

ABSTRAK**TANGGUNG JAWAB PELAKU PEMBANGUNAN TERHADAP
KEPEMILIKAN SATUAN RUMAH SUSUN APABILA TERJADI
*OVERMACHT***

Dalam hasil penelitian ini, penulis memperoleh jawaban yaitu pelaku pembangunan dapat dimintakan pertanggungjawaban atas dasar unsur kesalahan berupa pembayaran ganti rugi meliputi biaya, bunga dan rugi. Pertanggungjawaban pidana hanya dapat dipenuhi apabila terdapat *overmacht absolut*. Ketentuan mengenai *overmacht* diatur dalam Undang-Undang Nomor 18 Tahun 1999, berupa bencana alam (kebakaran, gempa bumi, tanah longsor dan sebagainya).

Undang-undang Nomor 20 Tahun 2011 belum mengatur mengenai bentuk-bentuk wanprestasi dan kriteria *overmacht*, sehingga hak-hak pemilik satuan rumah susun belum terjamin secara maksimal. Peraturan Pemerintah Nomor 4 Tahun 1988 membatasi pengaturan asuransi rumah susun hanya sebatas kebakaran. Untuk melindungi hak-hak pemilik satuan rumah susun, dapat dilakukan secara preventif dan represif.

Upaya hukum preventif menyangkut prinsip pencegahan masalah-masalah hukum yang akan terjadi. Misalnya dengan membuat regulasi yang dibuat oleh pemerintah, baik berupa mekanisme perizinan, pertelaan, akta pemisahan, hingga proses sertifikasi satuan rumah susun dan akta jual beli. Upaya hukum preventif bertujuan untuk meningkatkan daya guna instrumen pengawasan dengan memperhatikan syarat-syarat yang tercantum di dalam perizinan. Hal ini terlihat dari pemenuhan persyaratan administratif, teknis, dan ekologis.

Selain upaya preventif, terdapat pula upaya represif. Upaya represif adalah mengenai penyelesaian di muka pengadilan dan melalui alternatif penyelesaian sengketa seperti arbitrase. Apabila terjadi upaya represif maka dibutuhkan peran dan fungsi PPPSRS.

Anggota PPPSRS memiliki tugas untuk memelihara manajemen rumah susun dan untuk mewakili kepentingan pemilik maupun penghuni satuan rumah susun. Keanggotaan PPPSRS ditentukan sesuai dengan besarnya NPP.

Kata Kunci: Tanggung jawab, Pelaku pembangunan, satuan rumah susun, *overmacht*.

ABSTRACT***CRIMINAL LIABILITY DEVELOPER OVER A CERTIFICATE OF CONDOMINIUM UNIT IN THE EVENT OF OVERMACHT***

According to this study, researcher shows that developers of condominiums (hereinafter referred as developer) can be requested a criminal liability based on their fault to pay compensation such as costs, interest, and loss. The criminal liability can only be fulfilled by developer if there is *absolute overmacht*. Regulation related to *overmacht* is consisted in Law No. 18 of 1999, which include fire, earthquake, landslide etc.

Law No. 20 of 2011, is not comprehensively accommodate problems about forms of default dan criteria of *overmacht*, so that certificate of the right of ownership of the unit of a condominium (hereinafter is referred to as HMSRS) is not fully guaranteed. Government Regulation No. 4 of 1988 limits the regulation of insurance only to fire. In order to cover HMSRS, the government can use preventive laws and repressive laws.

Preventive laws comprise principle of anticipating and avoiding upcoming legal issues. For example, making regulations designed by government which can be license mechanism, housing-complex development, legalizing "act of determining the separation of each unit of the condominiums" (hereinafter is referred to as Akta Pemisahan), process certification of HMSRS and Conditional Sale and Purchase Agreement (hereinafter is referred to as Akta Jual beli). Preventive laws aim to increase the efficiency of law instruments having regard to the requirements set forth in the license, including administrative requirements, technical requirements and ecological requirements.

Beside of preventive laws, there are repressive laws. Repressive laws are about settlement in court and through alternative dispute resolution such as arbitration. In terms of repressive law happened, then Condominium owner and tenants association (hereinafter is referred to as PPSRS)'s roles and functions is needed.

Member of PPSRS has duty to maintain the management of condominium and to represent the interests of owners and occupants of the apartment units. Member of PPSRS is selected according to the proportion of comparison value.

Keywords: Criminal liability, developer, certificate of the right of ownership of the unit of a condominium, *overmacht*.