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CASE STUDY

Developer Liability after Cancellation of an Off-Plan House Purchase and a Settlement Agreement: A Case Study under the Indonesian Civil Code

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ABSTRACT

Buyers of off-plan houses in Indonesia often pay in full when they sign a binding sale and purchase agreement (PPJB), before any deed of sale exists. This case study asks what happens to the developer's liability when the buyer cancels because nothing is built and the parties then sign a settlement agreement (*acte van dading*). A buyer paid Rp165,000,000 in full on the day the PPJB was signed, which was only witnessed by a notary (*waarmerking*) and was not an authentic deed. After the buyer moved to another plot, paid Rp30,000,000 more and saw no construction, the buyer cancelled, asked for a refund, sent a warning letter and reported a suspected fraud to the police. The developer then offered a settlement, the buyer withdrew the report, and the money was still not returned. The article applies Articles 1313, 1320, 1243 and 1338 of the Civil Code, Article 19 of the Basic Agrarian Law and Article 19 of the Consumer Protection Law. It argues that the source's claim that the PPJB was void from the start is not the strongest route, because the defect in the first plot was cured by moving to another, and that the buyer's best ground is cancellation for default, with restitution, together with the settlement itself, which creates a fresh obligation to repay. It also argues that a settlement does not wipe out a developer's duty to repay unless it says so. The article ends with advice on drafting the settlement and on what consumers should check before paying in full.

Keywords: developer liability; settlement agreement; acte van dading; cancellation; binding sale and purchase agreement

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1. Introduction

The demand for housing in Indonesia keeps rising with urbanisation, economic growth and changes in the structure of society. That has increased house sales, by large developers and by small private ones, and has made property one of the engines of the national economy.[1] Disputes between buyers and developers have grown with it. They usually concern late construction, specifications that are not met and failure to hand over the house as agreed. In 2023, housing was the fourth largest category of complaints to the Indonesian Consumers Foundation (YLKI), with about 63 of 943 complaints, or 6.7 per cent.[2]

A house sale rests on an agreement. Article 1313 of the Civil Code defines an agreement as an act by which one person binds himself to another. The agreement is valid when the four conditions of Article 1320 are met: agreement, capacity, a certain object and a lawful cause. When a developer does not do what it promised, the Civil Code calls it default (*wanprestasi*), and Article 1243 makes the debtor liable for costs, loss and interest once it has been put in default and still does not perform. A buyer who is let down will often send a warning letter (*somasi*) and may cancel, and cancellation brings an obligation on the developer to return what it has received. In many cases the developer does not return the money. The dispute is then often ended by a settlement, which is called *acte van dading*, or *kesepakatan damai*.[3]

A settlement is itself a contract. Under Article 1338(1), an agreement validly made binds the parties as a statute would, and under 1338(2) it cannot be withdrawn except by consent or on grounds the law allows. It ends the dispute that was settled and makes a new obligation. A common misunderstanding is that it wipes out everything the developer owes. On the law of obligations, it closes the original dispute but does not remove duties that remain unperformed unless it says so expressly.[4]

Earlier work has looked at developer default and abuse of PPJB clauses.[5] It shows an imbalance of bargaining power between buyer and developer. Less has been written about the developer's liability once a settlement has been made, and about how Articles 1243 and 1338 apply together to restitution and damages.[6] This article takes up that gap with one case. It asks two questions. Was the PPJB valid, and what follows for the developer's liability if it was not? And does the settlement remove the developer's duty to return the buyer's money? The article draws on corrective justice, which holds that one who causes loss must repair it in proportion,[7] and on distributive justice, which holds that the burdens and benefits of a transaction should be shared fairly.[8]

[1]Fauzansyah T, Yahya A and Jauhari I, 'Perlindungan Hukum Terhadap Konsumen Pembelian Rumah Melalui Perjanjian Pengikatan Jual Beli' (2019) 7(2).

[2]Hukum P and others, 'Perlindungan Hukum Terhadap Pemilik Unit Kondotel Dalam Kasus Wanprestasi Oleh Pengembang (Studi Kasus Putusan No 5/Pdt/2020/PT Smr)' (2021) 26 154.

[3]Athalia V and others, 'Peran Acta Van Dading Sebagai Penyelesaian Sengketa: Studi Kasus Wanprestasi Dalam Kontrak Kemitraan Sawit' (2025) 2(6) 1.

[4]Nugraha A and others, 'Kesepakatan Dalam Perjanjian Untuk Mencegah Terjadinya Wanprestasi Menurut Kitab Undang-Undang Hukum Perdata' (2024) 8(1) 893.

[5]Roqiiqulqolby and others, 'Akibat Hukum Wanprestasi Atas Pembatalan Sepihak Dalam Perjanjian Pengikatan Jual Beli (PPJB) Kasus Dokter SM Di Palembang' (2025) 2(1).

[6]Ariyani A and others, 'Legal Protection For Consumer's Rights' (Atlantis Press 2023), https://doi.org/10.2991/978-2-38476-008-4.

[7]Hage MY, 'Corrective Justice And Its Significance On The Private Law' (2022) 7(1) 1.

[8]Rubbani M, 'Praktik Pembagian Waris "Bagi Rusa" Perspektif Teori Keadilan Distributif Aristoteles' (2024) 8(2) 150.

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2. Method

This is normative legal research on one case, using a statute approach. The case comes from a legal opinion written for a buyer by a law student as a final project. It is rewritten here without names, the town, the housing estate or the notary, because no court has decided the dispute and all the facts come from the buyer's side. The primary materials are Articles 1313, 1320, 1243 and 1338 of the Civil Code, Article 19(1) and (2) of Law No 5 of 1960 on Basic Agrarian Principles (UUPA) and Article 19(1) of Law No 8 of 1999 on Consumer Protection. The secondary materials are journal articles and the theory of corrective and distributive justice that goes back to Aristotle. The analysis divides each article into elements and compares them with the facts. It has the same limits as any one-sided account: it has no interviews or court record, and it cannot test the developer's version.

3. The Case

On 17 March 2025 a buyer signed an order form for a plot and building in an estate being developed, because the location seemed good and the developer promised attractive facilities. On the same day the buyer paid Rp165,000,000, described in the source as payment in full, for which the developer issued a receipt, and signed a PPJB for a unit in Block C. The PPJB was taken to a notary, who only registered the signatures (*waarmerking*) and did not draw up an authentic deed. Registering a signature certifies who signed and when; it does not certify the content.

The buyer then came to think that the land in Block C was unstable and not fit for building, and noticed that no deed of sale before a land deed official (*Pejabat Pembuat Akta Tanah*, PPAT) was planned. The buyer asked to move to a plot in Block F, which the developer itself recommended as safer. This was recorded in an addendum to the PPJB on 10 April 2025, with a further Rp20,000,000 paid, and on 19 April 2025 the buyer paid Rp10,000,000 more as a down-payment to adjust for the larger land area. The developer accepted every payment, but by mid-2025 nothing had been built on the new plot, and each time the buyer asked, the developer gave a general answer without evidence.

On 27 June 2025 the buyer cancelled the agreement. The developer did not refund the money, and gave no date or method for repayment. The buyer asked for a refund on 18 August 2025 and, when this was ignored, sent a warning letter on 2 September 2025 with a time limit. On 11 September 2025 the buyer reported the developer to the police for suspected fraud, on the view that the developer was holding the money without any legal ground. After the report, the developer approached the buyer and offered to settle. On 9 November 2025, after several meetings, they signed a settlement agreement, and the buyer withdrew the police report the same day. The source reports that the money was still not returned. It does not give the amount, schedule or terms of the settlement, which is a significant gap.

Some details of the account need care. The source says the buyer made a full payment of Rp165,000,000 on 17 March, yet the later payments of Rp20,000,000 and Rp10,000,000 are described as extra, so the total paid appears to be about Rp195,000,000, while the repayment claim in the source is for Rp165,000,000. The source also calls the buyer's cancellation of 27 June a unilateral act, which then needs a legal ground, and it lists the warning letter of 2 September after the cancellation although a warning ordinarily comes before it. These points are discussed below.

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4. Analysis

4.1 Was the PPJB void?

The source argues that the PPJB was void by operation of law (*batal demi hukum*) from the start, on three grounds: the object, the land in Block C, was unfit for building and so impossible to perform; the cause was unlawful because a sale was carried out without a deed of sale before a land deed official; and the buyer's consent was defective because the developer gave wrong information about the land.[9] Under Article 1320, failure of the two subjective conditions (agreement and capacity) makes an agreement voidable, and failure of the two objective conditions (a certain object and a lawful cause) makes it void.

Each ground is arguable but none is secure. *Object.* A plot that is unsuitable for building may make performance impossible, but the PPJB's object was a house on a plot, and the parties replaced the plot by an addendum within three weeks. That suggests the defect was one the parties cured by agreement and not one that made the whole contract void. The buyer's claim that the land was unstable also rests on her own observation in the source; no survey or expert opinion is reported. *Cause.* A PPJB is by nature a preliminary contract that comes before the deed of sale. It does not itself transfer title, and the absence of a deed of sale at that time is not unlawful. What may be unlawful is the way the developer used it: asking for full payment at the PPJB stage, which the source says is not proper practice. Whether the law forbids that depends on rules on the sale of houses before completion that the source does not cite and that a fuller study should check. *Consent.* The source calls the buyer's consent defective by mistake (*dwaling*). A defect of will makes a contract voidable on the buyer's application, not void, and the buyer must show that the developer gave wrong information and that this affected her decision.

The source also argues, in effect, both that the agreement was void and that it was binding enough to found a claim for default and a settlement. The two positions are in tension. If the PPJB never came into existence, there was nothing to breach, and the buyer's route would be to recover what she paid as an undue payment, not to claim damages for default. The better approach is to put the claims in the alternative. The primary claim should be cancellation for default, which assumes the PPJB is valid; if the court finds it void or voidable, the alternative is restitution of everything paid. In both cases the buyer gets her money back, and in neither does she depend on proving that the contract was void from the start.

4.2 The waarmerking and the payment in full

A document merely registered by a notary is a private document with a certain date and a certified signature. It does not have the full evidential force of an authentic deed on its contents.[10] The consequence is that the buyer's position is weaker as to proof, though the PPJB still binds the parties under Article 1338. Together with the full payment before any transfer, it left the buyer paying everything for a promise. The PPJB is not evidence of transfer of title, since under Article 19 of the Basic Agrarian Law title passes through the system of land registration run by the State, and a deed before a land deed official is the usual means of recording a sale.[11] A buyer who pays everything at the PPJB stage has the developer's promise and nothing registered. This is the main practical lesson of the case.

[9]Rizki M and others, 'Akibat Hukum Pembatalan Perjanjian Pengikatan Jual Beli Oleh Pengadilan Karena Wanprestasi Tanpa Ganti Rugi (Studi Kasus Putusan Nomor 160/Pdt.G/2021/PN.Ktg)' (2025) 6(4) 1.

[10]Fauzansyah and others (2019).

[11]Law No 5 of 1960 on Basic Agrarian Principles, Article 19(1) and (2).

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4.3 Default, warning and cancellation

Article 1243 makes a debtor liable for costs, loss and interest for non-performance once it has been put in default and still does not perform, or where the thing could only be given or done within a time that has passed. The developer was bound to build and hand over a house, or return the money if the contract ended. It took full payment and began nothing. The source treats this as complete default, and that is a fair reading: failing to perform at all does not require proof of fault beyond the fact of non-performance, though a debtor can escape if non-performance was not its fault.

The order of events matters. The buyer cancelled on 27 June 2025. The refund request came on 18 August and the warning letter on 2 September. Cancellation for default normally follows a warning, so the buyer's cancellation may be attacked as premature. The reply has two parts. If the PPJB set a time for building that had passed, default arose without a warning. And if it did not, the developer's later behaviour (the settlement, in which it dealt with the buyer's claim for repayment) can be read as acceptance that the contract ended. The buyer should preserve the PPJB's time clauses and the cancellation letter, and should rely on the warning of 2 September as putting the developer in default for the repayment itself.

4.4 The criminal report

The buyer reported suspected fraud on 11 September 2025, because the developer was thought to be holding the money deliberately and without ground. Civil default does not by itself make a crime; fraud needs deceit at the time of the transaction. The report was withdrawn on 9 November 2025 under the settlement. Withdrawal does not remove the developer's civil duties, which arise from the settlement; and where the settlement says that the report is withdrawn in return for repayment, a failure to repay lets the buyer say the consideration for the withdrawal has failed. Whether the police will take up the matter again depends on the offence and on the rules on withdrawal of complaints, which the source does not discuss.

4.5 The effect of the settlement

The central question is whether the settlement of 9 November 2025 relieved the developer of its duty to repay. The answer in the source is no, and the reasoning is sound. A settlement is a new agreement. By Article 1338(1) it binds the parties like a statute and by Article 1338(3) it must be performed in good faith. It closes the dispute that was settled but does not remove the underlying duty unless it says so expressly. In this case the developer's agreement to settle can be read as acknowledging that something was owed; the source says it reinforced the acknowledgement of the debt. The duty to repay therefore survives, now with two bases: the original contract and its cancellation, and the settlement.

The consequence of non-performance is a second default, this time of the settlement. The buyer can sue on the settlement itself, which is simpler than going back to the original dispute, because the developer's promise to repay is a clear obligation. The source does not state the terms of the settlement, so it is impossible to say whether it contained a clause on what happens in case of non-payment, such as a penalty, a right to revive the original claim or a right to resume the criminal complaint. A buyer entering a settlement should insist on those clauses, a fixed schedule and security for payment.

Corrective justice supports this outcome. A party who has caused loss must repair it, so the developer must return the buyer to the position she was in before she paid. Distributive justice points the same way: the buyer paid everything and received nothing, while the developer received everything and gave nothing. Consumer protection theory adds that a buyer and a developer are not equals, and law should correct the

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imbalance.[12] Article 19(1) of the Consumer Protection Law makes the business operator answerable for loss to the consumer, and a buyer of a house from a developer is a consumer of the developer's service.[13]

4.6 Loss and the sum to be repaid

The source claims Rp165,000,000 as the principal, together with distress and loss of trust. Two points need correcting. The buyer paid more than Rp165,000,000 (see the facts), so the claim should state every sum paid, with receipts. And distress is loss without money value, which Indonesian courts accept only in limited cases and which the buyer must prove. A claim for interest on the sum from the date of cancellation is a more reliable head of damage than a claim for distress, because it is easy to compute and follows from Article 1243.

5. Discussion

The case shows three things. First, a buyer who pays in full at the PPJB stage bears the entire risk. Nothing in the contract or in the law of land registration protects her if the developer does not build. Staged payments tied to construction, and no full payment before the deed of sale, are the usual protection, and a buyer should insist on them. Second, a settlement can help a buyer only if it is written so as to be enforced. A settlement that records a promise to repay but gives no schedule, no security and no consequence for failure leaves the buyer where she began, now with the criminal complaint withdrawn. Third, theories of nullity are attractive but risky. Arguing that the contract was void invites the answer that the buyer cannot then rely on it, and the case is better argued as default with restitution in the alternative.

For notaries and land deed officials, the case is a reminder that registering a signature on a PPJB gives a buyer far less than an authentic deed, and that they should warn the parties of this when they are asked to do it. The source ends with a general discussion of Articles 1320 and 1338, which it says are complementary: the first makes sure an agreement is validly made and the second guarantees its performance in good faith. That is correct, but it adds little to the case, and the central finding is better stated in terms of the developer's duty to repay.

6. Conclusion

The developer in this case took Rp165,000,000 and more from the buyer, built nothing and did not repay. The best ground for the buyer is cancellation for default under Articles 1243 and 1338, with restitution of all sums paid and interest, and in the alternative restitution if the PPJB is found void or voidable. The claim that the PPJB was void from the start is the weakest part of the source's argument, because the defect in the first plot was cured by moving to another plot. The settlement of 9 November 2025 does not remove the developer's duty. It is a new, binding obligation under Article 1338, and the developer's failure to perform it is a second default on which the buyer can sue. Withdrawal of the police report does not remove the civil liability.

The study rests on one side's account and does not give the terms of the settlement. Further work should look at the terms that make settlements of this kind enforceable and at decided cases where buyers sued on

[12]Long A and others, 'Legal Liability of Property Developers Regarding the Fulfillment of Obligations to Consumers in Sale and Purchase Transactions Using the Binding Sale and Purchase Agreement' (2024) 6(2) 453.

[13]Irawan A and others, 'Wanprestasi Developer Dalam Jual Beli Kavling: Hilangnya Kepastian Hukum Bagi Konsumen' (2025) 3(2) 100, https://doi.org/10.26623/jj.v3i2.11504.

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a settlement. For practice, buyers should not pay in full at the PPJB stage, should require an authentic deed where possible and should record any settlement with a fixed schedule, security and a clause on default. Developers should keep to the schedule of a staged payment and should disclose the condition of the land before selling it.

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