

Developer's Responsibility to Housing Development Plan not in the Site Plan

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Abstract. A site plan is a comprehensive land plan using a scale including building footprint, a plot of land, land building site and or environmental infrastructure, space utilization permit, and or as an elaboration of the master plan. So, it is crucial that the housing development plan is in accordance with the site plan. This research is descriptive research. Descriptive research is research that consists of one variable or more than one variable. However, the variables do not intersect, so it is called descriptive research. Approach Legal research is carried out with an empirical a legal perspective The empirical juridical approach, sometimes known as the sociology of law, is a way of looking at the law at a legal reality in society. The responsibility of the developer regarding the housing development plan that is not included in the site plan regarding changes to social facilities and public facilities is to handle it and replace costs or re-procurement of facilities by mutual agreement between the developer and the consumer. Changing facilities will not be a problem as long as it does not harm consumers. How to resolve housing that is not included in the Site Plan regarding changes to social facilities and public facilities by holding joint deliberation to reach an agreement on what will be carried out by the developer. If it turns out that there is no common ground in the negotiation effort, the residents can send a summons to the developer by giving the specified time limit. If until the specified time limit the developer does not make any effort, the last resort is to take legal action and sue the developer or housing business actor.

Keywords: Developer; Site plan

1 Introduction

In the Housing and Settlements Law No. 1 of 2011. "Housing" is defined as "a group of houses in both urban and rural settlements that are supplied with infrastructure, services, and public utilities as a consequence of efforts to provide habitable housing." As a result, housing is one of the components of regional development. Referring to the importance of the housing function in the planning of an area, it is vital to make an attempt to comprehend the issues and potentials that exist inside a residential group. Efforts to study and locate housing infrastructure are included so that it becomes an integrated housing. Investment in a construction project in this case housing has a high level of uncertainty. This uncertainty is influenced by several aspects, where these aspects must be evaluated and taken into account.

One aspect that is very influential in the housing development planning process is whether or not it is in accordance with the site plan that has been made. By reviewing aspects of housing

development planning in accordance with the site plan and seeing the impact if it does not match the site plan that has been made, then we can find out whether the project can run smoothly without any problems or vice versa.

Site plan is a comprehensive land plan using a scale including building footprint, plot of land, land building site and or environmental infrastructure, space utilization permit and or as an elaboration of the master plan. So, it is very important that the housing development plan is in accordance with the site plan. The demand for numerous amenities that support people's lives has expanded in tandem with the rapid growth of the population. This motivates both the government and the business sector to develop, particularly in the housing sector.

Article 28 H paragraph (1) of the Republic of Indonesia's 1945 Constitution explicitly stipulates that everyone has the right to live in physical and spiritual prosperity, to have a home, and to live in a pleasant and healthy environment. Likewise in the preamble to letter b of The state is responsible for protecting the entire Indonesian nation through the implementation of housing and settlement areas, according to Law No. 1 of 2011 concerning Housing and Settlement Areas (UU-PKP), which states that the state is responsible for protecting the entire Indonesian nation through the implementation of housing and settlement areas so that people can live in decent and affordable houses in healthy, safe, harmonious, and healthy housing. and sustainable throughout Indonesia. Furthermore, everyone has the right to survive, according to Article 40 of Law No. 39 of 1999 on Human Rights and live a decent life. The fulfillment of the right to housing as a basic right comes from survival and maintaining the dignity of human life [1].

Development in the field related to housing and its facilities and infrastructure needs to be prioritized considering that housing is one of the basic human needs. It is appropriate for the government to issue housing and settlement legislation which is intended to provide a guideline for the development of the housing and settlement sector. These laws and regulations are stated among others in Law Number 4 of 1992 and Law Number 24 of 1992 [2].

In developing countries such as Indonesia, minimum basic needs are theoretically constructed as the right to food, clothing and housing. In addition, to maintain the dignity of life, it is still necessary to guarantee the right to health services, education, work, and so on. The right to housing is a human right, therefore it creates an obligation on the state to protect, respect and implement it. The state's obligations are clearly "The protection, promotion, enforcement, and fulfillment of human rights are largely the duty of the state," as stated in Article 8 of Law No. 39 of 1999 concerning Human Rights " [3].

As a result, along with human survival itself, housing is one of the basic human requirements (Basic Need). Housing media are a method for humans to carry out various life activities as well as a way of providing main protection against external disturbances, including climatic and other disturbances. Housing has evolved from a basic requirement or a protective medium to a lifestyle (lifestyle), offering comfort and displaying qualities or identity, which is one of the patterns of self-development and self-development. In a global society, private means are required.

In the age of globalization, national economic development must be able to support the growth of the business world, so that it can produce a variety of goods/services that contain technology and increase the welfare of many people while also ensuring the quality of goods and services obtained on the market.

In Indonesia, the need for housing has also increased, as has happened in the world community, especially in urban communities, where the population is very large, forcing the government to try to meet the need for housing in the midst of various obstacles such as limited housing land. The need for housing continues to increase, causing many developers to build

housing to meet the needs of housing consumers. However, many of these developments are not in accordance with the site plan that has been made, it becomes the main problem for developers regarding their responsibilities [4].

The term developer comes from a foreign language that means "house builder," according to the English dictionary. Law No. 8 of 1999, Article 7, concerning Consumer Protection regulates the Obligations of Developers (Business Actors), which include paragraphs 1, 2, and 3, namely (1) having excellent intentions when conducting business; (2) presenting accurate, clear, and honest information. (3) treating or servicing consumers appropriately, honestly, and without discrimination in terms of the condition and guarantee of goods/services, as well as offering an explanation of usage, repair, and maintenance; [5].

For developers (business actors), in addition to being burdened with several obligations as mentioned above, it turns out that they are subject to the prohibitions stipulated Articles 8 through 17 of Law No. 8 of 1999 on Consumer Protection. Article 8 of Law No. 8 of 1999 Concerning Consumer Protection regulates prohibitions for business actors that are general in nature and can be broadly divided into two (two) categories: (1) prohibitions regarding the product itself, which does not meet proper requirements and standards; and (2) prohibitions regarding the product itself, which does not meet proper requirements and standards. (2) a prohibition on the availability of information that is not true, inaccurate, or misleads consumers to be used, used, or exploited by consumers; and (3) a prohibition on the availability of information that is not true, inaccurate, or misleads consumers to be used, used, or exploited by consumers. [6].

Besides the rights and obligations that need to be considered by the developer (business actor), there is a responsibility (Product Liability) that must be borne by the developer (business actor) as part of the contractual agreements that govern their commercial activity. As a result, the developer (business actor) is expected to always be cautious when generating the goods/services they produce [7].

A site plan is a comprehensive land plan using a scale including building footprint, plot site, land building site and or environmental infrastructure, space utilization permit, and or as an elaboration of the master plan.

Product Liability can be defined as The person/entity who produces a product (producer, manufacturer), the person/entity that engages in a process to generate a product (processor, assembler), or the person/entity that distributes (seller, distributors) of these items are all legally responsible.

Puspita Emawati entitled "Planning the Site Plan for the Galmas Residence Housing Complex Phase II, Jogonalan District, Klaten Regency." This thesis explains the importance of site plan planning and the Because housing plays such an important part in human life, the construction of a quality home in a healthy housing environment is critical and must be supported by all stakeholders. The data for this thesis was gathered through a literature review and the use of data from appropriate agencies, in this case Galmas Residence housing in the Jogonalan District. It turns out that the Galmas Residence phase II residential building is made more varied and equipped with adequate facilities and infrastructure in order to accommodate consumer interest [8].

2 Research Methods

In writing this article, legal research is used, while what is meant by Legal research is a scientific activity based on certain methodologies, systematics, and ideas with the goal of analyzing one or more types of legal occurrences. A thorough analysis of the legal facts is also

carried out in order to provide a solution to the issues that arise in the legal phenomena in question. [9].

This research is descriptive research. Descriptive research is research that consists of one variable or more than one variable. However, the variables do not intersect, so it is called descriptive research [10]. Approach Legal research is carried out with an empirical a legal perspective The empirical juridical approach, sometimes known as the sociology of law, is a way of looking at the law at a legal reality in society.

2 Results and Discussion

Developer responsibilities regarding housing development plans not included in the site plan

Developer Responsibilities

One of the main elements of people's welfare is the fulfillment of housing needs, which are basic needs for every Indonesian citizen and his family, in accordance with their dignity as human beings. Starting from this, the construction of housing and settlements as stipulated in Article 4 of Law Number 4 of 1992 concerning Housing and Settlements, is aimed at:

- a. Fulfilling housing needs as one of the basic human needs, in the context of increasing and distributing people's welfare.
- b. Realizing decent housing and settlements in a healthy, safe, peaceful, and orderly setting
- c. Give Regional growth and population distribution should be directed in the right direction.
- d. Support Economic, social, cultural, and other forms of development.

Thus, the target of housing and settlement development is to create an environment and human living space in accordance with the essential needs of life, namely to fulfill the needs for security, protection, tranquility, self-development, health and beauty as well as other needs in the preservation of human life.

That goal is the ideal hope of each individual consumer of housing, the constraint is that the capacity of each individual is very limited to obtain a house in accordance with their wishes and expectations, the challenge of this housing problem is indeed not simple, indeed there has been a Political Will from the Government to provide housing, especially those aimed at to low-income communities through housing development by Perum Perumnas.

With very high housing needs from the community, developers, whether private developers or government-owned developers, are competing to make housing that is of interest to the public, developers can make housing with upper middle or lower middle segmentation and freely choose a bank. - private banks that can be invited to cooperate in terms of financing the purchase of a house (KPR).

Legal Relations Between Consumers and Developers

- a. Pre-transaction stage

The pre-transaction stage which includes licensing and production activities, bidding, promotion, and advertising activities (brochures, advertisements, pamrena) is the initial stage of developer activities to start a residential area development plan. At the pre-transaction stage, the consumer is still in the process of seeking information or information, what price and conditions he must fulfill, and considering various facilities or conditions of the desired transaction. At this stage the developer must have all kinds of permits, such as principle permits, location permits, certificates of proof of ownership of rights (rights to build), annual tax returns (SPPT PBB) and building permits (IMB). In addition to the ownership of these permits, at this stage the developer has prepared a production activity

plan in the form of a master plan or site plan for land designation for housing locations and of course all supporting facilities, which in this case are social facilities and public facilities.

b. Transaction Stage

At this stage of the transaction, there is an agreement between the consumer and the developer. This agreement was marked by the signing of a housing sale and purchase binding agreement (PPJB). With the signing of this PPJB, there has been a legal relationship between the two parties which also has legal consequences, namely, the rights and obligations of each party. At this transaction stage, the consumer will pay the price as agreed in the PPJB, while the developer will build the house according to the technical specifications in the brochure and complete the house according to the time specified in the PPJB. After the house is completed and the house price has been paid off by the consumer, the developer must hand over the building and all its facilities to the consumer. Consumers have the right to use the house building and all its facilities according to its function.

c. Full/Post Transaction Stage

At the post-transaction stage, the PPJB implementation has taken place. The consumer has paid all the prices agreed in the PPJB, and the developer has submitted the house and all its supporting facilities, as well as a certificate of proof of rights on behalf of the consumer. the developer is required to provide social and public facilities as promised at the time of the first offering (pre-transaction stage). What is meant by social facilities are facilities that give community services in the form of education, health, worship, government and public services. While what is meant by public facilities are facilities that provide open space to the public.

3.2 Resolution of Public Facilities Not Included in the Site Plan

The housing sale and purchase transaction process consist of the pre-transaction stage, transaction stage, and post-transaction/post-transaction stage. The procurement and management of social facilities and public facilities, both for government-owned developers and private developers, do not include this in the buy and sale contract at the transaction stage. However, the procurement and management of these facilities are mandatory and must exist in every residential area. There are legal rules that underlie this because housing development on land must meet several requirements before issuing a Building Permit or IMB by the local Spatial Planning and Building Service (DTRB). The need for these social facilities will differ from one another and depend on the minimum number of supporting residents required for their procurement.

One of the rights possessed by housing buyers/users is to file complaints/complaints against the management of social facilities in housing and settlement areas if there are things that make the buyer/use feel disadvantaged. To provide satisfaction and protection of consumer rights regarding the provision and management of social facilities, most developers may not submit social facilities to the Government because the surveillance carried out by the Regional Government on social facilities that have been submitted has not been maximized. But this reason is also used by "bad" developers to reap more profits.

According to the author, there is no agreement or legal rule regarding the time limit for the construction of social facilities, only legal rules regarding the time of submission. This creates a "gap" or a very large opportunity to commit a violation. The violation in question is a change in the allocation of the social facilities, in which the land is designated for social facilities, but the developer turns it into a housing unit.

In this case, the Government cannot do much because the Government can act on the violation of the social facilities development completed and submitted. The mandatory facilities,

namely social facilities, are facilities that give community services in the form of education, health, worship, Government, and public services. So the mosque is a social facility that must exist because it is for the worship of the residents of the housing, the majority of whom are Muslims.

One of the rights owned by housing buyers/users is that they can file complaints/complaints against the management of social facilities in housing and settlement areas if there are things that make the buyer/use feel disadvantaged. Easier than having to deal with the law.

Legal remedies can be taken if the housing developer or developer does not fulfill the promise for the provision of social and public facilities that can be done by the residents of the housing estate is to ask. First, the principle is to try to resolve this problem properly. If a consensus cannot be found in the negotiation effort, housing residents can send a warning/subpoena in advance, the contents of which remind the housing developer or developer that they must carry out their obligations within the agreed time limit. If the promised time has passed, housing residents whose rights to social facilities or public facilities have not been fulfilled can give a grace period to the housing developer to fulfill their obligations. If the housing developer doesn't budge, the residents of the housing estate can take legal action by suing the business actor and, at the same time, reporting the housing developer criminally.

4 Conclusion

Based on the findings of the research and discussion, it may be concluded that the developer bears responsibility regarding the housing development plan that is not included in the site plan regarding changes to social facilities and public facilities is to handle and replace costs or re-procurement of facilities by mutual agreement between the developer and the consumer. Changing facilities will not be a problem if it does not harm consumers; how to resolve housing not included in the Site Plan regarding changes to social facilities and public facilities by holding joint deliberation to agree on what will be carried out by the developer. If it turns out that there is no common ground in the negotiation effort, the residents can send a summons to the developer by giving the specified time limit. If until the specified time limit the developer does not make any effort, the last resort is to take legal action and sue the developer or housing business actor.

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