent).<sup>15</sup>

To carry out a pre-project selling transaction, the developer must make an agreement with the consumer through a Sale and Purchase Binding Agreement (PPJB). The definition of PPJB is regulated in Article 1 Number 11 of Government Regulation Number 12 of 2021, which states: "Preliminary Sale and Purchase Agreement or Sale and Purchase Binding Agreement, hereinafter referred to as PPJB, is an agreement between the development actor and any person to sell and purchase a house or unit of flats that can be made by the development actor before construction for flats or in the process of construction for single houses and row houses made before a notary."

PPJB is an agreement based on the principle of freedom of contract, allowing parties to form agreements within legal boundaries, respecting laws and regulations, public order, and decency.<sup>16</sup> In forming an agreement in the form of a PPJB, it must fulfill the requirements regarding the formation of an agreement by Article 1320 of the Civil Code. If the subjective requirements, consent, and capacity are not fulfilled, then the contract is void and considered invalid. Meanwhile, the contract will be null and void if the objective requirements, namely the object of the agreement and the halal cause, are not fulfilled.<sup>17</sup> With the fulfillment of the subjective and objective requirements in making PPJB, the position of PPJB in a sale and purchase transaction is valid according to the law so that it binds the parties involved.<sup>18</sup>

Apart from having to fulfill the terms of the agreement, in making a PPJB, it must contain the content material listed in Article 22J of Government Regulation Number 12 of 2021 so that the rights and obligations of the parties involved are protected by law.<sup>19</sup>

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<sup>15</sup> Irwan Gomulja and Habib Adjie, "Pengendalian Asas Kebebasan Berkontrak Dalam Sistem Pre Project Selling," *Law and Justice* 5, no. 1 (2020): 39–54, <https://doi.org/10.23917/laj.v5i1.10395>.

<sup>16</sup> Denise Elysia et al., "Tinjauan Yuridis Transaksi Jual Beli Properti Melalui Pre-Project Selling," *Jurnal Education and Development* 8, no. 3 (2020): 14–20, <https://doi.org/https://doi.org/10.37081/ed.v8i3.1752>.

<sup>17</sup> Vicky Caesar Elang Palar and Mohamad Fajri Mekka, "Wanprestasi Terhadap Akta Perjanjian Pengikatan Jual Beli (PPJB) Rumah Susun Yang Dibuat Oleh Notaris," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 35–48, <https://doi.org/10.37680/almanhaj.v5i1.2091>.

<sup>18</sup> Okta Vianus Puspa Negara and Armansyah, "Kedudukan Hukum Akta Perjanjian Pengikatan Jual Beli Akibat Wanprestasi (Analisis Putusan Nomor 2362K/Pdt/2019)," *Jurnal Kemahasiswaan Hukum & Kenotariatan Imanot* 2, no. 1 (2022): 405–36.

<sup>19</sup> Danish Ferdie Therik and Elfrida Ratnawati Gultom, "Perlindungan Pembeli Apartemen Pre Project Selling," *Binamulia Hukum* 12, no. 2 (2024): 403–16, <https://doi.org/10.37893/jbh.v12i2.392>.

However, related to pre-project selling, the Flat Law provides restrictions on developers<sup>20</sup> namely, that developers can sell properties that are still under construction through PPJB provided that they fulfill Article 42 Paragraph (2) and Article 43 Paragraph (2). Article 42 Paragraph (2) of the Flat Law explains that "if marketing is carried out before construction is carried out, the development actor must at least have: a. certainty of space allocation; b. certainty of land rights; c. certainty of ownership status of flats; d. licensing for the construction of flats; e. guarantees for the construction of flats from guarantor institutions."

According to the explanation of the Flat Law, the developer must have a certificate of city plan that has been authorized by the local government, land title certificate, IMB, bank or non-bank support letter, and prospective buyers must be previously informed of the ownership status between SHM sarusun or SKBG sarusun following the defense that has been authorized by the local government. These provisions are cumulative, which means that developers must fulfill all five conditions if they want to use the Pre-Project Selling system to sell their properties.<sup>21</sup>

Furthermore, regarding Article 43 (2) of the Flat Law which contains: "PPJB, as referred to in paragraph (1), is carried out after fulfilling the certainty requirements for: a. land ownership status; b. IMB ownership; c. availability of infrastructure, facilities, and public utilities; d. buildability of at least 20% (twenty percent); and e. things that are promised." Based on the explanation of the Flat Law, the fourth requirement is calculated from the construction volume of the property being sold with evidence from the results of the construction management consultant report or the results of the construction supervisory consultant report.<sup>22</sup>

Regarding the conditions for holding the PPJB, Article 98 of the Flat Law also regulates: "Development actors are prohibited from making PPJB: a. which is not by what is marketed; or b. before fulfilling the certainty requirements as referred to in Article 43 paragraph (2)." So to carry out the PPJB, the Developer must fulfill the five conditions of certainty because the notary will not want to certify the PPJB if there are conditions that have not been fulfilled.<sup>23</sup>

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<sup>20</sup> Panca Basuki Rahmat, Hanif Nur Widhiyanti, and Erna Anggraini, "Akibat Hukum Jual Beli Apartemen Sistem Pre Project Selling Yang Tidak Dibuat Dalam Akta Notaris," *Jurnal Suara Hukum* 4, no. 2 (2022): 379–407, <https://doi.org/https://doi.org/10.26740/jsh.v4n2.p379-407>.

<sup>21</sup> Lucky Faradila Soraya, "Penetapan Klausula Sanksi Dalam Perjanjian Pengikatan Jual Beli Properti Dengan Sistem Pre Project Selling (Analisis Peraturan Menteri Pekerjaan Umum Dan Perumahan Rakyat Republik Indonesia Nomor 11/PRT/M/2019)" (Universitas Airlangga, 2020).

<sup>22</sup> Rahmat, Widhiyanti, and Anggraini, "Akibat Hukum Jual Beli Apartemen Sistem Pre Project Selling Yang Tidak Dibuat Dalam Akta Notaris."

<sup>23</sup> Yenny Febrianty, *Hukum Apartemen Dan Kondominium* (CV. Green Publisher Indonesia, 2023).

PPJB is generally made under the hand<sup>24</sup> but there is a misalignment regarding the rules for making PPJB between PP Number 12 of 2021 and the Flat Law.

Article 22J of PP No. 12/2021 stipulates that "PPJB is signed by prospective buyers and development actors in the presence of a notary." This provision makes it clear that the validity of the PPJB is highly dependent on the involvement of a notary, which serves to ensure that the agreement is legally valid and provides more protection to the parties involved.

On the contrary, the Flat Law does not require the PPJB to be made before a notary. This can be seen in Article 43 paragraph (1): "The process of selling and buying a flat before the construction of the flat is completed may be done through a PPJB made before a notary." The word "may" in this regulation indicates that the parties can choose to enter into a PPJB before a notary or under the hand.<sup>25</sup> The term 'under the hand' refers to agreements made without the involvement of a notary. The option to choose between notarized and non-notarized PPJBs can create legal uncertainty, particularly for consumers. PPJBs made under the hand, although valid as long as they meet the requirements of Article 1320 of the Civil Code,<sup>26</sup> have weaker evidentiary power and are vulnerable to disputes.

In practice, PPJBs made under the hand allow developers to include clauses that are more favorable to them,<sup>27</sup> which can be detrimental to consumers. When a dispute arises, the burden of proof falls on the party filing the lawsuit, which is often difficult without documents notarized by a notary. The notary, as a neutral and independent party, assures that the PPJB is made with higher validity and reduces the potential for fraud or dishonesty.<sup>28</sup>

Thus, although the Flat Law provides an option for making PPJB under the hand, for the sake of legal certainty and consumer protection, making PPJB before a notary as stipulated in Government Regulation No. 12 of 2021 is a safer and more reliable option. The legal implications of this method of making a PPJB are significant; a PPJB made before a notary not only reduces the risk of disputes but also provides greater legal certainty, making consumer protection more secure.

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<sup>24</sup> Samson Suryanto, Prasetyo Rijadi, and W. Danang Widoyoko, "Perlindungan Hukum Pembeli Properti Yang Meng-Gunakan Klausula Baku Pada Perjanjian Pengikatan Jual Beli Dengan Sistem Pre-Project Selling," *Anima Legis* 1, no. 1 (2022): 39–49, <https://doi.org/10.55840/al.v1i1.12>.

<sup>25</sup> H. Anabelle, Mika dan Tanawijaya, "Pre Project Selling," no. 3 (2019): 1–14.

<sup>26</sup> M. Zaky Adriansa, Gangga Santi Iga Dewi, and Ery Agus Priyono, "Hukum Perjanjian Pengikatan Jual Beli Tanah Dibuat Dibawah Tangan," *Progresif: Jurnal Hukum* 16, no. 2 (2022): 130–48, <https://doi.org/https://doi.org/10.33019/progresif.v16i2.3623>.

<sup>27</sup> Agustining and Yusrizal, "Tanggung Jawab Perusahaan Properti (Penjual) Dalam Pemasaran Perumahan Pola Pre Project Selling," *Jurnal Magister Kenotariatan Universitas Sumatera Utara*, 2019, 1–16.

<sup>28</sup> Haedar Djidar and Muh. Salam Amrullah, "Tinjauan Hukum Perjanjian Pengikatan Jual Beli (PPJB) Di Bawah Tangan Sebagai Jaminan Kepemilikan Rumah (Studi Penelitian Pada PT. Imbara Permai Sejahtera)," *Sawerigading Law Journal* 1, no. 1 (2022): 43–61.

In conclusion, to protect consumer rights and ensure that pre-project selling property transactions go well, the PPJB must be made before a notary. It ensures that the agreement is legally valid, provides better protection for consumers, and reduces potential disputes that can arise from agreements made under the hand.

### **3.2 Legal Protection of Buyers in Pre Project Selling Transactions**

A pre-project selling transaction offers benefits to both the developer and the customer. Developers get early cash flow to finance projects, while consumers often get lower prices. However, this practice is prone to abuse. Therefore, legal protection is needed to ensure that consumer rights are fulfilled and protected.

Legal protection is a guarantee for all parties provided by the government to exercise their legal rights and obligations as legal subjects.<sup>29</sup> The legal foundation for the protection of consumer rights in Indonesia is the Consumer Protection Law (UUPK) No. 8 of 1999. In addition, Law No. 20/2011 on Flats also protects consumers in property transactions.

In the Meikarta case, the developer has committed several violations, one of which is default, a situation where the debtor does not fulfill the obligations that have been stipulated in the obligation, both obligations arising from agreements and obligations arising from laws. Default refers to a failure to fulfill a contractual obligation that may result in a claim for damages, cancellation of the agreement, transfer of risk, or imposition of court costs.<sup>30</sup>

The default committed by Meikarta developers is not keeping the promise of project completion time so that consumers do not receive the promised units. Regarding this matter, Article 16 of the Consumer Protection Law stipulates that "Business actors in offering goods and/or services through orders are prohibited from: a. not keeping the order and/or agreement on the completion time as promised; b. not keeping the promise of a service and/or performance." Developers who violate this article are subject to a maximum fine of Rp 500,000,000.00 (five hundred million rupiah) or a maximum imprisonment of 2 (two) years.

Meikarta developers have also marketed their properties with false advertisements and made promises that are not in reality. This has violated Article 4, Article 8 paragraph (1) letter f, and Article 9 paragraph (1) letter k of the Consumer Protection Law. Article 4 of the Consumer Protection Law explains that consumers have the right to obtain correct, clear, and honest information regarding the conditions and guarantees of goods and/or services so Meikarta consumers should

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<sup>29</sup> Arini Alvita, "Kepastian Hukum Bagi Konsumen Atas Perjanjian Pengikatan Jual Beli Rumah Susun," *Indonesian Notary* 3, no. 1 (2021): 9.

<sup>30</sup> Selly and Ukas, "Analisis Yuridis Perjanjian Pengikatan Jual Beli (PPJB) Atas Sistem Pre Project Selling," *Scientia Journal: Jurnal Ilmiah Mahasiswa* 3, no. 3 (2021).



have the right to know the legality and licensing status of the project before deciding to buy.

In addition, Article 8 paragraph (1) letter f of the Consumer Protection Law explains "business actors are prohibited from trading goods that are not by the promises stated in the label, etiquette, description, advertisement or sales promotion of these goods and/or services." In practice, developers often make promises that attract consumers but these promises do not match what is given to consumers.<sup>31</sup>

Furthermore, Article 9 paragraph (1) letter k of the Consumer Protection Law also stipulates that "Business actors are prohibited from promoting, advertising a good and/or service incorrectly, and/or as if offering something that contains an uncertain promise." In the Meikarta case, the developer has marketed its property with massive advertisements through various mass media even though the developer has no certainty about the legality of its property. Business actors who violate this article can be punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp 2,000,000,000.00 (two billion rupiah).

Other violations include developers violating various licensing regulations, causing the Sales and Purchase Agreement (PPJB) signed by consumers to be legally defective. This poses a great risk of financial loss for consumers who have invested their funds based on unfulfilled promises.

The articles violated by the Meikarta developer include Article 28 which stipulates that the developer must fulfill administrative provisions covering the status of land rights and building construction permits (IMB), Article 42 Paragraph (2), and Article 43 Paragraph (2) regarding the conditions of certainty, and Article 98 regarding the conditions for holding sale and purchase transactions through PPJB.

In this case, the developer Meikarta has not complied with the regulations when marketing their property. The land owned by Meikarta is only authorized for industrial purposes, and the existing Building Use Rights (HGB) are not in the developer's name. When conducting pre-project selling transactions, Meikarta claimed to have permits for 500 hectares of land for property development, whereas only 84.6 hectares had Land Use Designation Permits (IPPT). Furthermore, the developer has not adjusted the spatial plan for the project and has not received Environmental Impact Analysis (AMDAL) approval, nor do they have a Building Permit (IMB).

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<sup>31</sup> Raihan Hilmy, "Perlindungan Konsumen Dalam Penjualan Rumah Susun Dengan Sistem Pemasaran Pre-Project Selling Ditinjau Dari Hukum Positif Indonesia," *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 6, no. 3 (2022): 2598–9944, <https://doi.org/10.36312/jisip.v6i3.3341>.

The violations of permitting regulations by the developer can lead to administrative and criminal sanctions as stipulated in Article 110, which states: “Developers who create PPJB: a. that does not match what was marketed; or b. before meeting the certainty requirements as referred to in Article 43 paragraph (2); as referred to in Article 98, shall be subject to imprisonment for up to 4 (four) years or a fine of up to Rp4,000,000,000.00 (four billion rupiah).”

The violations committed by the Meikarta developer can be attributed to various factors, including a lack of strict oversight and law enforcement by the authorities, pressure to achieve high sales targets without regard to regulatory compliance, a lack of transparency in providing information to consumers, and the opportunity to exploit legal loopholes or weaknesses in existing regulations. Additionally, intense market competition may drive developers to overlook important aspects such as legality and permitting to expedite the sales process.

Consumers harmed by the developer's violations are entitled to compensation if their rights are violated, as outlined in Article 4, Number 8 of the Consumer Protection Act, which states the “right to compensation, reimbursement, and/or replacement if the goods and/or services received are not by the agreement or not as they should be,” and Article 7, Letter g of the Consumer Protection Act, which states the “obligation of businesses to provide compensation, reimbursement, and/or replacement if the goods and/or services received or utilized are not by the agreement.” The developer is obligated to compensate for the losses suffered by consumers. However, if the developer believes they have not violated any agreements or laws and are unwilling to provide compensation, they must prove their innocence or that they have not breached the agreement.<sup>32</sup>

Consumers also have the right to sue through legal channels, either through general courts or through the Consumer Dispute Resolution Body (BPSK).<sup>33</sup> This is by Article 45 of the GCPL, which gives consumers the right to file a lawsuit against business actors who violate their rights. BPSK has the authority to resolve disputes between consumers and business actors, and its decisions are final and binding. If there are indications of fraud or other criminal offenses, consumers can also report the case to the police for further investigation.

Other efforts that can be taken by consumers are by resolving disputes through: a. mediation, which is a dispute resolution process carried out with the help of a mediator; b. arbitration, which is a dispute resolution process carried out by a third

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<sup>32</sup> Selly and Ukas, “Analisis Yuridis Perjanjian Pengikatan Jual Beli (PPJB) Atas Sistem Pre Project Selling.”

<sup>33</sup> Athalia Saputra, “Perlindungan Hukum Bagi Pembeli Satuan Rumah Susun Terkait Hak Kepemilikan,” *Arena Hukum* 13, no. 01 (April 30, 2020): 117–34, <https://doi.org/10.21776/ub.arenahukum.2020.01301.7>.

party appointed by the parties; c. negotiation; d. consultation, where the client consults with other parties who are consultants; or e. conciliation, where the mediator will act as a conciliator with the agreement of the parties by seeking an acceptable solution.

The violations committed by the Meikarta developer have various significant implications, impacting consumers, developers, as well as the property industry, and legal regulations in Indonesia. Consumers who have purchased properties through pre-project selling have suffered financial and psychological losses due to the uncertainty of receiving the promised units on time or according to the agreed specifications. In addition, the case has led to a decline in public confidence in developers and the property industry as a whole, making consumers more skeptical and cautious about investing in the property sector. Potential investors and buyers may delay or cancel their investments, which could affect overall demand and property prices.

Another implication is the legal and administrative sanctions faced by Meikarta developers, including the possible revocation of project licenses, fines, project termination, and criminal prosecution. These sanctions not only add to the financial burden and negative reputation for the company but also threaten the developer's business continuity.

The violations highlighted in the Meikarta case prompt the government to enhance regulations and supervision of property projects, particularly those involving pre-project selling. The government needs to ensure that developers fulfill all legal and licensing requirements before marketing and selling to prevent similar violations in the future.

In addition, awareness and protection of consumer rights is increasing as a positive impact of this case. The government and relevant agencies should strengthen consumer protection laws and mechanisms, ensuring that consumer rights are protected and developers are held accountable for violations.

It can be concluded that the application of pre-project selling as in the Meikarta case highlights the importance of legal protection for consumers. Violations by developers, such as default and non-compliance with licensing regulations, can have serious impacts on consumers. Consumers have rights that are protected by various laws and regulations and can claim their rights through various dispute resolution mechanisms available.

#### **4. CONCLUSION**

The rapidly growing property industry in Indonesia has triggered intense competition between developers, which has caused developers to start using the pre-project selling system by selling properties before the property is completed. Although no regulation strictly regulates this practice, developers can use a Sale

and Purchase Binding Agreement (PPJB) to conduct a sale and purchase transaction. PPJB can be drafted either under hand or before a notary. However, to mitigate risks in case of disputes, opting for a PPJB before a notary is a safer and more reliable choice to ensure legal validity. Consumers must understand the rights, obligations, and potential risks associated with pre-project selling transactions, such as delays in project completion or changes in property specifications. The government also needs to tighten supervision of property projects, ensuring that all permits and legal requirements are met before properties are sold to consumers. The government must also ensure that there are clear and firm regulations regarding pre project selling.

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