



Legal Protection for Apartment Owners Whose Units Are Demolished Due to Uninhabitable Conditions

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Abstract

The existence of apartments still has many problems in the field. This is due to the community's need for knowledge about the laws and regulations for flats that make it possible for developers who do not have good intentions to exploit them; the purpose of this study is to analyze the legal protection for flat owners whose units are demolished due to uninhabitable conditions. The research method used in this study is the focus of normative research. The results of this study indicate that the forms of legal protection for owners of flats that are destroyed because they are unfit for habitation include: Compensation (building owners receive compensation by statutory provisions), invitations if the building is demolished by the Central Government, not because of the fault of the building owner, Dissemination of Demolition, Free Temporary Housing, Reclamation of Land and Building Rights, and the Owner Has the Right to Approve Changes in Function and Utilization of Flats Development Plans.

Keywords: *Protection; Flats; Law*

Introduction

In general, sales of property products in the form of apartments have almost dominated the property market in major cities in Indonesia. There are several reasons why the property business has increased in recent years, namely:

1. a growing population,
2. limited land availability,
3. high demand for housing,
4. Rising prices of landed houses, making apartments a solution to address the housing shortage and congestion in big cities, and a potential market for developers.

In addition to being a solution to the issues above, apartments are also a good investment for the future, for example, generating rental income (Ronin, 2023). Therefore, the location of the apartment, construction quality, and available facilities are critical factors in determining whether an investment in an apartment will be profitable (Sterk & Weisbord, 2023).

The magnitude of the potential is inversely proportional to the readiness of the legal product that covers it. Currently, there is a legal vacuum in Indonesia because there is no legal basis for regulating the matter of apartment buildings in Indonesia, where the applicable legal basis until now is Government Regulation (PP) Number 18 of 2021 concerning the Management of Apartment Buildings, from now on referred to as PPRS, and Law Number 11 of 2020 jo Government Regulation Number 2 of 2022 concerning Job Creation which amended several provisions in Law Number 20 of 2011 concerning Apartment Buildings. (S. N. Indonesia, 2021).

The juridical basis for regulating apartment buildings in Indonesia currently is based on Government Regulation (PP) Number 13 of 2021 concerning the Management of Apartment Buildings, from now on referred to as PPRS, and Law Number 11 of 2020 jo Government Regulation Number 2 of 2022 concerning Job Creation (from now on referred to as the Job Creation Law) which amended several provisions in Law Number 20 of 2011 concerning Apartment Buildings, as well as amended several provisions in Law Number 1 of 2011 concerning Housing and Settlement Areas. Specifically, apartment buildings are regulated in the Republic of Indonesia Government Regulation Number 16 of 2021 on the Implementation of Law Number 28 of 2002 concerning Buildings.

During the implementation of quality improvement, living arrangements for the original owners become the responsibility of the development actors. As stipulated in Article 68 paragraph (1) of the Apartment Building Law: Development actors are responsible for implementing quality improvement and providing suitable temporary housing taking into account distance, facilities, infrastructure, and public utilities, including funding. Once the quality improvement of the apartment building is completed, PPRS is responsible for the re-occupancy of the original owners. In the case of re-occupancy by the original owners, the owners are not subject to land and building acquisition fees.

The apartment building or condominium can be demolished if it can no longer be repaired. However, if it can still be repaired, then a quality improvement can be carried out, which involves the stages of demolition, arrangement, and construction. As for the time frame, there is no specific time frame; it depends on the condition of the apartment building itself. Suppose it is deemed necessary to repair it. In that case, there will be an initiative, either from the condominium unit owner or the government (depending on the type of condominium). If the building is not functional but can still be repaired, the owner and users must restore the declared non-functional. The demolition of condominiums is part of the improvement of the quality of condominiums as stated in the general explanation of PP Np. 16 of 2021, which states that:

"The scope of condominium management activities includes operational activities, maintenance, and care of condominiums. The PPRS is responsible for managing condominiums that provide construction safety guarantees and building reliability. However, when the condominium building experiences a decline in quality that endangers occupants and the environment, an improvement in the quality of the condominium is needed. The improvement of the quality of condominiums is carried out by initiators through the reconstruction of condominiums through demolition, arrangement, and construction while considering social, cultural, and economic factors that are just".

The demolition of buildings that broadly impacts public safety and the environment must be carried out based on an approved technical demolition plan by the central government and local

government according to their respective authorities based on norms, standards, procedures, and criteria set by the central government. (R. Indonesia & Indonesia, 2020) The approval of the demolition of buildings, referred to as the demolition approval, is the approval given by the district/city government to the owner to demolish the facility by technical standards. (P. R. Indonesia, 2021) The Technical Demolition Plan of Buildings, abbreviated as RTB, is a document containing the results of the identification of the building and its environment, demolition methodology, demolition risk mitigation, technical demolition plan drawings, and demolition implementation schedules. (P. R. Indonesia, 2021).

The demolition of buildings is regulated by the standard for the destruction of buildings, which consists of:

- a. Determination of building demolition;
- b. Review of building demolition;
- c. Implementation of building demolition;
- d. Supervised building demolition; and
- e. Post-building demolition.

The provisions for reviewing the demolition of buildings include

- f. Review of building structures;
- g. Thinking of building non-structures; and
- h. Review of non-structural building components.

Fulfilling the requirements for building demolition review is necessary to ensure the community's and the environment's safety and security. The demolition of old buildings must be carried out without disturbing or damaging other existing structures. Before starting new work, the contractor must clean the site of debris, vegetation, rocks, and other items that may interfere with demolition. Various stages must be considered before demolishing a building, described in more detail below (P. R. Indonesia, 2021).

Apartments are one alternative for large populations that must be supported by adequate land availability. However, there are also various problems often encountered with apartments. Based on consumer complaints received by the Directorate General of Consumer Empowerment and Business Competition Supervision of the Ministry of Trade, the National Consumer Protection Agency (BPKN), the Consumer Dispute Settlement Agency (BPSK Jakarta), the Indonesian Real Estate Association (DPD REI Jakarta), the Indonesian Consumer Foundation (YLKI), and the Indonesia Property Watch (IPW), some of the problems with apartments include:

1. inconsistency between what was promised by the developer and the actual apartment received by the consumer,
2. lack of clear and transparent information from the developer, especially regarding infrastructure conditions, non-compliance of land/building status, differences between the promised and actual physical conditions of the apartment, lack of clarity on the certificate and its transfer process, unclear building permits (IMB), and social facilities (Fasos),
3. consumers cannot freely use their voting rights because the bank option for a mortgage (KPR) or apartment ownership credit (KPA) has been determined by the developer,
4. certificates that are not immediately given to consumers by the developer,
5. consumers are often tempted by low prices and continue to pay installments, but there is no agreement in the form of a sales and purchase agreement (PPJB) between the consumer and the developer,
6. pre-sale or sale of apartment drawings that have not yet obtained building permits, while consumer installment payments have been received by the developer (Kerti, 2018).

The existence of apartments still has many problems in the field. This is due to the public's need for knowledge about apartment legal regulations, which allows them to be exploited by developers who do not have good intentions. This situation often causes buyers to be disappointed and lodge complaints, both through the media and consumer protection agencies and even the courts. Sometimes the resolution of complaints by buyers is different from their expectations and is often disappointing due to the sales and purchase agreement clauses that do not provide legal protection for buyers and are more beneficial to developers.

As described above, Indonesia is said not to have regulations regarding the ownership certainty of apartments when demolished due to being uninhabitable. Therefore, this study will explain the essence of the legal agreement and ownership contained in the regulation of the demolition of uninhabitable apartments in the future. It is necessary to study the ideal concept of fair legal certainty in destroying uninhabitable flats in the future to create a newly legal product that holistically regulates this problem.

Research Methods

Legal research is conducted to solve legal issues. Therefore the ability to identify legal problems, perform legal reasoning, analyze the issues, and provide solutions is needed. Based on the topics studied, this type of research is normative because it aims to scan and analyze the substance of legal regulations on the central issues or issues consistently with the existing legal principles. The focus of normative research, by the distinctive character of legal scholarship, lies in the legal analysis or study of positive law, which includes three layers of legal scholarship: legal dogmatics, legal theory, and legal philosophy (Marzuki, 2014).

Normative research is based on several principles, including:

1. Acceptance of positive law as something that must be followed.
2. Law is used as a means of problem-solving.
3. Participation as a subject that supports positive law.
4. Judgment or assessment of community members based on positive law.

Normative research includes an inventory of positive law, research on legal principles, finding concrete law, systematic analysis, synchronization and harmonization, comparison, and legal history (Eguavoen, 2022).

The problem approach used in this research is the statutory approach. The statutory approach is carried out by examining all laws and regulations related to the legal issues being studied. The statutory approach is used to study the law of agreements and ownership of condominiums (Al-Ghayyad & Al-Rubaie, 2022).

This research also uses a conceptual approach. The conceptual approach is usually used to explain and analyze research problems that arise from a blank norm. In other words, in the current legal system, there are no, or there are no, norms from a particular regulation that can be applied to concrete legal events or disputes. The conceptual approach is used based on the legal problem related to the regulation of the demolition of uninhabitable condominiums due to the building's age, which has yet to be specifically regulated in the law (Diantha & SH, 2016).

The collection of legal materials in this research is done by literature study, which is conducted in several stages as follows:

1. Inventory of available legal materials;
2. Categorization of legal materials; and
3. Study of all categorized legal materials to answer the research question.

After the legal materials are collected, they are processed by organizing them to make it easier to read and interpret each legal material obtained.

Results and Discussion

A. Ownership Status of Flats

Every individual has the right to obtain a flat through the purchasing procedure, in which the individual referred to is a legal subject. The understanding of a legal subject is any entity authorized to possess, acquire, and use rights and obligations in lawful traffic. The ownership status of flats originates from the government's policy to provide a solution for land saving by implementing vertical housing development models, one of which is through the construction of flats. Over time, the government's policy on constructing flats for low-income communities began to develop again by developing housing with apartment models for middle-to-upper-income communities (Sudiarto, 2021).

In the process of ordering a flat, the rights and obligations of the parties involved are inherent due to an agreement by the formulation of Article 1320 of the Civil Code. Thus, the parties who agree are obliged to perform what was agreed upon, as stated in Article 1234 of the Civil Code "Every obligation is to give something, to do something, and not to do something." In Articles 1474 and 1475 of the Civil Code, the primary obligations of business actors are mentioned, as well as the delivery of goods, in this case, flats, and Article 1513 of the Civil Code mentions the primary obligations of consumers in terms of payment by the agreement.

In the Civil Code, an agreement is known as one of the sources of obligations that arise, and the valid requirements of the agreement are contained in Article 1320 of the Civil Code. The ownership of both simple and commercial flats must be done by doing deeds in the presence of a Notary or Land Deed Official (PPAT). In addition, the agreements made must also be registered with the Association of Owners and Occupants of Flats (PPPSRS). The agreement between consumers and business actors must also be based on the Civil Code. The formation of PPPSRS, when related to the Civil Code, is an obligation. Obligations arise not only based on agreements but also from laws or originating from statutes.

The Sales and Purchase Agreement (PPJB) between the buyer and the developer related to apartments or flats must pay attention to the rights of flat occupants as consumers, whose rights are regulated in the Sales and Purchase Agreement but must still refer to Law Number 8 of 1999 concerning Consumer Protection. According to Article 1 number 1 of Law Number 8 of 1999 concerning Consumer Protection, the understanding of Consumer Protection is an effort that ensures legal certainty to protect consumers so that it can create a sense of security for the parties involved, namely consumers and business actors. The understanding of consumers is also explained in Article 1 number 1 of Law Number 8 of 1999 concerning Consumer Protection, namely every person who uses goods and services available in society, both for their interests, families, others, or other living beings and not for trading. In the context of buying and selling flats, consumers are buyers of goods in the form of flat units and occupants who occupy flat units, both as owners or non-owners (tenants).

B. Demolition of Uninhabitable Apartment Buildings

1. Requirements for Inhabitable Apartment Buildings

In buildings used as human residences, it is essential to meet specific standards of safety and livability to ensure the well-being of its occupants. According to the Ministerial Regulation No. 22/PERMEN/M/2008 regarding the Minimal Service Standard (SPM) for Provincial and District/City Public Housing, a Livable House (RLH) is a house that meets the safety requirements of the building, the minimum size of the building, and the health of its occupants. (Permenpera RI No. 22/PERMEN/M/2008 Tentang Standar Pelayanan Minimal (SPM) Bidang Perumahan Rakyat Daerah Provinsi Dan Kab/Kota. Jakarta. Kementrian Perumahan Rakyat. 2008, 2008).

A dwelling is considered not livable if it does not meet the following requirements: (Permenpera RI No. 22/PERMEN/M/2008 Tentang Standar Pelayanan Minimal (SPM) Bidang Perumahan Rakyat Daerah Provinsi Dan Kab/Kota. Jakarta. Kementrian Perumahan Rakyat. 2008, 2008). Safety of the building, including the foundation, columns, and beams; health standards, including lighting, ventilation, and sanitation; and sufficient minimum living space of 7.2 m² - 12 m².

The criteria for a Livable House (RLH) should include using local building materials and technology by local wisdom. Therefore, the freedom to use different building materials and technologies to meet the criteria for a livable house is still allowed. Based on this understanding, a place that does not meet the safety, minimum size, and health requirements is uncomfortable.

The construction of apartment buildings must meet various technical and administrative requirements stipulated in Article 6 of the Housing Law and Government Regulation No. 13 of 2021 regarding the Management of Apartment Buildings. The construction of apartment buildings requires stricter technical and administrative requirements due to their unique form and condition. Apartment buildings are multi-story buildings that many people will inhabit. Thus, the occupants' safety, security, and enjoyment must be ensured.

According to Article 6 of the Housing Law, the technical requirements include regulations on space, structure, building components, materials, the common area, building density, layout, and environmental facilities and infrastructure. The administrative requirements include location permits (Letter of Land Release Approval (SP3L) and Land Use Permit (SIPPT)), Building Permits (IMB), occupancy permits, and land certificates. Based on these administrative requirements, the construction of apartment buildings and their surroundings must be carried out according to permits issued by the local government.

Housing is one of the basic needs of human beings, whether as a place to live, a business office, a sales outlet, and so on. However, not everyone can enjoy decent, healthy, safe, and harmonious housing, especially in densely populated urban areas. We all know that finding decent housing in urban areas is difficult, mainly due to land limitations. Therefore, the government takes steps and actions to build vertical housing, known as flats/apartments, which do not require large plots of land.

These technical, administrative, and ecological requirements are further regulated in the Indonesian Government Regulation No. 13 of 2021 on the Management of Flats/Apartments. According to the Government Regulation, in Article 19 Paragraph (1), the Development Actors in building Flats/Apartments must follow the standard for building Flats/Apartments. The ideal for building Flats/Apartments, as referred to in Paragraph (1), includes:

- a. Administrative requirements;
- b. Technical requirements; and
- c. Ecological requirements.

The administrative requirements, as referred to in Paragraph (2) letter and include:

- a. Land ownership status; and
- b. Building Permit Approval (PBG).

The technical requirements, as referred to in Paragraph (2) letter b, include:

- a. Building design, including architectural provisions and provisions for allocation and intensity;
- b. Building reliability provides safety, health, comfort, and convenience provisions.

2. Demolition of Uninhabitable Flats

Demolition is a stage in building construction. Demolition can be defined as an act of destruction. This may involve destroying anything but is more commonly associated with facilities. A building is a structure with a roof, walls, and standing; it has a more permanent building existence. Demolition of a building is concluded as destroying a system with a ceiling and walls. Demolition can be stated as a frontal task, but necessary. Demolition is the process of planning and implementing destruction in a controlled manner. Demolition is to bring down buildings and other structures. Demolition contrasts with deconstruction, which involves carefully removing a building and preserving valuable elements for reuse (Peranganing, 2017).

Building demolition activities are risky, considering the many parties and impacts that can arise from demolition activities. Therefore, before demolition, some things need to be considered to minimize the unwanted effects and things.

Here are the things that need to be considered when carrying out demolition activities: (Peranganing, 2017)

1. Building ownership documents;
2. Building permit documents;
3. Identification of the type of building to be demolished;
4. Identification of the type of building material;
5. Identification of the building structure; and
6. Demolition plan for the building.
7. Before demolition, the power supply to the work/building location must be completely shut off. The following are the subsequent stages of destruction:
8. Demolition of the metal roof covering;
9. Demolition of wooden trusses, rafters, and planks;
10. Demolition of internal brick walls;
11. Demolition of ceramic tiles;
12. Demolition of floor slabs by volume, specifications, and working drawings;
13. Demolition of split AC units on the first floor;
14. Demolition of floor tiles on the ground floor;
15. Retrofitting of columns on the ground floor; and
16. Excavation of the floor and surrounding area of each column that will be retrofitted to
17. The desired depth.

The materials from the demolition must be placed in a protected and safe location and received approval from the supervisor or owner. If parts/materials from the debris can be reused, support from the supervisor is required.

Old buildings should be demolished without disturbing/damaging other existing structures. Before starting new work, the contractor must clean the site of debris, vegetation, stones, and other objects that could interfere with the demolition. As detailed below, various stages must be considered before demolishing a building (Peranginangin, 2017).

1. The local government identifies buildings designated for demolition based on inspections and reports from the community.
2. The local government informs the owner and user of the building designated for demolition about the identification results.
3. Based on the identification results, the owner and user of the building, except for single-family homes, especially core houses, and healthy simple homes, must conduct a technical assessment of the building and submit the results to the local government, except for notable function buildings to government.
4. If the technical assessment results meet the criteria, the local government designates the building for demolition with a demolition designation letter.
5. For buildings that do not have Building Permit, the local government designates the building for demolition with a demolition designation letter.

Uninhabitable apartment buildings also need help with demolition. The criteria for uninhabitable apartment buildings that will be demolished in the future in this study are those that will be destroyed due to age or the age of the apartment building. This is because a building that is already old may not be safe to occupy because its construction is becoming more fragile with age.

The legal regulations regarding the collapse or demolition of buildings are set out in Law No. 28 of 2002 on Buildings. Article 1, paragraph (8) states that demolition is dismantling or demolishing all or parts of a building, component, building material, and infrastructure and facilities. Article 39 states that a building can be destroyed if:

- 1) Unfit for use and cannot be repaired. A building that is unfit for use and can no longer be restored means that it will endanger the owner's and users' safety if the building continues to be used. If a building is declared unfit for use but can still be repaired, the owner and users can fix it until it is declared fit.
- 2) It can pose a danger in the use of the building and its surroundings.
- 3) Does not have a building permit.

Before a building is declared to be demolished, a technical assessment is carried out first. A technical assessor conducts the technical evaluation of the building, and its procurement becomes the obligation of the building owner. If the building is no longer functional but can still be repaired, it becomes the building owner's and user's responsibility to restore the building that has been declared unfit. This means that if the apartment building is no longer viable and cannot be repaired after standing for several decades, there is a possibility that the apartment building will be demolished.

C. Legal Protection for Flats Ownership

According to Hahn, (2022), legal protection is protecting human rights that others have violated. This protection is given to society so they can enjoy all the rights the law grants. Meanwhile, according to Ling, (2021) legal protection is the various legal efforts that law enforcement officials must give to

provide a sense of security, both mentally and physically, from disturbances and multiple threats from any party (Dewar et al., 2020). Argue that legal protection is an action to protect or assist legal subjects using legal devices. Legal protection is the protection of dignity and recognition of human rights owned by legal matters based on legal provisions from arbitrariness or as a collection of rules or norms that can protect one thing from another. Regarding consumers, it means that the law protects customers' rights from anything that results in the non-fulfillment of those rights (Guo et al., 2019).

According to Philipus M. Hadjon, there are two types of legal protection means, namely: (Hadjon, 1987)

1) Preventive Legal Protection Means.

In this preventive legal protection, the legal subject can submit objections or opinions before a government decision becomes definitive. The goal is to prevent disputes from occurring. Preventive legal protection is significant for governmental actions based on freedom of movement. With preventive legal guardians, the government is encouraged to be cautious in making decisions based on discretion.

2) Repressive Legal Protection Means

Repressive legal protection aims to settle disputes. The handling of legal protection by the General Court and Administrative Court in Indonesia falls into this category of legal protection. The principle of legal protection against government actions is based on the recognition and protection of human rights, which according to Western history, gave rise to concepts of recognition and protection of human rights.

According to Been et al., (2019) the legal function is to protect someone's interests by allocating power to act in the interest. This allocation of power is done in a measured manner, meaning its extent and depth determine it. According to Muchsin. (Mishra, 2019). legal protection is an activity to protect individuals by harmonizing values or norms that manifest in attitudes and actions in creating order in human interaction. Legal protection of ownership of flats is a form of protection by the rule of law.

In land law there are two principles of land law, where one code contradicts the other, namely:

1) Asas *Accessi* (asas pelekatan) atau *Accessie Scheiding Beginsel*.

The principle of Access is a principle that divides, limits, and separates land ownership in its fields or parcels vertically, so this means that: The owner of the land parcel is also the owner of everything contained within the land itself or anything that is on or standing on the ground, such as buildings or plants. Therefore, in this separation principle, it is impossible for someone or a party to occupy or use another person's land, whether for building or planting. In other words, the owner of a specific land parcel or field has a clear status and rights, namely as a complete owner entitled to everything related to their land parcel or field and everything on it.

2) The Horizontal Separation Principle or *Horizontale Beginsel*.

The principle of horizontal separation refers to a direction that divides, limits, and separates ownership of a piece of land and everything related to it horizontally. This has legal consequences that only sometimes mean that the owner of a piece of land is also the owner of all the plants or buildings on that land and vice versa. It is also possible for someone or a party to place something on someone else's ground under this principle, whether it be a building or the planting of crops. In other words, the owner of a piece of land does not necessarily own everything on that land (Dovey et al., 2019).

Both have different characteristics and consequences. As stated by Sri Soedewi Masjchoen Sofwan, the following: (Prof. Dr. Ny. Sri Soedewi masjchoen Sofwan, 1980)

"The question is how to regulate future land security institutions without conflicting with the principle of Attachment that is not recognized in the UUPA, while in Customary Law, the principle of Horizontal Separation is recognized."

This opinion is reinforced by Saleh Adiwinata, who stated: (Adiwinata, 1976)

"Moreover, at present, there are even more reasons and rationales to apply this principle of Horizontal Separation integrally, more consistently, and more openly before the birth of UUPA because Article 5 emphasizes that the new agricultural Law is Customary Law, but what is meant is Customary Law that has been filtered and refined. Therefore, the fundamental principle of Customary Law, Horizontal Separation, also permeates our new agrarian Law."

The principle of land law (Narrow Agrarian Law) is the principle of Horizontal Separation, which is the ownership of objects on the land where those objects are located. Conversely, the focus of Attachment (access) applied before the enactment of the UUPA. The concept of the condominium as a new phenomenon required by modern society is by the land law principles established by the UUPA. However, maintaining the old principles will still need more work in its application.

The concept of apartment ownership in Indonesia, which adheres to the condominium system, has given rise to a new form of ownership as a legal guarantee for the occupants of the apartments, namely the Right of Ownership over a Unit of Apartment (Hak Milik Atas Satuan Rumah Susun or HMSRS), where the ownership right over a unit of the apartment is individual and separate (from the ownership of other branches of flats). This right also includes the right over common parts, common property, and common land, all of which are inseparable from the relevant unit of the apartment based on the proportionality system, which is based on the size of the appropriate department of an apartment concerning the entire building of the apartment complex.

This provision does not mean that the National Land Law abandons the principle of horizontal separation and replaces it with the accessory principle used in Western law. On the contrary, it applies customary law principles to modern phenomena. Under customary law, the principle applies that the construction of a house by a regular law community member on ancestral land (Hak Ulayat), which is common land, makes the building on the ground, where the building stands, the personal right of the owner of the house concerned.

D. Obtaining Compensation

Based on the above explanation, due to age factors, there is a legal vacuum regulating the demolition of uninhabitable apartment buildings. Article 158 of Government Regulation Number 16 of 2021 concerning the Implementation of Law Number 28 of 2002 concerning Building Construction states that the Building Owner is entitled to compensation by the provisions of the laws and regulations if the building is demolished by the Government, not due to the fault of the building owner. This is included in the Omnibus Law regarding changes to Article 40, paragraph 1 in Law Number 28 of 2002 concerning Building Construction.

Compensation for owners of apartment buildings that must be demolished because they are no longer habitable due to age factors is not regulated in laws and regulations. In this case, owners of apartment buildings have not received legal protection regarding this matter. Suppose the demolition of the apartment building is initiated by the Government. In that case, the owner will receive compensation from the Government. At the same time, the uninhabitable apartment building becomes the developer's responsibility as a guarantee for the construction of the building by conducting repairs and maintenance

of the building. However, the responsibility for demolishing and compensating an uninhabitable apartment building due to age factors has yet to be regulated.

Compensation is a form of justice in the law. The primary purpose of the law is to ensure fairness in society. Through the law, the government must be able to balance public interests with other interests. The ideal of justice that lives in the people's hearts symbolizes the harmonization of these interests. The main task of a government is to realize social justice. Justice is achieved in a country where human rights are respected, and gains and burdens are shared relatively, especially regarding the property (Huijbers & Hukum, 2018). Based on the above description, due to age factors, there is a legal vacuum regulating the demolition of unfit apartment buildings. Article 158 of Government Regulation Number 16 of 2021 concerning the Implementation of Law Number 28 of 2002 concerning Building Construction states that;

- (1) The age of a building, as referred to in Article 157 paragraph (3) letter a, is the period that the Building still meets the function and reliability standards set.
- (2) The age of a building, as referred to in paragraph (1), is 50 (fifty) years.
- (3) Depreciation, as referred to in Article 157 paragraph (3) letter b, is the reduction value or depreciation of the Building calculated each year equally during the age of the Building.
- (4) Depreciation, as referred to in paragraph (3), is determined as follows:
- (5) 20% (two percent) per year for permanent buildings;
- (6) 40% (four percent) per year for semi-permanent buildings; or
- (7) 10% (ten percent) per year for emergency buildings, with a salvage value.

The article needs to explain Buildings that have exceeded the building age limit of 50 years. Therefore, a solution is required to address the issue. In this regard, the author proposes several recommendations, including:

1. The demolition of apartment buildings that are no longer habitable due to building age factors that have exceeded the limit, initiated by the Regional Government, considering that the Government is responsible for the welfare and public order;
2. There is no compensation for apartment owners for units that are demolished due to being unfit for habitation caused by building age factors for the following reasons:
 - a. The developer is responsible for repairing and maintaining apartment buildings within the applicable building age limit of 50 years. If, after 50 years, damage, demolition, and repairs are no longer the developer's responsibility but rather the apartment owners.
 - b. The Government is the initiator of the demolition of the building, while the demolition and reconstruction are the responsibility of the building owners.
 - c. Apartment owners can discuss the demolition and reconstruction of the apartment building.

The demolition and reconstruction of the dismantled apartment building is a consequence for the owner whose structure has exceeded the age limit for occupancy.

E. Getting Demolition Socialization

In Article 111, paragraph (3) of Government Regulation No. 13 of 2021 concerning Apartment Management, the stages of demolition, such as the preparation of a technical demolition plan, indicate that a prior study has been carried out on whether the building is habitable or not. It can be repaired if it is not habitable, but if it cannot, it will be demolished.

The stages of apartment demolition include:

- a. Preparation of a technical plan and
- b. Socialization; and
- c. Provision of temporary housing.

Socialization about the apartment or building demolition is legal protection for the owners or occupants of the apartment. With socialization, the owners or occupants of the apartment or building that will be demolished can prepare for their living arrangements after the demolition, as temporary housing is mandatory and provided by the Developer. This means that the destruction of an uninhabitable apartment or building, apart from age factors, is the responsibility of the developer or the party responsible for developing temporary housing. The owner and the developer can negotiate the relocation of goods, placement, and associated costs.

F. Getting Temporary Housing without Charge

The provision of temporary housing as referred to in paragraph (3) letter c is a habitable house that meets the requirements of: (Peraturan Pemerintah Nomor 13 Tahun 2021 Tentang Penyelenggaraan Rumah Susun, 2021)

- a. Distance factor from the apartment that is being upgraded;
- b. Availability of infrastructure, facilities, and public utilities; and
- c. Funding.

The provision of temporary housing, as referred to in paragraph (3) letter c, must have an area equal to the location of the Sarusun that will be demolished and located in the same regency/city. (Peraturan Pemerintah Nomor 13 Tahun 2021 Tentang Penyelenggaraan Rumah Susun, 2021). Then, the Developer provides the temporary housing based on Article 111 paragraph (4) of Government Regulation No. 13 of 2021 concerning Apartment Management. The Developer demolishes after obtaining permits and providing suitable temporary housing for the Owner or Occupant. This shows that the Occupant or Owner of the Apartment gets temporary housing without cost, considering that the Developer is responsible for providing temporary housing for the apartment occupants..

The temporary housing without cost referred to is temporary housing for owners of demolished apartment buildings, which is the development party's responsibility. Meanwhile, apartment buildings that are destroyed due to age are not the responsibility of the development party, considering that the development party already has an obligation in the maintenance, repair, and even reconstruction of uninhabitable apartment buildings within 50 years..

The development party has been responsible for repairing and maintaining apartment buildings within the limit of the building's usable age of 50 years. If, after 50 years, damage, demolition, and repairs are no longer the developer's responsibility but become the apartment owners' responsibility. Meanwhile, if the age of the building has exceeded 50 years, it becomes the responsibility of the apartment owners. If the development party is responsible for demolishing and reconstructing the apartment building, it would be unfair, considering that the development party has already calculated the cost of construction, maintenance, and responsibility for the building within the building's age limit of 50 years. Suppose the development party has to bear the cost of demolition and reconstruction of apartment buildings exceeding the age limit. In that case, it will cause significant losses for the development party. As a result, the apartment industry will be quiet, and no one will dare to become a development party.

G. The Owner Has the Right to Approve the Change of the Function and Utilization Plan of the Apartment Building

Owners of the Apartment have the Right to Approval for Changing the Function and Utilization Plan through PPPSRS. Changes in the function and utilization plan of the apartment are intended when the apartment building is undergoing maintenance or repair, or even an addition of its function, from initially only a few sold apartment units to having some apartment units still vacant or unsold and changes, are to be made to the building (Peraturan Pemerintah Nomor 13 Tahun 2021 Tentang Penyelenggaraan Rumah Susun, 2021).

This is stated in Article 144 paragraph (3) of Government Regulation No. 13 of 2021 regarding the Implementation of Apartment Management that in the event of a change in the function and utilization plan of Public Apartments and Commercial Apartments that increases the number of apartments, it must be approved by at least 60% (sixty percent) of the members of the Apartment Owners and Tenants Association (PPPSRS).

Changes in the use of apartments include the addition of commercial spaces, health centers, or other building functions; as long as they do not disrupt or violate the rights of apartment owners, then it is allowed to be carried out. Violations of the rights of apartment owners, for example, requesting additional costs for repairs or maintenance of the apartment without the approval of the owner, adding space or buildings around the apartment building without the agreement of the apartment owners, or even changing the size of the building during the process of repairing the apartment.

The rebuilding of old apartment buildings that have been demolished is part of the maintenance of apartment buildings that is the responsibility of the development actors for as long as the building's age limit, which is 50 years. The demolition of the apartment building is part of improving the quality of the apartment building as stated in the general explanation of Government Regulation No. 16 of 2021, which states that the management of the apartment building begins after the issuance of a certificate of occupancy for the apartment building. This means that the management period of the apartment building is a series of activities that start after the construction is completed until the apartment building undergoes quality improvement.

The scope of apartment building management activities includes operational, maintenance, and care activities. The PPPSRS is responsible for managing apartment buildings that guarantee construction safety and building reliability. However, when an apartment building experiences a decrease in quality that endangers the occupants and the environment, it is necessary to improve the quality of the apartment building. The improvement of the quality of the apartment building is carried out by the initiators through the rebuilding of the apartment building through demolition, arrangement, and construction while paying attention to social, cultural, and economically just factors.

Conclusion

Legal protection for owners of apartment buildings that are demolished due to being uninhabitable includes Government Regulation (PP) Number 13 of 2021 concerning the Management of Apartment Buildings and the Job Creation Law, which amends several provisions in Law Number 20 of 2011 concerning Apartment Buildings. In addition, the Republic of Indonesia Government Regulation Number 16 of 2021 concerning the Implementation Regulation of Law Number 28 of 2002 concerning Building Construction, the Republic of Indonesia Government Regulation Number 12 of 2021 concerning the Amendment of Government Regulation Number 14 of 2016 concerning the Management of Housing and Residential Areas is part of the legal protection for owners of apartment buildings that are demolished due to being uninhabitable. Forms of legal protection for owners of apartment buildings that are destroyed

due to being uninhabitable include: Compensation (building owners receive compensation by the provisions of laws and regulations if the building is demolished by the Central Government, not due to the fault of the building owner), Socialization of Demolition, Temporary Housing without Cost, Regaining Rights to Land and Buildings, and Owners Have the Right to Approve Changes in the Function and Utilization of the Apartment Building Plan.

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