

***LEGAL ASPECTS AND IMPLEMENTATION OF AN EFFECTIVE AND
FAIR HOUSE LEASE AGREEMENT***

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Citation Structure Recommendation :

Rizky, Muchammad Catur, Didit Darmawan dan Sudjai. *Legal Aspects and Implementation of an Effective and Fair House Lease Agreement*. Rewang Rencang : Jurnal Hukum Lex Generalis. Vol.5. No.10 (2024).

ABSTRACT

A house lease agreement is a legal relationship that often occurs in the community, but its implementation still faces many challenges. This study aims to analyze the implementation of such agreements from a normative juridical perspective, identify the main problems, and provide strategic recommendations to create fairer and more effective agreements. Using the literature study method, it is found that the imbalance of bargaining position, lack of clarity of rights and obligations, and lack of legal literacy are the main causes of disputes. Unharmonized regulations and the lack of efficient dispute resolution mechanisms exacerbate the situation. This study recommends drafting written agreements with balanced clauses, strengthening legal literacy, harmonizing regulations, and developing alternative dispute resolution mechanisms. This study is expected to provide practical and theoretical contributions in the management of house lease agreements that are more fair and responsive to the needs of the community.

Keywords: Lease Agreement, Normative Juridical, Civil Code, Legal Literacy, Dispute Resolution Mechanism, Regulation, Justice

A. INTRODUCTIONS

Human life is always closely related to shelter as one of the basic needs that must be met. Home as one of the basic human needs that functions as a place to live, and reflects socio-economic aspects (Ernawati & Darmawan, 2017; Sinambela & Djaelani, 2021). In the dynamics of modern life, not everyone has the ability to buy a house so renting is a common solution. Many property owners utilize their homes as a source of income through leases. The interaction between the renting party and the tenant creates a legal relationship underlying this activity, which must be managed with the principles of justice and legal certainty.

Based on that, the lease agreement becomes an important instrument to regulate the rights and obligations of both parties. A house lease agreement is one form of legal relationship that often occurs in people's daily lives. This agreement provides economic benefits for the renting party, and fulfills the need for housing for the tenant. Nevertheless, the practice of its implementation often raises various legal issues, especially regarding the rights and obligations of the parties involved. In reality, an imbalance in the understanding and implementation of these rights and obligations can lead to disputes that have the potential to harm both parties.

Common problems in house lease agreements often start with the parties' lack of understanding of the contents of the agreement. Many tenants do not understand the obligation to use the house responsibly, as stipulated in Article 1560 of the Civil Code. On the other hand, the renting party is also often negligent in fulfilling its obligations, such as delivering the house in a condition suitable for occupancy, as required by Article 1550 of the Civil Code. This discrepancy often leads to conflict between the two parties (Dolo, 2019).

Exoneration clauses in lease agreements are often problematic. These clauses, which are usually formulated unilaterally by the renting party, are often considered burdensome for the tenant. Provisions such as responsibility for minor damages to exemption from certain repair costs that should be the obligation of the renting party are often the main issues. In some cases, these clauses even violate the principle of freedom of contract and the principle of fairness in treaty law.

Regulations governing leases, such as those contained in the Civil Code, still face challenges in implementation. Many leasing parties do not understand that the property rights in this agreement are not property rights, but individual rights. This misunderstanding often triggers legal disputes, especially when the tenant is deemed to have violated the agreed limits on the use of the house.

Another issue that often occurs is default by one of the parties. The inability of the tenant to pay the rent on time or damage to the house due to the tenant's negligence are problems that often arise. Conversely, default can also occur from the renting party, such as failure to repair significant damage that affects the comfort of the tenant. In this context, clear regulations and the implementation of sanctions in accordance with legal provisions are very important.

Another phenomenon that is no less important is the issue of subleasing without the consent of the renting party. In Article 1559 of the Civil Code, the transfer of the lease is considered a violation that can cancel the lease agreement. However, this provision is still often ignored by tenants, causing legal conflicts with the renting party.

House leasing agreements also often face obstacles in the implementation of guarantees and responsibility for risks. Article 1553 of the Civil Code stipulates that the risk of loss due to force majeure is borne by the owner of the object. However, in practice, many leasing parties do not understand this responsibility so that they impose losses on the tenant unilaterally. This violates legal provisions, and creates injustice for the tenant (Dolo, 2019).

Another issue of concern is the absence of a strict monitoring mechanism or regulation of lease agreements. Many agreements are made orally or without written documents, making it difficult for parties to prove their claims in the event of a dispute. This absence of written evidence can hamper the legal resolution process and prolong the conflict.

The imbalance of bargaining power between the landlord and tenant is also a challenge in lease agreements. In many cases, the renting party has a stronger position so that it can set conditions that are detrimental to the tenant. This condition often occurs due to the lack of adequate legal protection for tenants (Rahman et al. 2024).

In the context of the development of housing needs in Indonesia, house lease agreements have a very important role. However, the various problems that have been described show that the management of this agreement still requires serious attention. Consistent law enforcement and fair agreement drafting can be the first step to overcome the existing problems.

The purpose of this study is to analyze the implementation of house lease agreements from a normative juridical perspective, as well as to provide recommendations for creating fairer and more effective lease agreements. This research is expected to serve as a foundation for the development of legal policies that are more responsive to the needs of the community.

B. DISCUSSION

The implementation of a house lease agreement in the Indonesian legal system refers to the arrangements in the Civil Code (KUHPerdata), especially Article 1548 which defines a lease agreement as an agreement in which one party hands over an item to be used by another party in exchange for a certain payment. This regulation provides a legal basis for parties to establish mutually beneficial legal relationships. However, in practice, many cases are found that indicate a deviation from these normative provisions. This shows that there is a gap between the written rules and the real practice in the field.

Lease agreement as one of the named agreements in the Civil Code has special characteristics that are regulated in detail by law. Soleman (2018) emphasizes that this agreement contains the rights and obligations of the parties that are legally binding on each other. In the implementation of house leases, Dolo (2019) examines how the implementation of this agreement often faces obstacles in the field, especially related to the clarity of rights and obligations. Pohan and Hidayani (2020) added that default in a lease agreement can occur due to the negligence of one of the parties, either the tenant or the lessee, which often leads to disputes.

Sirait et al. (2020) underline the importance of the principle of good faith in the lease agreement, which is the foundation of trust and harmony between the parties. This is in line with the research of Hadi et al. (2017), which shows how the application of the principle of good faith can prevent conflict, especially in commercial space lease agreements. Gayo and Sugiyono (2021) discuss the application of the principle of *pacta sunt servanda*, which emphasizes that agreements must be respected and implemented as agreed.

The rights and obligations of the parties are also explained by Rondonuwu (2018), who highlights the regulation of Article 1548 of the Civil Code as the legal basis that regulates the balance of rights and obligations. Kondo (2013) adds that legal responsibility in lease agreements, especially in commercial building types such as shop houses, is one aspect that must be considered to prevent potential disputes. Overall, this literature provides a comprehensive overview of the legal aspects, obligations, good faith, and the application of the principles of fairness in lease agreements.

One of the main elements in the implementation of a lease agreement is the clarity of the rights and obligations of each party. The landlord, as the renter, is obliged to provide a habitable house in accordance with the agreement. Meanwhile, the tenant is obliged to use the house in accordance with the agreed purpose and pay the rent on time. In practice, these obligations are often violated due to a lack of understanding of the contents of the agreement or the bad faith of one of the parties (Nainggolan & Negara, 2023).

Another condition often encountered is the imbalance of bargaining power between homeowners and tenants. Landlords, who usually have full control over the property, often impose terms that benefit themselves without considering the interests of tenants. This can be seen in some cases where tenants are asked to sign agreements that contain adverse unilateral clauses. This imbalance is exacerbated by the lack of legal awareness among the public. Many parties sign a lease agreement without reading or understanding the contents of the agreement thoroughly. This situation makes them vulnerable to violations or abuses committed by other parties. There are still many agreements made orally without written documents, which makes dispute resolution more difficult.

Another aspect of concern is law enforcement against violations of lease agreements. Although the Civil Code has regulated sanctions for parties who violate the agreement, its implementation is often constrained by the weak law enforcement system. Some cases of lease disputes must be resolved through lengthy and expensive court proceedings, which ultimately reduces legal accessibility for underprivileged parties.

The existence of a standard lease agreement that can be used as a reference is also an urgent need. Currently, there is no standard format that must be followed by the parties in making an agreement. As a result, many agreements do not contain important provisions, such as clauses on repair responsibilities or dispute resolution mechanisms. This leaves the door open for future conflicts (Kondo, 2013; Jakariya et al., 2024).

Changes in people's lifestyle also affect the dynamics in the implementation of lease agreements. The need for flexibility in leasing arrangements, such as the option to extend or terminate the agreement before the agreed time, is increasing. However, existing regulations have not been able to adequately accommodate this need.

In the context of rapid urbanization, the demand for lease properties is also increasing, which has implications for increasing opportunities for abuse in lease agreements. Some irresponsible parties often take advantage of this situation to set unreasonable rents or force tenants to pay exorbitant security deposits.

These dynamics show that the implementation of house lease agreements still requires improvement from various aspects. Adjustments to the development of community needs as well as strengthening existing regulations must be made to create fairer legal relationships. This also includes the need for a more efficient and accessible dispute resolution mechanism for all parties (Pratika et al., 2024).

In an effort to bridge the gap between written law and field practice, a normative juridical approach can be used to analyze shortcomings in the implementation of lease agreements. This approach allows the identification of structural problems that have hindered the effectiveness of the leasing law so that the proposed solutions can be more comprehensive and applicable.

To create fairer and more effective lease agreements, comprehensive efforts are needed through normative juridical approaches and practical strategies. The first step is to ensure that every lease agreement is based on a clear and accountable legal framework. This can be done by making a written agreement that contains all the rights and obligations of the parties. Some of the things that must be involved based on the Civil Code (KUHPerdata), the renting party has three main obligations that must be fulfilled as stipulated in Article 1550. The following is an explanation of these obligations:

1. Handling Over the Lease Objects

The renting party is obliged to hand over the leased object to the tenant, as stipulated in Article 1550 of the Civil Code. This delivery is only in the form of control over the object (be^zit), not ownership. The purpose of this delivery is to give the tenant the right to enjoy the object in accordance with the agreement.

According to Article 1551 of the Civil Code, the leased object must be handed over in good condition and maintained. During the lease period, the renting party is also responsible for making necessary repairs, except for minor repairs which are the responsibility of the renter. These minor repairs include, for example, repairing cabinets, window panes, locks, or other parts according to local custom (Article 1583 of the Civil Code).

The delivery of the leased object usually depends on the agreement of the lease term. For monthly or annual leases, the delivery is often made together with the first month's or year's rent payment. If the term has been specified, the surrender takes place after the lease payment has been paid in full.

2. Maintenance of Lease Objects

The second obligation is to maintain the leased object so that it remains suitable for use according to the purpose of the lease. According to Article 1550 point 2 and Article 1551 paragraph 2 of the Civil Code, the renting party is obliged to make necessary repairs during the lease period. These repairs are aimed at maintaining the safety, security and comfort of the tenant. However, minor repairs remain the responsibility of the tenant.

If major repairs are required during the lease period and cannot be postponed until the end of the lease period, the tenant must accept the repair process even though it may cause inconvenience (Article 1555 paragraph 1 of the Civil Code). If the repair lasts more than 40 days, the rent must be adjusted for the time and space that the tenant cannot use. If the repair makes the leased object uninhabitable, the tenant has the right to terminate the lease agreement in accordance with the provisions of Article 1555 paragraph 3 of the Civil Code.

3. Prohibition of Altering the Lease Object

During the lease period, the lessee is not allowed to change the shape or layout of the leased object without the consent of the lessee, as stipulated in Article 1554 of the Civil Code. This prohibition aims to maintain the tenant's right to enjoy the leased object in a stable condition and in accordance with the initial agreement.

All of these obligations reflect the basic principles in the lease relationship, which is to provide comfort and protection to the tenant while ensuring that the leased object remains in good condition during the lease period.

In the Civil Code, Article 1313 states that an agreement is an act in which one or more parties bind themselves to another party. This article underlines the importance of clarity in the legal relationship between homeowners and tenants. By using a written agreement, the rights and obligations of the parties become clearer and legally bound, reducing the potential for conflict.

This agreement should include clauses that protect the rights and obligations of both parties, including the duration of the lease, the amount of payment, and the responsibility of maintaining the property. The provision of a standardized agreement format by the government or property association can serve as a guide for the community to draft an appropriate document.

The drafting of agreement clauses should also pay attention to the balance between the interests of homeowners and tenants. Fair clauses can reduce the potential inequality of bargaining position that often occurs. For example, clauses regarding rent increases need to be regulated with a transparent mechanism, such as based on the consumer price index or mutual agreement, to avoid unilateral determination that harms tenants (Dolo, 2019).

Under the Civil Code, there are three main reasons that lead to the termination of a lease agreement. These reasons are regulated in detail in several articles, including the expiration of the lease term, the destruction of the leased object, and the cancellation of the lease. The following is the explanation:

1. Lease Term Expires

Leases generally end when the term agreed in the agreement has expired. As per Article 1570 of the Civil Code, if the agreement is made in writing, then the lease ends automatically without requiring a notice of termination. However, if the agreement is made orally, pursuant to Article 1571 of the Civil Code, notice of termination must be given by observing local custom.

Problems arise if the tenant remains in possession of the leased object after the term has expired and the landlord does not give any warning. In this case, Article 1587 of the Civil Code provides that the lease is deemed to be renewed orally on the same terms as the previous agreement. The tenant cannot abandon the leased premises or be ejected without a notice of termination according to local custom.

2. Destruction of the Lease Object

A lease agreement can end if the leased object is totally destroyed due to an event beyond the fault of one of the parties (force majeure). In this situation, the agreement is null and void, as stipulated in Article 1553 of the Civil Code. For example, if the rented house is destroyed by a natural disaster, then the lease agreement cannot be continued.

However, Article 1575 of the Civil Code states that the death of one of the parties to the lease agreement does not necessarily terminate the agreement. In this case, the heirs of the deceased have the right or obligation to continue the lease agreement. Although this provision is often not explicitly formulated in contracts, the principle of force majeure remains the legal basis for terminating a lease agreement if the leased object is destroyed.

3. Cancellation of Lease Agreement

Cancellation of a lease agreement can be done based on the agreement of both parties or as a result of default with or without the intervention of the court. Cancellation by agreement can occur in several situations:

- a. The leased object is partially destroyed so the lessee chooses to cancel the agreement.
- b. Repairs to rented items that interfere with the tenant's comfort, such as major renovations that make the rented item unusable.
- c. Sale of the leased object with a condition in the agreement that allows cancellation if the leased object is sold.
- d. Use of the leased object by the landlord, if the landlord requires the object for personal use, in accordance with the conditions stated in the agreement.

As such, these three reasons provide a strong legal basis for terminating a lease agreement. The parties involved must understand these provisions to avoid future conflicts. The interpretation and implementation of these reasons must refer to the provisions of the Civil Code and local customs to ensure fairness for both parties (Sirait et al., 2020).

The unequal bargaining position between homeowners and tenants can be addressed by implementing regulations that set the terms of the agreement fairly. Government or property associations to help parties draft agreements that comply with the principles of fairness. This guidance can be in the form of standardized sample agreements that cover important legal aspects, while accommodating specific needs based on property type or location. The government can develop rules that prevent landlords from setting conditions that disadvantage tenants. For example, restrictions on unreasonable rent increases can be imposed, and tenants are given the right to reject clauses that are deemed onerous.

For the issue of non-conformity of the house condition with the initial agreement, it is important to include a property inspection clause in the agreement. Before signing, the tenant should be given the opportunity to inspect the property, and the condition of the house should be clearly documented. If damage is found after the agreement is signed, the repair responsibility mechanism must be clearly established.

Article 1560 of the Civil Code states that the tenant is obliged to use the leased goods properly according to the agreement. Conversely, the landlord is obliged to deliver the goods in good condition in accordance with Article 1550 of the Civil Code. Documentation of the condition of the house before the lease is a direct implementation of this provision, which protects the tenant from the condition of the property that is not in accordance with the agreement.

Rent payment-related disputes can be minimized by introducing a digital payment mechanism that records all transactions transparently. This system can help reduce misunderstandings and provide solid evidence in the event of a dispute. Regulations regarding rent increases should include transparent procedures, such as written notice within a reasonable time.

The lack of public understanding regarding the content and legal consequences of lease agreements can be addressed by conducting legal literacy programs. Improving legal literacy for the community is also an important part of creating effective agreements. Socialization of the rights and obligations in a lease agreement can be done through various media, such as seminars, online campaigns, or written guidelines. A better understanding of these legal aspects will increase the awareness of the parties to make clear and binding agreements. Educational campaigns can help raise public awareness of the importance of understanding agreements before signing.

To address the issue of legal uncertainty, harmonization of regulations between the central and local governments is needed. For example, regulations on house leasing need to be designed to align with local needs without contradicting national rules. Thus, supervision and enforcement can be done more consistently and effectively at all levels.

Alternative dispute resolution mechanisms, such as mediation or arbitration, should also be introduced in lease agreements. These alternatives provide faster and more efficient solutions compared to litigation. Parties can include dispute resolution clauses in the agreement so that conflicts that may occur can be resolved amicably and at a lower cost.

The use of technology can also help increase transparency in the implementation of the agreement. An online platform that integrates property search services, digital agreement drafting and payment systems can be a practical solution to reduce potential disputes. This system can record all transactions and communications between homeowners and tenants so that both parties have strong evidence in the event of a dispute (Faridi et al., 2023). Consumer protection in lease agreements needs to be prioritized.

The government can develop more specific regulations to govern tenants' rights, such as guarantees of livable property conditions. Landlords should also be given incentives, such as tax deductions, if they comply with set standards. Stricter supervision from the authorities is needed to ensure that lease practices are carried out in accordance with the rule of law. Periodic inspections of leased properties can help identify violations and prevent unethical practices, such as renting out uninhabitable properties.

The last recommended step is periodic evaluation of regulations to adjust to social and economic dynamics. Flexible regulations allow policy adjustments based on emerging needs and challenges so as to provide better protection for all parties involved in the house lease agreement.

C. CONCLUSION

The conclusion of this study shows that the house lease agreement, although regulated by the Civil Code, still faces various challenges in its implementation. The imbalance of bargaining position, lack of clarity of rights and obligations, and lack of legal literacy are the main factors that cause disputes between homeowners and tenants. The use of unilateral clauses, discrepancies between the condition of the house and the agreement, and the lack of an efficient dispute resolution mechanism are also significant issues. Legal protection for the parties is often hampered by the lack of harmonized regulations and adequate supervision. As a suggestion, strategic steps are needed to create fairer and more effective agreements. First, the drafting of written agreements that include balanced rights and obligations clauses should be standardized. The government or property associations can provide guidelines or standardized formats to help people draft agreements. Second, strengthening legal literacy through education programs will improve people's understanding of the legal consequences of the agreements they sign. Third, more specific regulations and harmonization between central and regional rules should be developed to reduce potential conflicts. Finally, alternative dispute resolution mechanisms such as mediation or arbitration need to be widely introduced to provide efficient and affordable solutions.

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Sumber Hukum

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