

ABSTRAK

ANALISIS YURIDIS AKIBAT HUKUM PEMBATALAN PERJANJIAN PENDAHULUAN PENGIKATAN JUAL BELI UNIT APARTEMEN AKIBAT *FORCE MAJEUR* (Putusan Mahkamah Agung RI Nomor 323 K/Pdt/2021)

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Hubungan hukum jual beli apartemen terjadi ketika para pihak yaitu pembeli dan pengembang (*developer*) mengikat diri ke dalam perjanjian berupa Surat Pesanan Unit (SPU) yang di dalamnya terdapat syarat-syarat dan ketentuan-ketentuan pemesanan yang telah ditentukan oleh pengembang (*developer*).

Permasalahan dalam tesis ini adalah bagaimana akibat hukum pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen oleh konsumen/pembeli akibat keterlambatan menyerahkan unit apartemen, bagaimana perlindungan hukum pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen oleh konsumen/pembeli akibat dibatalkan oleh pengadilan, bagaimana pertimbangan hukum hakim dalam Putusan Mahkamah Agung RI Nomor 323 K/Pdt/2021 terkait pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen

.Penelitian yang dilakukan adalah penelitian yuridis normatif yaitu menganalisis peraturan perundang-undangan dihubungkan dengan permasalahan dalam tesis ini. Sifat penelitian ini adalah deskriptif dan analisis data yang digunakan adalah analisis data kualitatif.

Berdasarkan hasil penelitian diketahui bahwa akibat hukum pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen oleh pengadilan akibat keterlambatan menyerahkan unit apartemen adalah membayar ganti kerugian. Perlindungan hukum terhadap *developer* akibat pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen oleh pengadilan akibat tidak menyerahkan unit apartemen jika *developer* dapat membuktikan bahwa wanprestasi tersebut karena *force majeure* maka *develope* tidak perlu membayar ganti rugi. Pertimbangan hukum hakim dalam Putusan Mahkamah Agung RI Nomor 323 K/Pdt/2021 terkait pembatalan perjanjian pendahuluan pengikatan jual beli unit apartemen adalah tergugat yaitu pengembang/*developer* tidak dapat membuktikan bahwa tidak terpenuhi prestasi tersebut bukan dikarenakan adanya suatu keadaan memaksa (*force majeure*) melainkan karena lambatnya Tergugat mengurus perizinan terkait pembangunan Apartemen.

Kata Kunci: Akibat Hukum, Pembatalan, Perjanjian, Apartemen, *Force Majeur*

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ABSTRACT

JURIDICAL ANALYSIS OF LEGAL EFFECTS OF CANCELLATION OF AN INTRODUCTION AGREEMENT ON UNIT SALE AND PURCHASE BINDINGS APARTMENT DUE TO FORCE MAJEUR (RI Supreme Court Decision Number 323 K/Pdt/2021)

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The legal relationship of buying and selling an apartment occurs when the parties, namely the buyer and the developer (developer) bind themselves to an agreement in the form of a Unit Order Letter (SPU) in which there are terms and conditions for the order that have been determined by the developer (developer). The problem in this thesis is what are the legal consequences of canceling the preliminary agreement binding the sale and purchase of apartment units by consumers/buyers due to delays in handing over the apartment units, what is the legal protection for canceling the preliminary agreement binding sale and purchase of apartment units by consumers/buyers as a result of being canceled by the court, what are the legal considerations of judges? in the Decision of the Supreme Court of the Republic of Indonesia Number 323 K/Pdt/2021 regarding the cancellation of the preliminary agreement for the sale and purchase of apartment units

The research carried out is normative juridical research, namely analyzing statutory regulations related to the problems in this thesis. The nature of this research is descriptive and the data analysis used is qualitative data analysis.

Based on the research results, it is known that the legal consequence of canceling the preliminary agreement for the sale and purchase of an apartment unit by the court due to a delay in handing over the apartment unit is paying compensation. Legal protection for the developer due to the cancellation of the preliminary agreement for the sale and purchase of apartment units by the court due to not handing over the apartment unit. If the developer can prove that the default was due to force majeure then the developer does not need to pay compensation. The judge's legal consideration in the Republic of Indonesia Supreme Court Decision Number 323 K/Pdt/2021 regarding the cancellation of the preliminary agreement for the sale and purchase of apartment units is that the defendant, namely the developer/developer, cannot prove that the achievement was not fulfilled not because of a force majeure but because The Defendant was slow in processing permits related to the construction of the Apartment.

Keywords: Legal Consequences, Cancellation, Agreement, Apartment, Force Majeure

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