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Legal Protection for Ownership of Land Rights in Housing Profit Sharing Agreements

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Abstrak

This study aims to provide solutions and knowledge to legal protection, especially in ownership of land rights in performing housing benefit sharing agreements in Pekanbaru City, in addition, this study also aims to find out the application of such legal protection to land ownership rights by sharing the proceeds of such housing. It is expected that there will be no more intersections of legal certainty about housing sharing agreements among communities, so it is expected that there will be no conflict of rights in the division of housing proceeds for landowners. The type of research used by the authors is the Normative Law method. The approach in this study is the (statute approach) this approach is used to examine all the winners in a definite way, setting out explicitly about the arrangements for profit-sharing agreements. In this study, regulations on agrarian agreements and regulations are used as sources of data relevant to the theme discussed in this study. As for the result of this study, the legal protection needed to ownership of land rights in the housing sharing agreement specifically in the city of Pekanbaru can refer to Article 1338 paragraph (3) of the Civil Code, which says that the agreement must be executed in good faith, Where the deed of construction agreement containing the rights and obligations of the parties is a deed made in front of a notary that is authentic so that in the presence of such an agreement it becomes a law among them, whereas in its specific application in Kota Pekanbaru Land division cooperation is carried out according to the principle for units, the share of land owners in the form of ownership of house units with a certain percentage, as well as the developer also gets a share of the number of units according to the agreement. The size of each party's share depends on the price of the house unit. Where the higher the price of the house, the greater the share of the owner of the land, so that the parameters of its division correspond to the agreement promised in advance.

Keyword: Agreements; Land Rights; Legal Protection

Abstrak

Penelitian ini bertujuan untuk memberikan solusi serta pengetahuan terhadap perlindungan hukum khususnya dalam kepemilikan hak atas tanah dalam melakukan perjanjian bagi hasil perumahan di Kota Pekanbaru, selain itu penelitian ini juga bertujuan untuk mengetahui penerapan perlindungan hukum tersebut terhadap hak kepemilikan atas tanah dengan bagi hasil perumahan tersebut. Hal ini diharapkan tidak adanya lagi simpang siurnya kepastian hukum tentang perjanjian bagi hasil perumahan ditengah-tengah masyarakat sehingga diharapkan tidak adanya konflik hak-hak dalam pembagian hasil perumahan bagi pemilik tanah. Jenis penelitian yang digunakan oleh penulis adalah metode Hukum Normatif. Pendekatan dalam penelitian ini adalah (statute approach) pendekatan ini digunakan untuk mengkaji semua perundang-undangan secara pasti, mengatur secara eksplisit mengenai pengaturan perjanjian bagi hasil. Dalam penelitian ini menggunakan peraturan tentang perjanjian dan undang-undang pokok agraria yang menjadi sumber data yang relevan dengan tema yang dibahas dalam penelitian ini. Adapun hasil penelitian ini adalah perlindungan hukum terkait kepemilikan hak atas tanah dalam perjanjian bagi hasil perumahan khususnya di Kota Pekanbaru dapat mengacu kepada Pasal 1338 ayat (3) KUH Perdata yang mengatakan bahwa perjanjian harus dilaksanakan dengan itikad baik. Dimana Akta perjanjian bangun bagi yang berisi hak dan kewajiban para pihak merupakan akta yang dibuat dihadapan notaris yang bersifat autentik sehingga dengan adanya perjanjian tersebut sudah menjadi hukum di antaranya, sedangkan dalam penerapannya khusus di Kota Pekanbaru kerjasama pembagian lahan dilakukan dengan prinsip bagi unit, bagian pemilik lahan berupa kepemilikan unit rumah dengan presentase tertentu, demikian juga halnya developer juga mendapatkan bagian jumlah unit sesuai

keepakatan. Besarnya bagian masing-masing pihak tergantung harga unit rumahnya. Dimana semakin tinggi harga rumahnya, maka semakin besar bagian pemilik lahan, sehingga parameter pembagiannya sesuai dengan kesepakatan yang diperjanjikan lebih dahulu

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Kata Kunci: Hak atas Tanah; Perjanjian; Perlindungan Hukum

1. INTRODUCTION

Home is the starting place for the development of family life in a healthy, safe, harmonious and orderly environment. In other words, housing plays an important role in enhancing human dignity.¹ Every individual has the ability to take action, both individually and in groups. According to Article 1234 of the Civil Code, there are three types of performance: (a) giving something, (b) doing something, or (c) not doing something.) In cases such as buying and selling, renting, grants, pawn agreements, debts and receivables, and so on, giving real power over an object from the debtor to the creditor is considered an achievement.² On September 24 1960, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, or the Basic Agrarian Law, was passed. The general objectives of these laws are several of them, firstly laying the foundations for the formation of National Agrarian Law, which will be a tool to produce prosperity, happiness and justice for the country and its people, in a just and prosperous society, secondly is to lay the foundations to ensure all people have legal certainty regarding their land rights; and thirdly laying the foundations to ensure that all people have legal certainty regarding their land rights.³

There is a relationship that shows that, as long as the Indonesian people who are united as the Indonesian nation still exist and as long as the earth, water and space of Indonesia still exist, then this relationship cannot be broken even under whatever circumstances.⁴ Article 2 paragraph (2) UUPA determines that the state's right to control is included in Article 1 paragraph (1) is that the State is given the authority to regulate and administer, allocate, use, supply and maintain the earth, water and outer space; determine and regulate legal relationships between people and earth, water and space; determine and regulate legal relationships between people and legal actions regarding earth, water and space.⁵ Human life cannot be separated from the land in every aspect. Because of the many benefits of land for human life and the fact that the availability of land is decreasing over time, while the value of land in human society is increasing.⁶

At this time, the number of people who own land or land is quite large and also quite limited. Because the land area is sufficient to build many housing complexes, developers, both

¹ Juli Siregar and Indriyanti, "Perlindungan Hukum Terhadap Pemilik Tanah Dalam Perjanjian Bangun Rumah yang Dibuat Oleh Notaris (Studi Putusan Pengadilan Negeri Medan Nomor 514/Pdt.G/2013/Pn.Medan)" (UNIVERSITAS MUHAMMADIYAH SUMATERA UTARA, 2018), [http://repository.umsu.ac.id/bitstream/handle/123456789/14911/TESES](http://repository.umsu.ac.id/bitstream/handle/123456789/14911/TESES%20JULI%20INDRAYANTI%20SIREGAR%202018.pdf?sequence=1)

² hammad Abdulkadir, *Hukum Perdata Indonesia, Cet. 5* (Bandung: Citra Aditya Bakti, 2014).

³ Urip Santoso, *Pendaftaran Dan Peralihan Hak Atas Tanah* (Jakarta: Prenada Media, 2019).

⁴ Firly Irhamdani, "Analisis Yuridis Terhadap Batas Maksimum Kebutuhan Tanah Milik Non Pertanian Menurut Hukum Pertanahan Nasional" (Universitas Indonesia, 2012), [https://lontar.ui.ac.id/file?file=digital/20280411-18369-Analisis yuridis.pdf](https://lontar.ui.ac.id/file?file=digital/20280411-18369-Analisis%20yuridis.pdf).

⁵ Winahyu Erwiningsih, *Hak Menguasai Negara Atas Tanah*, Cetakan 1 (Yogyakarta: Universitas Indonesia, Total Media, 2016) https://openlibrary.org/books/OL23911484M/Hak_menguasai_negara_atas_tanah.

⁶ J Sastro, *Hukum Perjanjian: Perjanjian Pada Umumnya* (Bandung: Citra Aditya Bakti, 1992).

individuals and groups, usually look for land to buy in cash from the land owner or to build houses on it through housing cooperation agreements between land owners and developers, both individuals and groups. Real estate businesses involving building and dividing houses are very common. However, there are still many people who do not know about building and distributing houses. In the housing industry, the business concept of building and sharing a home, also known as a "build-share agreement", is considered to be beneficial for both parties. Djaren Saragih explains the definition and function of a production sharing agreement, also known as *Deelbouw Overeenkomst*. This agreement is a legal relationship between the land owner and another party who is permitted to cultivate the land with the stipulation that the proceeds from land cultivation are divided between the land owner and the party cultivating the land.⁷

The difference between this research and previous research can be seen in Savira's research which discusses the implementation of profit sharing construction agreements between land owners and developers and efforts to resolve problems that arise between land owners and developers, which in this case describes specifically the construction agreements between the parties, land owners and developers and procedures or solutions to problems that arise in agreements between land owners and developers.⁸

Next is Muthia's research which discusses the implementation of fulfilling home ownership certificates for home buyers and the responsibility of developers towards home buyers in fulfilling home ownership certificates for home buyers, which explains specifically the responsibilities and rights between developers and home buyers or fulfilling land ownership certificates, and houses for home buyers from developers.⁹

The differences and advantages of this research with the 2 studies above are that the research that the author studied examined the legal protection of ownership of land rights in housing profit sharing agreements in the city of Pekanbaru and the application of law to the ownership of land rights in housing profit sharing agreements in the city of Pekanbaru which of course, examine more deeply and specifically the regulations that can be used as legal certainty in making a housing revenue sharing agreement, especially in Pekanbaru City. Apart from that, the author also examines the application of these regulations in the community, especially Pekanbaru City itself, so that this research can answer concerns in the community regarding legal protection in production sharing agreements between land owners and developers. The aim of this research is to provide solutions and knowledge regarding legal protection and its application for ownership of land rights in a housing profit sharing agreement, especially in the city of Pekanbaru.

⁷ Djaren Saragih, *Hukum Adat Indonesia*, Cetakan 1 (Bandung: Tersito, 1980), <https://doi.org/1182744>.

⁸ Sania Savira, "Tinjauan Hukum Terhadap Perjanjian Bangun Bagi Antara Pemilik Tanah Dan Developer (Study Pada Pembangunan Perumahan Griya Todak Asri Di Kota Pekanbaru)" (Universitas Islam Riau, 2021), <https://doi.org/171010029>.

⁹ Muthia Vina, Bachtiar Maryati, Dasrol, "Pelaksanaan Tanggungjawab Pengembang Developer Dalam Pemenuhan Sertifikat Kepemilikan Rumah Kepada Pembeli Rumah Berdasarkan Perjanjian Pengikatan Jual Beli Perumahan," (*JOMFHUKUM*) *Jurnal Online Mahasiswa (JOM) Bidang Ilmu Hukum* 7, no. 49 (2020), <https://doi.org/27268>.

2. METHOD

The type of research used by the author is the Normative Law method and legal principles which start from certain areas of legal system, by first identifying the legal rules that have been formulated in certain legislation.¹⁰ The approach in this research is (*statute approach*). This approach is used to examine all legislation with certainty, explicitly regulating the regulation of production sharing agreements. This research uses regulations regarding agreements and the Basic Agrarian Law which are sources of data that are relevant to the themes discussed in this research.

3. RESULTS AND DISCUSSION

3.1 Legal Protection for Ownership of Land Rights in Housing Profit Sharing Agreements in Pekanbaru City

Home is one of the basic human needs, besides education and health. The very rapid increase in population and the increasing standard of living will result in an increasingly high demand for housing.¹¹ Ownership of property assets is one area of business that is carried out by many people, or even corporations. One type of property business is residential property.¹² Legal certainty and ownership status of land rights are important. Certain land rights is proven by a land rights certificate in the name of the development actor or a land rights certificate in the name of the owner of the land being collaborated with or a land rights document in accordance with the provisions of laws and regulations in the land sector. In the event that land rights are still in the name of the land owner who is collaborating with the development actor, then he must guarantee and explain the certainty of land control status. And usually the amount of the profit sharing balance is determined from the start at the time of the contract.¹³

The profit sharing system is a collaboration carried out by both parties in running a business. The first party is an investor who has a hand in funding the business in the form of money or in the form of providing land, while the second party is an entrepreneur who takes part in the expertise, facilities, time and skills to manage the business or developer. For this reason, both parties have the right to the business that will be carried out. In Civil Law, there is what is known as an agreement. An agreement is an act by which one or more people bind themselves to one or more

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¹⁰ Burhan Ashshofa, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 1996).

¹⁰ Stavian Rendy, "ANALISIS NILAI INVESTASI PROYEK PERUMAHAN," *JURNAL DEVICE* 10, no. 1 (2020): 38–44, file:///C:/Users/User/Downloads/1486-Article Text-3051-1-10-20201020.pdf.

¹² Surahmad Shahira Rani, "PERLINDUNGAN KONSUMEN DALAM JUAL BELI PROPERTI (Studi Kasus PT Developer

erti Indoland)," *Jurnal Al Mashlahah*, n.d., 185–98, <https://jurnal.staialhidayahbogor.ac.id/index.php/am/article/view/3585/1399>.

¹³ Ash Shidiqie Saddam Jannah Priyadi Unggul, "PELAKSANAAN PERJANJI BAGI HASIL PERTANIAN LAHAN

10 AH Studi Di Kecamatan Gamping, Kabupaten Sleman, Yogyakarta," *Millah XV*, no. 1 (2015): 102–15, file:///C:/Users/User/Downloads/5210-Article Text-7201-8890-10-20160714.pdf.

other people.¹⁴ The housing construction cooperation agreement must not conflict with statutory regulations, morality and public order, and must meet the requirements for the validity of the agreement as regulated in Article 1320 of the Civil Code. A housing development cooperation agreement can occur if the land owner and developer agree to enter into an agreement.¹⁵

Djaren Saragih provides the meaning and function of a production sharing agreement or what is also called *Deelbouw Overeenkomst*, namely a legal relationship between a person who has the right to land and another (second) party, where this second party is allowed to cultivate the land in question with the stipulation that the proceeds from processing the land are shared, between the person who has the right to the land and the person who cultivates the land. A share-build agreement can occur if the land owner and developer agree to enter into an agreement, while the agreement contains that the land owner gives permission to the developer to manage the land by building several housing units and the house is the object of the agreement which will be shared by the parties in accordance with agreement.

Apart from the many benefits that can be obtained from Property Investment Funds, Property Investment Funds still have risks because they can only invest in property assets, therefore their performance is very dependent on the property sector which can also be detrimental to investors. So several things influence risk, it could be due to: Tenants who fail to pay, Decrease in property value, Liquidity risk. Therefore, the importance of legal protection for legal certainty. Specifically in Pekanbaru City, one of the methods used by land rights owners in housing profit sharing agreements is *the Fixed Equity Split System*. The purpose of this system is to divide profits according to the percentage of capital given at the start of the business. In this method, they are only given according to the capital given at the start, without any other calculation of the things they provide for the business. This system makes it easier to distribute profit sharing because the portions are fixed and do not require many other calculations. However, this system is more suitable for business partners who only have the status of pure investors. Or in other words, those who only provide funds or land for capital without any additional important contributions.

Every agreement adheres to the principle of freedom of contract, which provides freedom to enter into and determine agreements that do not conflict with the laws of decency and public order. Article 1338 paragraph (3) of the Civil Code states that agreements must be implemented in good faith. Agreements made between one party and another party are usually stated in the form of a deed. A deed is a signed document containing the events that form the basis of a right

¹⁴ Febriyanti AR Putri, "Perlindungan Hukum Bagi Konsumen Atas Perjanjian Jual Beli Tanah Dengan Mekanisme Perjanjian Pengikatan Jual Beli (PT. Berkas Jaya Land)," *Jurist-Diction* 3, no. 5 (2020): 1729–50, <https://doi.org/10.20473/jd.v3i5.21976>.

¹⁵ Yudhi wahab aprisandi et al., "PENERAPAN ASAS PROPORSIONALITASDALAMPERJANJIAN PEMBANGUNAN PERUMAHAN TERHADAP PENGEMBANGDENGAN PEMILIK LAHAN," *CONSENSUS: JURNAL ILMU HUKUM* 1, no. 2 (2022): 61–68, <https://consensus.stihpada.ac.id/index.php/S1/article/view/14/8>.

or obligation, which was made from the beginning intentionally to prove.¹⁶ The construction agreement deed containing the rights and obligations of the parties is an authentic deed made before a notary. A notary is a public official who is given by statutory regulations with the authority to make all agreements and deeds as desired by interested parties. The regulations governing Notaries are contained in Law on the Function of Notaries Number 2 of 2014. It is better for the agreement to be made by a Notary in the form of an authentic deed where the parties determine the contents of the agreement and it does not conflict with statutory regulations.¹⁷ Notaries and PPATs have the authority to issue legal products in the form of authentic deeds. Based on article 1868 of the Civil Code, "an authentic deed is a deed made in a form determined by law, made by or in the presence of public officials who have authority for that purpose in the place where the deed is made".¹⁸

The Civil Code in the third book also regulates legal relationships between people and other people (individual rights), even though the object may also be an object. Legal relationships between one party and another cannot arise by themselves. Satrio Abdillah in his research stated: "The notary also plays a role in ensuring that the documents comply with applicable law".¹⁹ This relationship was created because of legal action/rechtshandeling. The rights and obligations of developers and investors are generally regulated by law. The deed of production sharing agreement contains the rights and obligations of investors and developers which is made before a Notary in accordance with the wishes of the parties. The Deed of Profit Sharing Agreement is the obligation and authority of the Notary to make it. The contents of the deed of agreement between parties are made freely by the parties, namely between the Investor and the Developer and the contents of the agreement reflect the nature of a reciprocal agreement. Every agreement creates rights and responsibilities that must be fulfilled by both parties. Likewise with housing development cooperation agreements. If the rights and obligations of the land owner and developer are not fulfilled, it can be said to be a default.²⁰

¹⁶ Pratama Andre, "PERMASALAHAN HUKUM YANG TIMBUL DALAM PERJANJIAN BANGUN BAGI ANTARA PEMILIK TANAH DENGAN DEVELOPER," *JURNAL NOTARIUS Program Studi Kenotariatan Pascasarjana UMSU* 2, no. 1 (2023): 32-41, <https://doi.org/2089-1407>.

¹⁷ Satrio Abdillah, "PENERAPAN TRANSAKSI HONORARIUM TUNAI DALAM PRAKTEK NOTARIS TERHADAP AKAD MITRA PERBANKAN SYARIAH" (Universitas Islam Indonesia, 2017), <https://doi.org/15921032>.

¹⁸ Satrio Abdillah, "Batasan Kewenangan Dan Tanggung Jawab Notaris-PPAT Dalam Dalam Edukasi Prosedur Pembuatan Akta Otentik Ditinjau Dari Pasal 51 KUHP," *Journal Of Education Research* 4, no. 1 (2023): 67-72, file:///C:/Users/User/Downloads/9+Putra+67-72 (1).pdf.

¹⁹ Satrio Abdillah, Ghapa Norhasliza, and Maheeran Makhtar, "A Comparative Studi Between Indonesia and Malaysia on the Role of Notaries and Advocates," *USM Law Review* 6, no. 3 (2023): 943-56, file:///C:/Users/User/Downloads/7853-23543-1-PB (1).pdf.

²⁰ Raisa Nadhifah Berliana, "WANPRESTASI PERJANJIAN KERJASAMA PEMBANGUNAN PERUMAHAN OLEH PENGEMBANG TERHADAP PEMILIK TANAH DI KOTA PADANG (PUTUSAN PENGADILAN TINGGI PADANG NOMOR 18/PDT/2022/PT PDG)," *Gorontalo Law Review* 6, no. 2 (2023): 422-29, <https://docs.google.com/viewerng/viewer?url=https://jurnal.unigo.ac.id/index.php/golrev/article/viewFile/2843/1303>.

For this reason, the need for legal protection for ownership of land rights in housing profit sharing agreements can be a security strategy, especially for investors and developers, therefore there are several ways, namely by establishing a Joint Limited Liability Company (PT) and also a Cooperation Agreement (PKS), a Company Limited liability is a legal entity that should be established based on an agreement as intended in Article 1 of the 2007 Company Law. Therefore, the establishment of a capital partnership company between the founders must comply with the legal provisions of the agreement that have been regulated in the Civil Code. Thus, the establishment of a company is contractual and consensual.²¹ By establishing a joint venture between developers and investors, investors can participate in managing the project. But usually he only acts as a supervisor, not an executor. Because in general investors or parties who represent them are appointed as commissioners in the company. Where as a commissioner the investor can supervise project implementation. Not only overseeing the progress of the project, a commissioner can request reports from the board of directors. The report requested can be in the form of project implementation progress including financial reports. As a commissioner, investors can give warnings to implementers (directors) if there are irregularities in project implementation.

Apart from that, to ensure the use of project finances is maintained, investors can sign checks or giro bills for money out of the project. If the company agrees to use internet banking or a cash management system (CMS), then investors also provide approval for the money to go out. With this scheme, all outgoing money must be approved by the investor. The second method is a cooperation agreement (PKS), this method can be a binding method where in the PKS all agreements are included, both regarding the land price, the amount of profit share to the land owner and the stages of payment of the land price. The PKS also includes the rights and obligations of each party and sanctions if a party defaults. As per the position of each party, usually the role of the asset owner, in this case the investor or land owner, usually tends to be passive and waiting, while the role of the developer tends to be more active and acts as an implementer in the field.²²

To accompany this PKS, a PPJB (Sales Purchase Agreement) can also be made, where the PPJB includes the stages of payment of the land price. So the amount of profit sharing for land owners is only according to the agreement, there are no standard rules governing it. However, these results must of course fulfill the principles of justice. If the land price is quite high, then it is natural that the land owner's share is also larger. Likewise, if the land price is cheap or the location where subsidized housing is built, then the land owner's share is not too big.

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²¹ Ardyanto Nicholas and Sendrawan Tjhong, "Perseroan Perorangan Sebagai Badan Hukum Di Indonesia Dalam Kaitannya Dengan Pendirian Perseroan Terbatas Oleh Pemilik Tunggal Berdasarkan Undang-Undang Republik Indonesia Nomor 40 Tahun 2007," *Jurnal IDEAS* 8, no. 3 (2022): 1085–92, <https://doi.org/10.32884/ideas.v8i3.768>.

²² Sawitri Galuh and Nanik Hastuti Tri, "KEDUDUKAN PARA PIHAK DALAM PERJANJIAN KERJASAMA OPERASIONAL SEMPANGAN LAHAN PERUMAHAN DAN IMPLIKASINYA TERHADAP PENGELOLAAN LAHAN," *NOTARIUS* 11, no. 1 (2018): 54–67, file:///C:/Users/User/Downloads/23125-64161-1-SM.pdf.

Apart from that, what needs to be considered when offering cooperation is the security strategy for land owners. The way to do this is by allowing land owners to participate in managing the project. If he is involved in managing the project, he will also know what the project activities are, including knowing or giving approval for the money coming out of the project. In practice, he can be involved directly himself or he can also place someone as his replacement. However, many land owners feel uncomfortable or do not have the ability to participate in managing the project. So he only acts as a passive partner. With the above methods, it becomes a legal protection for ownership of land rights in housing profit sharing agreements, especially in Pekanbaru City.

3.2 Application of Law to Ownership of Land Rights in Housing Profit Sharing Agreements in Pekanbaru City.

The public's need for housing is increasing, considering Indonesia's current large population, approximately 240 million people, while available land is limited. Facing the phenomenon of limited land availability, land as one of the Indonesian nation's wealth must be utilized for the greatest prosperity of the people.²³ To realize this, land use needs to be implemented in the form of regulation, control and stewardship of land, including investment in residential property.

In general, investing in property is not like investing in the stock market where prices can rise and fall significantly in one day.²⁴ One investment is housing. In Pekanbaru City itself there are many housing developments, therefore the application of law regarding land ownership, especially in housing profit sharing agreements, is very important for legal certainty. In principle, land cooperation with calculations for units is the same as land cooperation with profit sharing calculations. That is, the land owner provides the land and the developer carries out the construction of the project until marketing is complete. In land collaboration with the principle of profit sharing, the land owner and developer receive a share in the form of a percentage of profits in the form of a monetary amount. So that there is a proportional principle in the distribution and there is no conflict between the rights of the parties.²⁵

However, in principle, the land owner's share is in the form of ownership of housing units with a certain percentage, likewise the developer also gets a share of the number of units according to the agreement. The size of each party's share depends on the price of the housing unit. Where the higher the house price, the greater the land owner's share. The logic is that the higher the house

²³ Scivi Kapoh Junifer, "PENGATURAN KONSOLIDASI TANAH UNTUK PEMBANGUNAN PERUMAHAN MENURUT UU No. 1 TAHUN 2011 TENTANG PERUMAHAN DAN KAWASAN PERMUKIMAN," *Lex et Societatis* V, no. 6 (2017): 113–20; file:///C:/Users/User/Downloads/lexetsocietatis_dk28,+15.+Scivi+Junifer+Kaph.pdf.

²⁴ Tan Anton, *THE REAL SECRET OF SUCCESSFUL INVESTOR AND DEVELOPER* (Jakarta: PT Alex Media Komputindo, 2014).

²⁵ Nanda Ziar Nugraha, "Prinsip Proporsionalitas Dalam Kebijakan Formulatif Tindak Pidana Pencemaran Nama Baik Di Media Sosial," *LEX Renaissance* 7, no. 3 (2022): 462–75, <file:///C:/Users/User/Downloads/23968-Article Text-78173-85419-10-20230220.pdf>.

price, the more expensive the land price will be. Vice versa, the cheaper the price of the housing unit, the smaller the share of the land owner.

Of course, the size of this distribution also depends on the points of the agreed agreement. For example, if the land owner asks for a down payment (waiting money) then his share is smaller or just a few units, but if he doesn't ask for a down payment then it is very logical for him to ask for a larger share. One way to pay for land can be done by making a SI (*standing instruction*) or transfer order to the bank, that is, when a credit agreement is made with the bank, the disbursement is immediately divided into 2 parts (*displit*), namely the value of the land price (lot carried out by AJB PPAT) deposited into the land owner's account, then the remainder is deposited into the developer's account. Payment for land is made by calculating the accumulated plot area that has been made in the current month, and must be paid no later than the 5th of the following month. The nominal amount is the accumulated area of plots sold multiplied by the effective (*netto*) land price.

Things that need to be considered in this case include the principle of justice. Fairness here means implementing cooperation by applying the principle of *high risk high return*, who bears the greater risk because the developer is working on housing. If you have worked on a project at a location, it is certain that the developer will incur costs for the workers. Meanwhile, land owners can be said to be safer because their inclusion in the project is a form of land that cannot be taken anywhere. So if the project fails, the developer loses money while the land ownership is not lost.

For land owners, the benefit of this land collaboration is getting a share of project profits in addition to getting the land price. Meanwhile, for developers, this land collaboration reduces the working capital needed to manage a project. Because based on experience, the allocation of funds to acquire this land takes up a portion of approximately threety percent of the project. It can be calculated to reduce investment costs if the project implements a land cooperation system with land owners. The disadvantage of this land collaboration for land owners is that they do not receive payment for the price of their land at once. Meanwhile, for developers, the disadvantage of this land collaboration is that developers must be willing to share the profits, so this land collaboration provides a percentage of profits, so this land collaboration provides a larger percentage of profits even though the nominal value is smaller. In fact, calculating the amount of project profit sharing must be done in detail by paying attention to the size of each party's share in the project, so that it is hoped that ³³ implementation of the profit sharing meets the principles of justice. Therefore, the size of the land owner's share can be seen by comparing the percentage of land price with the project RAB. So the higher the land price, the greater the land owner's share. However, most developers do not calculate using this system because it is too complicated, while land owners generally do not want to listen to complicated things, even though for internal purposes or making feasibility studies they require detailed calculations. So the system is simplified by offering choices of profit sharing to land owners. In its implementation, the management entered into two agreements to pay the land price.

One method of paying land property can be done by paying the land price in cooperation without down payment (DP). This payment is made at the time of the housing units. Of course, in this way the management gets an advantage because they don't spend money to buy land before the housing units are sold. Payment of Land Prices in Collaboration with Down Payment (DP) of 10%. If the collaboration uses a DP of 10% (ten percent) then the management will get a larger share because the management spends a larger initial capital compared to a collaboration without a DP. Because the land price (HT) is divided by the number of plots (JK): $HT / JK = \text{Price Per Unit}$. Apart from all that, the Land Owner also gets a percentage of the profits outside of land payments (net profits) obtained, namely: 30% of the profits obtained. Land payments are given monthly after the sale of the credited housing unit. The total land price per unit divided by the number of months during the home loan process. For the distribution of results from the final profit, each unit sold is given a percentage of 30% of the net profit.

Therefore, the parties have the right to legal protection from actions that will be detrimental to them by having a letter of agreement between the investor who provided the money or land capital and the manager (developer) so that it will be fair if there is an agreement that has been agreed upon by both parties between the investor who provided the money capital. with the developer (developer) who is carrying out a collaboration, so that it is not only investors who provide money or land capital who are bound to this business, because there is a manager (developer), and vice versa the manager (developer) will also be bound by the obligations of investors who provide capital money or land to be able to cooperate with each other as expected, and with the existence of an agreement, the cooperation will be carried out well and appropriately. This means that the application of law regarding ownership of land rights in housing profit sharing agreements in Pekanbaru City depends on the division or agreement between the two parties, such as the land manager and owner, with calculations that have been agreed depending on the size and size of the sale.

4. CLOSING

Legal protection and legal application of ownership of land rights in housing profit sharing agreements in Pekanbaru City can be seen based on Article 1338 paragraph (3) of the Civil Code which states that agreements must be implemented in good faith between the parties, apart from that there are several ways that can be done, such as establishing PT Bersama and also by means of a cooperation agreement (PKS) between investors and developers, therefore the distribution depends on the agreement that has been agreed, namely depending on the size and size of the selling price of the land itself. In connection with the absence of statutory regulations that specifically regulate Production Sharing Agreements, it is very necessary to have statutory regulations that specifically regulate them. As an investor, investors should be more careful when planning to run a housing business. Investors must precisely check the veracity of all documents, locations and facilities promoted by the developer at the time of the offer.

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