



Legal Protection For Housing Consumers Who Suffer Losses Due to Fictitious Land Sales

Viona Aprilianti Kusumawardhani,¹ Cindy Asya Kirana,² Ferdi Ardiansyah,³ Tina Marlina,⁴ Raden Handiriono,⁵

¹University of Swadaya Gunung Jati Cirebon, Indonesia. Email onetviona@gmail.com

²University of Swadaya Gunung Jati Cirebon, Indonesia. Email cindyak76@gmail.com

³University of Swadaya Gunung Jati, Cirebon, Indonesia. Email ferdy10102002@gmail.com

^{4,5} University of Swadaya Gunung Jati Cirebon, Indonesia

Corresponding Author : onetviona@gmail.com

Abstract. Fictitious sales are practices that harm consumers and violate their rights, which have been protected and guaranteed by law. One of the cases that emerged was the sale of fake land by PT X in the Arjawinangun area, which caused losses for many consumers. This study examines the legal protection for consumers harmed by the sale of fake land and the legal steps taken by consumers for those who suffer losses due to the sale of counterfeit land. Normative juridical is the research method used in this study, which involves the study of regulations related to consumer legal protection and analyzing legal documents, including consumer protection laws. The research data was obtained from secondary data, namely the decision of the Cirebon District Court, using a data collection method through literature studies. The analysis shows that consumers have rights protected by law, including the right to be compensated for their losses. This study concludes that a law on consumer protection fosters consumers who are harmed by counterfeit sales; the law guarantees the right of consumers to receive correct information and prohibits the sale of goods and services that are not under the agreement. BPSK has to resolve disputes between consumers and perpetrators, where consumers can file a lawsuit in the district court if fake sales harm them.

Keywords: Fictitious Sales, Legal Protection, Housing Consumers

INTRODUCTION

In buying and selling activities, there is a buying and selling agreement. In buying and selling activities, there must be reciprocal activities between buyers and sellers. The buyer's obligation is the seller's right, and vice versa; the seller's obligation is the buyer's right. According to Wirjono Prodjodikoro, there are reciprocal activities where there is agreement and commitment between the two parties to hand over the goods and pay the agreed price. As for civil law, a sale and purchase agreement creates an interchange

between the two parties between rights and obligations, not accompanied by the transfer of property rights; this is called the obligatory nature of a sale and purchase agreement. It is said to be a property right, if the goods have changed hands or handed over. In buying and selling activities, there is legal protection for consumers.

A consumer is a person or institution that consumes and uses a good or service to meet its needs. The term "consumer" comes from English; "consumer" is a person who uses goods or services. Based on this definition, the types of consumers can be identified as follows:

1. Individual consumer or end user means a person or end consumer who buys and uses a product or service for himself or herself, such as an individual or family.
2. An Organizational Consumer buys goods or uses them for common or public purposes such as for agents, distributors, or retailers.

Consumer protection is related to the legal protection of consumer rights. Physical factors are not the only consideration in this protection, and conceptual consumer rights are also included in consumer protection. In general, there are four basic consumer rights, namely:¹

1. The right to security
2. Right to information
3. The right to vote and;
4. Right to be heard

According to Philipus M. Hadjon, "the recognition of human rights that the subject of law must possess is based on the law to overcome arbitrary actions." Hadjon stated that there are two means of legal protection, namely:²

1. Preventive legal protection is a mechanism carried out for legal subjects to be given leeway in submitting responses or objections before the final government decision, so that disputes do not occur. The goal, based on the principle of freedom of action, is to encourage governments to make more careful decisions taking into account their independence. This is one of the ways the government protects preventive laws. There is no law regulating this in Indonesia.
2. To resolve disputes, the legal protection mechanism included in repressive legal protection is that administrative courts and general courts in Indonesia carry out the handling. The recognition and protection of human rights is the foundation for the

¹ Afrineldi, "*Consumer protection in Electronic commerce (E-commerce)*". Law Journal. Vol. 9 No 1, June 2021, p. 101.

² Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, Surabaya: PT. Bina Ilmu, 1987, pp. 1-2.

government's principle of legal protection. In the West, the recognition and protection of human rights is directed at limiting the power and obligations carried out by the people and their governments. The principle of the state of law, namely the recognition and protection of human rights, is a priority that relates to the state of law's goals.

Issues related to land purchase and sale involve parties participating in the transaction process. Regarding the procedure for buying and selling land, this is related to the validity of the procedures according to the rules that have been set. Just as there are many cases of buying and selling land where the land being sold does not exist (fictitious sale), these cases often occur within the community. In its sense, fictitious sales are a practice that harms consumers and violates their rights.

In this study, the researcher will investigate the transaction of buying and selling land plots where the plot is sold by the PT to the consumer at a price lower than the market price. The Consumers have paid in full for the plot purchase. Still, the PT did not hand over the plot land to the consumer because the PT could not pay the plot land to the previous owner. So, the consumers ask for the cancellation of the sale and purchase of the plot, and the consumers ask that their money be returned. The president director of PT asks for a refund of 14 days at the latest 30 days. The president director also guarantees assets such as BBPKB, a piece of land, and land certificates to refund consumers' buying and selling money. However, PT did not keep its promise to return the consumer purchase and sale money that should have been paid to consumers on April 30, 2022. Then, the land buyer submitted a claim for his rights to the District Court because he felt disadvantaged by the PT.

Based on the above, the researcher is interested in researching the title "Legal Protection for Housing Consumers Who Suffer Losses Due to Fictitious Sales."

The author formulates the following issues: How is the legal protection for consumers who suffer losses due to fictitious sales? Second, what legal remedies do consumers who suffer losses due to fictitious sales carry out?

When viewed from the background that has been formulated, as well as the formulation of the problem, this study's purpose is to research legal protection for consumers who suffer losses due to fictitious sales and evaluate the legal remedies applied by consumers who suffer losses due to fictitious sales.

METHOD

The research method used in this study is normative juridical. This method examines regulations related to consumer legal protection with the support of court decisions. The analysis was carried out on legal documents, including consumer protection laws. Literature studies were conducted to collect data. This data collection comes from the Cirebon district court decision, which includes secondary data.

DISCUSSION

What is the Legal Protection for consumers who suffer losses due to fictitious land sales?

Consumer protection is a legal issue that attracts much attention in Indonesia, and it is one of the factors contributing to achieving an OEM for the community's welfare. A business transaction must balance the rights and responsibilities of consumers and business practices in terms of law. The balance of rights and duties between the law protecting the business world and consumers will create a more prosperous society. Therefore, it is the responsibility of the state to protect the population from the negative aspects of industry and trade through consumer protection laws by prioritizing the population's welfare.³

Consumer protection law is very important for sellers. It can be used as a foundation or race to prevent sellers from committing prohibited fraudulent acts. The law can also reduce losses for business actors as consumers. The government regulates consumer rights through laws and regulations. Consumer Protection Law Number 8 of 1999 is one of the laws that regulates consumer rights and the position of business actors.

The law that governs the situation in Indonesia where consumers suffer losses due to improper sales, such as "land plots," has not been expressly regulated in the existing regulations.

Law Number 8 of 1999 concerning Consumer Protection

1. Article 4 regulates consumer rights, including the right to true and clear information.
 - a. In the case of the sale of fictitious plots of land, consumers have the right to clear information about the status of land ownership, the legality of documents, and the physical condition of the land. Business actors are responsible for providing appropriate and accurate information. If the information provided is inaccurate or misleading, business actors can violate consumer rights by Article 4.

³ Erman Rajagukguk, Consumer Protection Law, Mandar Maju, Bandung, 2000, p.1

2. Article 7 contains prohibitions imposed on business actors in trading goods and services that have been agreed.

Business actors who sell fictitious plots of land violate Article 7 because the land sold is not under the agreement. Consumers are deceived into buying property that does not exist or cannot be handed over. This violation results in consumers not receiving the goods/services promised in the sale and purchase agreement.

3. Article 19 for aggrieved consumers will be entitled to compensation.

Consumers who are victims of the sale of fictitious plots of land are entitled to compensation from business actors. Compensation can be obtained through money that has been paid and then returned, compensation for other losses incurred, and interest on late refunds. Article 19 ensures that consumers get fair compensation for the losses they suffer.

4. According to Article 23, consumers can file a lawsuit with the Consumer Dispute Resolution Agency (BPSK) or the court at the consumer's residence if the business actor refuses or does not respond to the consumer's demands under the provisions of Article 19 paragraphs 1, 2, 3, and 4. This allows consumers to take legal action to protect their right to appropriate redress.

5. Article 45, paragraph (1) states that customers who suffer losses through the institution responsible for resolving disputes between customers and the company have the right to file a lawsuit against the company. This ensures that consumers harmed by the sale of fictitious plots of land have access to fair and transparent dispute-resolution mechanisms.

6. Article 47 states that consumer disputes are settled out of court to reach an agreement on the form and amount of compensation. In off-court consumer dispute resolution, mediation or arbitration can be used to reach an agreement on damages without having to go through a lengthy and costly judicial process.

7. This can be a faster and more effective solution to resolve disputes related to the sale of fictitious plots of land.

According to Article 19 paragraph (3), Article 23, Article 45 paragraph (1), and Article 47 of Law Number 8 of 1999 concerning Consumer Protection, consumer problems

can be resolved through court proceedings and out of court.⁴ With the existence of the UUPK, consumers have more protection against fictitious sales practices.

What efforts are made by consumers who suffer losses due to fictitious land sales?

Several legal remedies can be implemented by consumers who suffer losses due to fictitious sales, namely:

BPSK (Consumer Dispute Settlement Agency)

Outside the court, BPSK handles disputes between business actors and consumers. The BPSK office is located in the capital city or capital city. The duties and authorities of BPSK include:

1. Conciliation, mediation, and arbitration can handle consumer disputes.
2. Briefed on consumer protection.
3. If there is a violation in Law No. 8 of 1999 concerning consumer protection, BPSK can report it to the general investigator
4. Regarding consumer protection violations, they can be received in written and unwritten ways from consumers
5. Notifying consumers who violate consumer protection
6. According to Law Number 8 of 1999 concerning Consumer Protection, business actors, witnesses, expert witnesses, or other persons who are considered to have knowledge of violations can ask investigators for help when the BPSK summons is made.
7. To investigate then check, it can be collected, then researched and assessed letters and other documents as evidence
8. On the consumer side, it is ensured that there is no loss
9. Companies that violate consumer protections will be informed

BPSK (Consumer Dispute Settlement Agency) uses three main methods in resolving consumer disputes, namely:

1. Conciliation is a method of dispute resolution in which the disputing party asks a third party for help to provide advice or recommendations to reach an agreement. This third party is obligated to help the other party reach an agreement voluntarily but cannot decide the outcome of the dispute.
2. Mediation is a way to resolve disputes. A neutral mediator helps the dissenting parties reach an agreement. The mediator facilitates communication and negotiation between

⁴ Janus Sidabalok, 2014, Consumer Protection Law in Indonesia, Bandung: PT Citra Aditya Bakti.

the parties but does not have the authority to determine the final outcome of the dispute. The final decision remains in the hands of the disputing parties.

3. Arbitration is a method of dispute resolution in which the disputing parties agree to appoint an arbitrator who will make a binding decision for them. In contrast to conciliation and mediation, arbitral decisions are final and must be accepted by all parties involved in the dispute.

The author has interviewed Mr. R. WISNU HERYANA, S.H., as a Member of the Cirebon City BPSK Assembly. He said that among the above methods, the parties are given the right to choose one of the methods above. After choosing, the consequences of the three methods will be explained. Suppose the consumer parties and business actors agree to choose the same agreement. In that case, the trial will continue until there is a peace decision because it prioritizes peace for the settlement. In contrast, if the parties choose different methods, the trial cannot be continued because there is no agreement between consumers and business actors to continue the trial processes, so the prosecution at BPSK cannot be continued.⁵

As long as it is indeed the authority for BPSK, as required by the laws and regulations that BPSK will respond if there are complaints about cases where the consumer is the end consumer who suffers losses, and the business actor does not run away, then as long as it is the authority of BPSK, of course, they will accept it happily and free of charge without any charge for the community or consumers who suffer losses.

a) Filing a lawsuit to the District Court

The authorities to file a lawsuit in the district court in civil cases are as follows:

1. Consumers who suffer losses or their heirs who are affected.
2. Most customers have the same needs
3. An eligible protection institution is a legal entity or foundation that is committed to protecting consumers and taking action under the provisions of its articles of association.
4. If the goods or services used cause substantial material losses and are distributed by a particular organization

The legal efforts that consumers have taken involve filing cases with the District Court, the Bandung High Court, and the Supreme Court. The Supreme

⁵ Interview with Mr. R. WISNU HERYANA, S.H as a Member of the Cirebon City BPSK Assembly, on July 1, 2024

Court decided to order PT to return all payments from consumers related to the purchase of land plots, plus interest of 6% per year, and decided that PT pay the case fee of Rp500,000.00 at this cassation level.

CONCLUSION

Based on this explanation, it can be concluded that Law Number 8 of 1999 concerning Consumer Protection offers solid legal protection for consumers who suffer losses due to the sale of fake land. In addition to prohibiting the sale of goods and services that are not under the agreements that have been made, this law regulates the right of consumers to obtain accurate information. In this case, consumers get significant protection and legal avenues to obtain compensation and justice. This BPSK is vital in overcoming disputes between consumers and business actors. BPSK uses three main dispute resolution methods: conciliation, mediation, and arbitration. Consumers who feel aggrieved by the sale of fake land can file a lawsuit in the district court. They can enforce their rights and get compensation for losses from the sale of fake land through the district court process and the BPSK dispute resolution mechanism.

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LEGISLATION:

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