

**Characteristics of Ownership Right over Units of Community Apartment
and its Transfer
by Sale And Purchase Agreement**

ABSTRACT

In the light to enhance the quality of housing area, particularly in the most populous districts with limited availability of land, the development of community apartment is necessary. This community apartment consists of two parts, one part is an area that can be called as a communal ownership, while another part is units that can be owned by individual.

This research found that not all high stored buildings subject to the provisions on community apartment. High stored building with single ownership is not subject to the provisions on community apartment. While high stored building divided into units, in which each unit can be separately owned by individual (multy ownership), even these units can not be separately from public or common area, communal property, and communal land subject to the community apartment provisions. The ownership right over units of community apartment have different characteristics from the ownership right of housing and other buildings. Because of that, the owner of an community apartment is obligated to pay all expenditures of damages occurred on public or common area and communal property, as well as to bear the fee for applying the continuation of right over communal land if the term of ownership is due.

This reseach also found that the construction of legal relationship between the developer of community apartment and the buyer in the transfer of ownership right over a unit of such apartment is firstly started with the commitment to enter into the sale and purchase agreement, then it followed by the true sale and purchase agreement by sale and purchase deed made by deed of land maker authority (PPAT). After the true sale and purchase agreement concluded, the seller (developer of the community apartment building) is still have an obligation to manage the apartement at its own expenses from 3 (three) months until 1 (one) year after the establishment of accupant association. Legal protection for buyer is needed to avoid the possibility of fraud and any other measures lead to breach of contract (*wanprestatie*) which disadvantages consumer. These legal protections are stipulated under the Act on Consumer Protection, the Act on Community Apartment, the Act on Housing and Development Area and the Government Regulation Number 4 of 1988 on Community Apartment. In the case of dispute, each party can use several dispute settlement mechanism, whether through litigation or non litigation. Non litigation can be in the form of negotiation, mediation, conciliation, and arbitration because sale and purchase of ownership rights over a unit of community apartment is part of commercial activity.

Key words: Apartment, Sale and Purchase, and Legal Protection