

ABSTRACT

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“LEGAL PROTECTION FOR CONSUMERS’ (IN A BINDING SALE AND PURCHASE AGREEMENT) OF REAL ESTATE COMPANIES THAT ARE ALLEGEDLY BANKRUPT”

The number of populations in Indonesia has immensely increased, creating more business opportunities for property developers in Indonesia due to the need of homes. Bankruptcy over property developers will declare them as concurrent creditors. This create high inconvenience for consumers as they are placed as last to receive repayments of receivables after preferred creditors. The consumers’ rights are not fully fulfilled as the decision of bankruptcy can only be declared by property developers as business actors. A qualitative analysis is done to study the legal protection towards consumer rights in terms of sales and purchases agreements with real estate companies that have declared bankruptcy and their accountabilities. Normative legal research is done by doing a literature study towards secondary data. Data processing is done towards primary legal materials, secondary legal materials, and tertiary legal materials. An approach to legal principles is done by reviewing all the related laws and regulations correlated to legal protection for consumers who carry out PPJB with real estate companies. Results showed that the accountability of real estate companies is done through reconciliation for existence of default. PPJB is counted as null and void due to bankruptcy which hence obliged the developers to pay compensation to consumers. Any evidence found for negligence will make the developer directors hold into account for personal debts. It is found that are two forms of legal protections done for consumers, namely the first as preventive law protection with the obligation to pay compensation through fines and full refunds due to neglections found by the developer while the second as repressive legal protection by filing a lawsuit if there are no form of compensation is paid by the developer within the period settled before. It is recommended for the Commercial Court to prioritize restructuring or postponing debt repayment obligations compared to bankrupting the developer and to both developers and consumers to make a commitment agreement other than PPJB made before a Notary containing the developer's commitment to complete his obligations in housing development.

Keywords: Bankruptcy, Consumer Legal Protection, Real Estate Company