Contractus Vol. 01 No. 2 (2026): 65-73
E-ISSN: xxxx-xxxx (*Online*)

Legal Liability of Property Developers for Breach of Contract in Land Sale and Purchase Binding Agreements

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Article Information
Article History
Submitted: 28 April 2026
Received: 8 June 2026
Accepted: 27 July 2026

Keywords:
Land Sale and Purchase Binding Agreement (PPJB); breach of contract; property developers; legal liability; consumer protection

Abstract
A Land Sale and Purchase Binding Agreement is a preliminary contract commonly used in land transactions when the legal requirements for executing a Sale and Purchase Deed have not yet been fulfilled. Because the PPJB creates only contractual obligations without transferring ownership rights, buyers remain legally vulnerable when property developers commit a breach of contract. This study examines the legal validity of the PPJB and the legal liability of property developers arising from breaches of land sale and purchase binding agreements. The research employs a normative legal method using statutory, conceptual, and case approaches. Primary legal materials include the Indonesian Civil Code, agrarian and consumer protection legislation, housing regulations, and relevant Supreme Court decisions, which are analysed using qualitative legal interpretation. The findings indicate that a PPJB meeting the validity requirements of Article 1320 of the Indonesian Civil Code is legally binding under the principle of pacta sunt servanda. However, its legal protection remains limited because it does not transfer land ownership and cannot be registered as evidence of title. Property developers who breach the agreement may incur civil, administrative, and criminal liability, although effective enforcement is hindered by weak regulatory implementation and evidentiary challenges. This study recommends establishing minimum contractual standards for PPJBs, introducing escrow account mechanisms, and strengthening government supervision to enhance legal certainty and consumer.

Introduction

The Land is one of the most valuable natural resources in Indonesia, serving not only as a place for housing and economic activities but also as an object of investment and social welfare. Given its limited availability and increasing demand, legal certainty in land ownership and transfer has become a fundamental requirement for sustainable development. Article 33(3) of the

1945 Constitution of the Republic of Indonesia establishes that land and natural resources are controlled by the state and utilized for the greatest prosperity of the people, while Law No. 5 of 1960 on Basic Agrarian Regulations (Basic Agrarian Law) provides the principal legal framework governing land rights and transfers.[1]

Under Indonesian land law, the transfer of land ownership is legally completed only through a Sale and Purchase Deed and subsequently registered with the Land Office. However, where administrative requirements, such as payment completion, taxation, or land certification, have not yet been fulfilled, the parties commonly execute a Land Sale and Purchase Binding Agreement as a preliminary contract. Although legally binding, the PPJB creates only contractual obligations and does not transfer proprietary rights over the land. Consequently, purchasers remain vulnerable when property developers fail to perform their contractual obligations because they do not yet possess legal title to the property.[2]

The legal protection afforded by the PPJB is further weakened by the absence of specific regulations governing binding agreements for land plot transactions. While the Minister of Public Works and Housing Regulation No. 11/PRT/M/2019 establishes mandatory contractual standards for residential property transactions, no equivalent regulation exists for land plots.[3] As a result, developers frequently draft standard-form agreements containing clauses that disproportionately favor their interests, thereby increasing the risk of contractual imbalance and consumer disadvantage.

In Indonesian contract law, such failure to perform contractual obligations constitutes breach of contract *(wanprestasi)*. In land transactions, breaches commonly include delays in land delivery, failure to issue individual land certificates, discrepancies in land specifications, or the inability to transfer ownership due to licensing or land-use problems. These disputes often leave purchasers without effective legal protection despite having fulfilled substantial payment obligations. Moreover, although Indonesian law provides civil, administrative, and criminal sanctions against defaulting developers, their enforcement remains limited because of weak administrative supervision, the doctrine of separate corporate legal personality, and difficulties in proving criminal intent.

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[1] Maria S W Sumardjono, *Tanah Dalam Perspektif Hak Ekonomi Sosial Dan Budaya* (Kompas, 2008).

[2] B Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi, Dan Pelaksanaannya* (Djambatan, 2016).

[3] A Sutedi, *Peralihan Hak Atas Tanah Dan Pendaftarannya* (Sinar Grafika, 2018).

Previous studies have primarily examined the legal status of the PPJB or consumer protection in property transactions. However, limited attention has been given to the relationship between the evidentiary value of the PPJB, developers' contractual liability, and the effectiveness of existing legal sanctions in protecting purchasers of land plots. This study addresses that gap by analysing the legal force of the PPJB and the legal liability imposed on property developers for breach of contract under Indonesian land and contract law. It further evaluates the adequacy of the current legal framework and proposes regulatory reforms to strengthen legal certainty and consumer protection in land sale and purchase transactions.

Methods

This study employs a normative legal research method[4] to examine the legal validity of the Land Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli—PPJB) and the legal liability of property developers for breach of contract. The research adopts statutory, conceptual, and case approaches by analysing relevant Indonesian legislation, including the Indonesian Civil Code, Law No. 5 of 1960 on Basic Agrarian Regulations, Law No. 8 of 1999 on Consumer Protection, Law No. 1 of 2011 on Housing and Settlement Areas, Government Regulation No. 24 of 1997 on Land Registration, Government Regulation No. 12 of 2021, Minister of Public Works and Housing Regulation No. 11/PRT/M/2019, and Supreme Court Decision No. 3459 K/Pdt/2020. The study relies on primary legal materials consisting of legislation and judicial decisions, supported by secondary and tertiary legal materials, including scholarly literature, legal commentaries, and legal dictionaries. All materials were collected through library and electronic database research and analysed qualitatively using grammatical, systematic, teleological, and historical legal interpretation to assess the adequacy of the existing legal framework and formulate normative recommendations for strengthening legal certainty and consumer protection in land sale and purchase transactions.

Results and Discussion

1. Legal Force of the Land Sale and Purchase Binding Agreement (PPJB) in Protecting Buyers

The Land Sale and Purchase Binding Agreement is an innominate contract recognized under the principle of freedom of contract as stipulated in Article 1338 of the Indonesian Civil Code. Although it is not specifically

[4] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2024).

regulated under Book III of the Civil Code, its legal validity depends on the fulfillment of the requirements set forth in Article 1320, namely mutual consent, legal capacity, a certain object, and a lawful cause. Once these requirements are satisfied, the PPJB becomes legally binding upon the parties under the principle of pacta sunt servanda and creates reciprocal rights and obligations between the developer and the purchaser.[5]

Despite its binding force, the PPJB remains an obligatory contract that creates only personal rights (*persoonlijk recht*) rather than proprietary rights (*zakelijk recht*). Consequently, it does not transfer ownership of land, nor can it be used as the legal basis for land registration under Government Regulation No. 24 of 1997. Ownership is transferred only after the execution of a Sale and Purchase Deed before a Land Deed Official. This limitation places purchasers in a vulnerable position because legal title remains under the developer until the AJB is executed and registered.[6]

The evidentiary strength of the PPJB depends on its legal form. A PPJB executed as a notarial deed constitutes an authentic deed under Article 1868 of the Indonesian Civil Code and possesses perfect evidentiary value regarding the identity of the parties, the contents of the agreement, and the legal acts performed.[7] Conversely, a privately executed PPJB remains legally valid but has weaker evidentiary value because its authenticity may be disputed before the court.[8] Therefore, although the validity of the agreement is not determined by its form, the use of a notarial deed significantly strengthens the purchaser's legal position in the event of litigation.[9]

The study further demonstrates that legal protection through the PPJB is weakened by the absence of specific regulations governing land plot transactions. Minister of Public Works and Housing Regulation No.

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[5] "Kedudukan Hukum Perjanjian Perikatan Jual Beli (PPJB) Dalam Kegiatan Pendaftaran Peralihan Hak Atas Tanah," *Iuris Studia: Jurnal Kajian Hukum*, May 30, 2022, https://doi.org/10.55357/is.v3i1.212.

[6] Gilang Cahya Herdiawan, Yusuf Hidayat, and Suparji Suparji, "Upaya Hukum Terkait Masalah Penjualan Rumah Susun Yang Diikat Dengan PPJB (Studi Pada The H Tower, Jakarta Selatan)," *Sang Pencerah: Jurnal Ilmiah Universitas Muhammadiyah Buton* 10, no. 1 (February 8, 2024): 288–98, https://doi.org/10.35326/pencerah.v10i1.4889.

[7] Lorinza Hartomo Razy, "Analisis Pertanggungjawaban Developer Terhadap Kredit Macet Menurut Undang-Undang Nomor 1 Tahun 2011 Tentang Perumahan Dan Kawasan Permukiman," *Jurnal Tana Mana* 2, no. 1 (June 29, 2021): 50–56, https://doi.org/10.33648/jtm.v2i1.150.

[8] Muhammad Riandi Nur Ridwan and Yana Sukma Permana, "Wanprestasi Dan Akibatnya Dalam Pelaksanaan Perjanjian," *The Juris* 6, no. 2 (December 13, 2022): 441–51, https://doi.org/10.56301/juris.v6i2.616.

[9] Rezki Saputra, Jas Yeni Triana, and Indra Afrita, "Akibat Hukum Terhadap Kreditur Dalam Penundaan Kewajiban Pembayaran Utang Berdasarkan Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang," *Yustitia* 11, no. 1 (2025), https://doi.org/10.31943/yustitia.v11i1.320.

11/PRT/M/2019 provides detailed standards for PPJBs in residential housing projects but does not extend similar protection to land plot sales. As a consequence, developers frequently employ standard-form agreements containing unfair clauses that disproportionately benefit their interests. Although Article 18 of the Consumer Protection Law invalidates unfair contractual clauses, practical enforcement remains limited because purchasers often possess weaker bargaining power and limited legal knowledge. Judicial practice, including Supreme Court Decision No. 3459 K/Pdt/2020, confirms that purchasers may demand contractual performance or compensation based on a valid PPJB.[10] Nevertheless, judicial protection cannot overcome the fundamental limitation that the PPJB does not itself transfer proprietary rights over land. Accordingly, the legal force of the PPJB lies primarily in its contractual enforceability rather than in establishing ownership.[11]

2. Legal Liability of Property Developers for Breach of Contract

Property developers incur legal liability when they fail to fulfil their contractual obligations under the PPJB. Under Indonesian contract law, such failure constitutes breach of contract (*wanprestasi*), which may occur through non performance, delayed performance, defective performance, or acts expressly prohibited by the agreement. In land transactions, breaches commonly include delays in land delivery, failure to issue individual land certificates, discrepancies in land area or specifications, multiple sales of the same land, and the unilateral conversion of land designated for purchasers into public facilities. Before legal remedies are pursued, developers are generally required to be declared in default through formal notice unless the agreement provides otherwise.[12]

Indonesian law provides civil, administrative, and criminal sanctions against developers who commit breach of contract. Civil remedies, based primarily on Articles 1243 and 1267 of the Indonesian Civil Code, include specific performance, contract termination, restitution, and compensation for

[10] Ulfah Safrihayati and Paramita Prananingtyas, "Tanggung Jawab Developer Yang Wanprestasi Dalam Perjanjian Pengikat Jual Beli Tanah Dan Bangunan (Studi Kasus Di Perumnas Semarang II)," *Notarius* 15, no. 1 (April 30, 2022): 253–65, https://doi.org/10.14710/nts.v15i1.46039.

[11] Razy, "Analisis Pertanggungjawaban Developer Terhadap Kredit Macet Menurut Undang-Undang Nomor 1 Tahun 2011 Tentang Perumahan Dan Kawasan Permukiman."

[12] Amri Panahatan Sihotang et al., "Pembatalan Perjanjian Jual Beli Tanah Oleh Penjual Karena Pembeli Wanprestasi," *JURNAL USM LAW REVIEW* 6, no. 3 (December 8, 2023): 1210–22, https://doi.org/10.26623/julr.v6i3.7502.

both material and immaterial losses.[13] Purchasers may also file tort claims where the developer's conduct constitutes an unlawful act. Administratively, Law No. 1 of 2011 on Housing and Settlement Areas and Government Regulation No. 12 of 2021 authorize written warnings, suspension or revocation of business licences, administrative fines, suspension of development activities, and blacklisting of noncompliant developers.[14] Criminal liability may arise where the developer's conduct involves fraud, embezzlement, or misleading marketing practices under the Indonesian Criminal Code, the Consumer Protection Law, and the Housing Law.[15]

The research also finds that the effectiveness of these legal sanctions remains limited in practice. Civil litigation is frequently hindered by lengthy proceedings and difficulties in enforcing judgments, particularly where developers operate through limited liability companies protected by the doctrine of separate corporate legal personality.[16] Administrative enforcement is often weakened by inadequate supervision and limited institutional coordination, while criminal prosecution faces challenges in proving fraudulent intent beyond reasonable doubt. Although legal doctrines such as piercing the corporate veil and successor liability provide mechanisms to extend liability beyond the corporate entity, these doctrines are rarely applied consistently in judicial practice.[17]

Overall, the study concludes that Indonesia has established a comprehensive legal framework governing developers' liability; however, the existing framework has not yet provided effective protection for purchasers. Strengthening consumer protection therefore requires not only stricter enforcement of civil, administrative, and criminal sanctions but also preventive regulatory reforms, including standardized PPJB clauses for land plot transactions, mandatory escrow account mechanisms, greater transparency in land status and licensing, and stronger governmental supervision throughout the property development.

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[13] Razy, "Analisis Pertanggungjawaban Developer Terhadap Kredit Macet Menurut Undang-Undang Nomor 1 Tahun 2011 Tentang Perumahan Dan Kawasan Permukiman."

[14] Agus Suwandono and Rafan Darodjat, "Peningkatan Pemahaman Hak-Hak Konsumen Dalam Mewujudkan Pelindungan Hukum Terhadap Konsumen," *Proficio* 5, no. 2 (April 2, 2024): 144–49, https://doi.org/10.36728/jpf.v5i2.3451.

[15] Safira Riza Rahmani and Nynda Fatmawati Octarina, "Akta Perjanjian Pengikatan Jual Beli Rumah/Rumah Susun Sebagai Perlindungan Hukum Bagi Penjual Dan Pembeli," *Jurnal Supremasi* 10, no. 1 (April 1, 2020): 36–46, https://doi.org/10.35457/supremasi.v10i1.895.

[16] Herdiawan, Hidayat, and Suparji, "Upaya Hukum Terkait Masalah Penjualan Rumah Susun Yang Diikat Dengan PPJB (Studi Pada The H Tower, Jakarta Selatan)."

[17] Jihaan Nabila Zula, "Transaksi Peralihan Hak Atas Tanah Dan/Atau Bangunan Dalam Perjanjian Pengikatan Jual Beli (PPJB)," *Unes Journal of Swara Justisia* 8, no. 2 (July 10, 2024): 338–48, https://doi.org/10.31933/my9e8v54.

Conclusions

This study concludes that the Land Sale and Purchase Binding Agreement constitutes a legally valid and binding contract under Articles 1320 and 1338 of the Indonesian Civil Code, providing purchasers with the right to seek contractual performance, damages, or contract termination in the event of breach. However, its legal protection remains limited because the PPJB creates only contractual obligations without transferring proprietary rights over land, while its evidentiary strength depends on whether it is executed as an authentic notarial deed or a privately executed agreement. The absence of specific regulations governing PPJBs for land plot transactions further weakens consumer protection by allowing the use of unfair contractual clauses. Property developers who commit breach of contract may incur cumulative civil, administrative, and criminal liability; nevertheless, the effectiveness of these remedies is constrained by weak regulatory enforcement, the doctrine of separate corporate legal personality, and evidentiary challenges in criminal proceedings. Accordingly, strengthening legal certainty and consumer protection requires the establishment of specific regulations governing PPJBs for land plot transactions, standardized contractual provisions, stricter governmental supervision, mandatory escrow account mechanisms, and more consistent enforcement of civil, administrative, and criminal sanctions to ensure balanced legal protection for purchasers and greater accountability of property developers.

Acknowledgments

The authors would like to express their sincere gratitude to the Faculty of Law, Universitas Narotama, Surabaya, Indonesia, for its continuous academic support, institutional encouragement, and commitment to advancing legal research throughout the completion of this study. The authors also acknowledge the Faculty's valuable contribution in providing an excellent academic environment and research support that significantly facilitated the successful completion of this.

Funding

No funding was received for this study.

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