

Legal Protection for Lessees for Lease Agreements for Buildings on Land with Third Party Ownership (Study of Lease Agreements for Hasaka Villa Canggu)

Harum Ariyanti¹, Fitria Dewi Navisa², Sunardi³

¹Master of Notarial Universitas Islam Malang, Email : harumariyanti@gmail.com

²Master of Notarial Universitas Islam Malang, Email : fitriadewi@gmail.com

³ Master of Notarial Universitas Islam Malang, Email: sunardi@gmail.com

Abstract: The implementation of leasing in practice in Bali is leasing which is carried out on land owned by third parties. The problems in this study are related to whether or not PT. Marelti Karya Indonesia entered into a lease agreement for the land and building of Hasaka Villa Canggu which is located on land owned by Ni Luh Kordi. The results of this study indicate that Hasaka Villa Canggu has the right to enter into a rental agreement for a villa building located on private land that is under the control of Ni Luh Kordi to a third party if prior written approval has been obtained from Ni Luh Kordi. which contains that Ni Luh Kordi agrees to give approval to Hasana Villa Cangu to be able to build a building in the form of a villa and in the future lease the villa building to a third party for a certain period of time which is no longer than the lease term of the land. lease agreement made between PT. Marelti Karya Indonesia as the party that leases the Hasaka Villa Canggu which has not yet been built is legal according to the law because it has fulfilled the legal terms of the agreement as stipulated in Article 1320 of the Civil Code. This can happen if prior written approval has been obtained from Ni Luh Kordi which contains that Ni Luh Kordi agrees to give approval to Hasana Villa Cangu to be able to build a building in the form of a villa and in the future lease the villa building to a third party in certain period of time which is no longer than the term of land lease from Hasana Villa Cangu to Ni Luh Kordi. Legal protection can be given to parties who are disadvantaged as a result of defaults on lease agreements on land and buildings. Parties who are harmed by default can ask for money in the nominal amount of the loss caused by default. The next legal protection can be carried out if it turns out that Hasana Villa Cangu has not received written approval from the land owner to be able to lease back Hasana Villa Cangu, then the act committed by Hasana Villa Cangu is classified as an illegal act. Therefore, the agreement made between Hasana Villa Cangu and the lessee does not fulfill the objective legal requirements of the agreement, namely in the form of a halal cause. Therefore, the agreement has legal consequences, namely in the form of null and void, therefore the injured party can ask for compensation from the opposing party in accordance with the nominal loss for the void agreement as explained above.

Keywords: Legal Protection; Lease Agreements for Buildings on Land with Third Party Ownership.

1. Introduction

Hasaka Villa Canggu has a land area of 2,750 m² (two thousand seven hundred and fifty square meters), and a building area of 1,300 m² (one thousand three hundred square meters). Hasaka Villa Canggu is located 5.5 km (five point five kilometers) from Batu Bolong Beach, 9.0 km (nine kilometers) from Tanah Lot, 5.7 km (five point seven kilometers) from Seseh Beach, 7.0 km (seven kilometers) from Berawa Beach, 6.5 km (six point five kilometers) from Starbucks Canggu, 4.0 km (four kilometers) from Siloam

Medical Canggu, 2.0 km (two kilometers) from Surya Gym Fitness Center, and 2.0 km (two kilometers) from Pepito Market. However, the legal facts show that the rental agreement for Hasaka Villa Canggu was made between PT. Marelti Karya Indonesia as the party that rents out the landlord, but based on the certificate of ownership number: 1007 located in Buduk Village, Mengwi District, Badung Regency, Province of Bali, is in possession of Ni Luh Kordi, whose acquisition based on sale and purchase as stated in the sale and purchase agreement number: 146/2001, dated 16 (sixteen) month 4 (April) 1997 (one thousand nine hundred and ninety seven), made before I Wayan Darma Winata, Bachelor of Laws, as the making official Badung regency land deed. In addition, Hasaka Villa Canggu, based on the site plan that has been made, is known to consist of 12 (twelve) villa units which are jointly controlled based on certificate of ownership number: 1007 located in Buduk Village, Mengwi District, Badung Regency. Province of Level II Region of Bali on behalf of Ni Luh Kordi as the author has previously described. On the other hand, based on the results of interviews conducted by the author with Kautsar Bilqisti as the contact person from Hasaka Villa Canggu, it is known that Hasaka Villa Canggu as the object of the agreement has not yet been established and construction will be carried out after the down payment for the 12 (twelve) villas has been paid in full by each tenant. Thus it can be seen that there is an ambiguity in the rule of law regarding whether or not it is permissible to make a lease agreement for a building located on land owned by another party, the validity of the rental agreement for building objects that have not yet been built, as well as the legal protection that can be given to the parties to the rental agreement made on a building located on land owned by the other party.

The problem in this research is whether PT. Marelti Karya Indonesia is allowed to enter into a lease agreement for Hasaka Villa Canggu which is located on private land which is under the control of Ni Luh Kordi? Is the lease agreement made between PT. Marelti Karya Indonesia as the party who rents out Hasaka Villa Canggu which has not yet been built, is it legal according to the law? What is the legal protection for tenants if the rental agreement made on Hasaka Villa Canggu is not in accordance with the law?

2. Method

This legal research uses normative juridical research, statutory and conceptual approaches, as well as analytical techniques in the form of systematic and teleological interpretations to analyze primary, secondary, and tertiary legal materials. In order to analyze problems related to whether or not PT. Marelti Karya Indonesia entered into a rental agreement for Hasaka Villa Canggu which is located on land owned by Ni Luh Kordi, whether or not the lease agreement made between PT. Marelti Karya Indonesia as the leasing party with the tenant of Hasaka Villa Canggu, and legal protection for tenants if the rental agreement made on Hasaka Villa Canggu is not in accordance with the laws in force in Indonesia.

3. Lease Agreement for Hasaka Villa Canggu which is located on Freehold Land that is in the Control of a Third Party

Transfer of lease or redeployment (underhur) here, namely from the first tenant transferring the leased goods to someone else. The point is that the tenant leases the goods again to someone else, but the lease agreement is still maintained so that the tenant is in a relationship with the owner. In Article 1559 of the Civil Code that: "The lessee, if not permitted, may not misuse the object he rents or release the lease to

another person, for the threat of canceling the rental agreement and reimbursement of costs, losses and interest, while the lessee, after the cancellation, does not obligated to comply with the re-agreement of the lease". This means that the lessee is prohibited from transferring the goods he rents to another party because basically the lessee is bound by a prohibition not to transfer again to another party. Unless the lessee is given the freedom to transfer again to another party and in the statement of the contents of the agreement made it allows it. Approval or permission to lease the leased item again, must be clearly stated in the lease agreement. Neither is it unconditional that the granting of the right to lease again to a third party must be accompanied by a written agreement from the lessor. However, even if there is an agreement to lease it again to a third party, of course such an agreement may not exceed the term of the rental agreement previously made.

The implementation of the building lease agreement carried out by the tenant of Hasaka Villa Cangu to a third party is by holding negotiations in advance between the tenant and the third party to make an agreement, namely regarding an agreement whether the tenant will rent the house or not. The tenant in entering into the rental agreement informs a third party that he is renting the house for a certain period of time and the tenant wants to transfer the remaining lease to a third party by simply paying rent to him for a specified period. Based on the research results, the terms of the time in the lease of the Hasaka Villa Cangu building are determined by the landlord and agreed upon by the tenant. Usually there are no rules regarding the time for renting a house, meaning that if the tenant wants to rent a house for a certain time, it is not a problem because there are no rules governing a time limit or grace period for renting. But even so, usually the terms of the time in leasing the building are mutually agreed upon, namely, between the house owner and the house tenant, so if the tenant wants to rent the house for one year there is no problem as long as the landlord allows it for 25 (twenty five) years . An agreement or contract is an event where a person or one party promises to another person or party or where two people or two parties promise each other to carry out something (Article 1313 Indonesian Civil Code). Therefore, the agreement applies as a law for parties who bind themselves to each other, and results in the emergence of a relationship between the two people or the two parties which is called an agreement. The agreement issues an agreement between two people or two parties who make it. In its form, the agreement is in the form of a series of words containing promises or abilities spoken or written.

Lease agreements are usually made in written form and some are made in oral form which are only accompanied by a receipt for payment of an amount of money made by the lessee according to the time period and price agreed upon by both parties making the agreement. The results of research conducted at Hasaka Villa Cangu, found that several tenants had transferred the house they rented to a third party with the prior knowledge and approval of the home owner. It is known that the transfer of the lease rights was carried out by the tenant due to several factors, including: At the time of the transfer made by the tenant, judging from the expiration of the agreement between the tenant and the home owner it can be said that it is almost complete, the remaining lease period is only a few months from the agreement period of both parties. But the tenant still transfers the rent of the house because the tenant has to move from the house. The

factor causing the tenant to transfer the next lease is that the tenant does not want to incur a loss if he has to move from the rented house before the lease expires. The point here is that according to the tenant, if he informs the landlord that he wants to terminate the lease before the expiration date, the landlord will not return the remaining money from the payment of the house rent that he gave at the beginning of the agreement and what was done by the second party. including: "(1) The tenant is no longer able to pay the rent, (2) The lessee understands the lease agreement, and (3) The desire to carry out legal smuggling efforts." Based on the description above, basically the leasing carried out by Hasaka Villa Cangu on land and buildings belonging to third parties is not an unlawful act because the owner has obtained prior approval. However, there are cases where the agreement to transfer the villa lease was carried out without the knowledge of the party choosing the rights to the land and building so that it has legal consequences or consequences.

From a legal point of view, the violation committed by the tenant is a violation of the agreement or breach of contract, which is a violation of the provisions in this case regulated in Article 1320 of the Civil Code for breach of agreement. Therefore, the tenant can be asked to cancel the agreement or compensation. In this case the landlord or the lessor feels disappointed with the tenant's actions in transferring his rental house to a third party without his knowledge, because the owner feels he has entrusted his house to be rented out to the tenant because of the status of the tenant who is the cousin of the owner of the rental house. To the landlord, the tenant never informs that the tenant wants to move or wants to transfer his lease rights. Without the knowledge of the landlord, the tenant immediately looks for someone who wants to rent the house and then the tenant immediately transfers his rental rights. When knowing these things, the landlord immediately asked a third party about the transfer of lease rights made by the tenant to the house he was renting. After hearing an explanation from a third party, the landlord was still disappointed and angry with the actions taken by the tenant and told the third party to immediately move out of the house he was renting, even though the landlord knew clearly that the rental period agreement had not completely ended. In other words, the home owner has decided on the lease agreement. Different from the previous problem, with the issue of transferring lease rights in the Kuta area, at first the tenant informed the landlord that he wanted to move from the rented house because the business he was in was not what he expected and his wife and two children had returned to their hometown, by Therefore, the landlord advises the tenants to jointly find someone else who wants to replace or occupy the rental house and notify the landlord when a replacement is found.

After learning about the problem, the home owner did not question the third party to continue the remaining lease that was transferred to him. In other words, the landlord allows third parties to stay in the house he rents out only until the end of the lease period agreed between the landlord and the previous tenant. The problem with the subsequent transfer of lease rights, which was carried out by tenants in this area at first, did not notify the landlord that the tenant wanted to terminate the lease before the expiration of the lease term. However, as was the case in the Kuta area, the landlord, after knowing this, still allowed the third party to continue living in the house he rented until the end of the lease in accordance with the original agreement between the landlord and the tenant.

From the explanation above, it is clear that the legal consequences that arise against the parties from the transfer of the lease rights are to the lessee because he has committed an act of violation of the agreement, compensation can be requested and the third party or the recipient of the transfer of lease rights will certainly suffer losses because of his position. weak as a result of accepting the transfer of lease rights without the prior knowledge of the land and building owners.

4. Lease Agreement made between the Lessee and the Lessee of the Building when the Leased Object Has Not Yet Been Built

The legal relationship arising from a lease transaction as outlined in a written contract is a legal relationship that originates from the contract. Therefore, by analogy, contract law arrangements in the Civil Code, precisely regulated in Book III, concerning engagements, especially Chapters I to Chapter IV concerning General Teachings, can be applied as general legal rules (*lex generalis*) for written contracts. The legal requirements for a written agreement are regulated in Article 1320 of the Civil Code. The legal terms of the agreement in Article 1320 of the Civil Code are divided into subjective terms and objective conditions. Subjective terms are conditions related to the legal subject in the agreement, which are included in the subjective terms are agreement on the part and skills. While the objective conditions are conditions related to the object of the agreement, namely the specific object and the lawful cause. Agreements that meet the four conditions for the validity of the agreement stipulated in Article 1320 of the Civil Code are valid before the law, while agreements that do not meet subjective requirements have legal consequences that can be canceled and agreements that do not meet objective requirements have null and void consequences. The legal terms of the agreement include:

Agreement in contract, according to J.H. Niewenhuis, is formed by two elements, namely the first is the offer (*Offer*), which is interpreted as a statement of will that contains a proposal to enter into an agreement or contract, which includes *essentialia* (element that absolutely must exist) in the contract to be closed. The second is acceptance (*acceptatie*), which means a statement of agreement from the party being offered. Herlien Budiono who explained that in the context of offering and accepting, it was implied that there was a real will aimed at a certain person which in the statements made by both parties, was manifested in a series of words, both spoken and written. This intention can appear in the form of a silent statement, even an attitude of silence or not doing anything which in certain circumstances can be interpreted as a statement. Thus, the lease agreement for land and buildings that has been agreed beforehand by both the lessee, the lessee, and third parties as land and building owners have complied with Article 1320 BW. Based on Article 330 of the Civil Code, it is stated that minors are those who have not reached the age of 21 (twenty one) years and have not been married before. And if the marriage ends before they reach the age of 21 (twenty one) years, then they are no longer underage. But since the enactment of Article 66 of Law Number 1 of 1974 Concerning Marriage (hereinafter referred to as the Marriage Law) which contains an affirmation that with the enactment of this law the provisions regulated in the Civil Code are declared null and void, as long as regulated in the Marriage Law. According to J. Satrio by applying the legal principle "*lex posteriori derogate lex priori*", then the reason for determining the age of adulthood based on Article 330 jo. Article 1330 of the Civil Code becomes absurd and

violates the legal principle, meaning that since the promulgation and effective entry into force of Law Number 1 of 1974 Concerning Marriage, the provisions regarding maturity in article 330 in conjunction with article 1330 of the Indonesian Civil Code Civil law is no longer used as a source of law.

So, the generally accepted age of adulthood related to the ability to take legal action is 18 years. This was also confirmed by the Supreme Court of the Republic of Indonesia with the Supreme Court Decision No. 477K/Sip/1976, dated 13-10-1976. The opinion stating that the age of 18 (eighteen) years as the basis for setting the standard of adulthood departs from an a contrario interpretation of the formulation of Article 40 of the Marriage Law jo. Article 50 of the Civil Code. Article 40 of the Marriage Law contains an affirmation that children who have not reached the age of 18 (eighteen) years or have never been married are under the authority of their parents as long as their powers are not revoked.

Then, the parents who represent the child regarding all legal actions inside and outside the Court. Furthermore, the provisions of Article 50 of the Marriage Law contain an affirmation that children who have not reached the age of 18 (eighteen) years or have never been married, who are not under the authority of their parents, are under the authority of a guardian. The guardianship concerns the person of the child concerned as well as his property. The definition of representing a child in the two articles mentioned above, is not in the decision to enter into a marriage as meant by those who oppose the age of 18 as a measure of maturity, but is clearly aimed at taking legal actions in general, because the child is considered incapable of taking legal actions. Thus the agreement made between the parties whether by the lessee, the lessor, and a third party as the land and building owner who is 18 (eighteen) years old or has been married fulfills the provisions in Article 1320 of the Civil Code. The object or subject matter is certain or can be determined, namely that an agreement or contract must be related to certain things, clear and justified by law. So in making an agreement or contract, what is agreed upon must be clear, so that the rights and obligations of the parties can be accounted for. Regarding this matter, we can find it in articles 1332 of the Civil Code and 1333 of the Civil Code. Article 1332 of the Civil Code states that "only goods that can be traded can become the subject of an agreement." Whereas article 1333 of the Civil Code stipulates that "an agreement must have as the subject matter of an item of at least a specified type, it is not an obstacle that the number of goods is uncertain, as long as the amount can be determined/calculated later." Certain objects or subject matter or can be specified in a sale and purchase agreement or contract through an online buying and selling site, in this case at least, are objects or goods in the catalog of the online buying and selling site.

Based on the explanation as previously described by the author, it can be seen that lease agreements made by tenants and parties who lease land for land and buildings belonging to third parties can be carried out if approval has been obtained from a third party as the owner of the land and buildings which was made in writing beforehand. In the legal system, the legal principle as a principle of fundamental judgment is the most general rule of law, so that the rule of law must be specific in its application by directing it to factual situations. This particular rule of law, which arises from a more concretely formulated rule of law, provides clearer guidelines for action. The legal principle as a

general rule of law only provides a measure of value in the rule of law of conduct as a special rule of law which acquires such a form as to give rise to clear guidelines for action, for example by granting a right or placing (imposing) an obligation. The rules of contract law are the embodiment of the philosophical foundations contained in very general legal principles and become the basis of thought or ideological basis.

The legal principle is a source for an inspiring legal system regarding the ethical, moral and social values of society. Thus the legal principle as the basis for these legal norms becomes a test tool for existing legal norms, in the sense that these legal norms can be returned to the legal principles that animate them. The legal principles of the agreement cannot be separated from each other, because their existence is independent and stands equal to one another, and complements and complements each other in an agreement.

Based on the explanation as previously described by the Author above, it can be seen that basically the agreement entered into by the party who leases Hasana Villa Cangu with the lessee for land and building objects belonging to a third party is valid because it fulfills the legal terms of the agreement in Article 1320 of the Civil Code and has complied with the legal principles of the agreement. This can happen if the agreement made in advance is based on an agreement made in writing by the land owner which was previously made in a land lease agreement between the land owner and the party who leases the land with the contents of the agreement stating that in the future the Hasana Villa Cangu building will be erected on the land, then the lessee (which will later become the party that leases the land) can lease back the land and building to a third party (which will then become the lessee).

5. Legal Protection For Lessees if the Rental Agreement Made on Hasaka Villa Cangu is Not in Accordance With the Law

The first legal protection can be given to parties who are disadvantaged as a result of defaults on lease agreements on land and buildings. Agreements generally regulate legal relations between two or more people which give rise to rights and obligations for each party involved. Likewise with the house rental agreement made in Cangu City, there are rights and obligations for the house tenant and the party who rents out the house. The rights and obligations of each party in the rental of this house are notified by the landlord to the tenant orally and have been agreed upon by both parties at the time of the house rental agreement. The obligation of the lessee is to deliver the rented object to be enjoyed by the lessee, while the obligation of the lessee is to pay the rental price in the amount agreed in the agreement. relatives or acquaintances of the relatives of the home owner. In implementing the rental agreement to rent a house in Cangu City, the lessee's non-fulfillment of achievements causes the lessee to be said to have committed a breach of contract. In the provisions of Article 1234 of the Civil Code it is regulated regarding the form of achievement which is divided into 3 (three) possibilities, as follows: "(1) giving something, (2) doing something, and (3) not doing something." Based on Article 1235 paragraph 1 of the Civil Code, giving something has the meaning of handing over real control of an object from the debtor to the creditor or vice versa. Related to the achievement of "doing something" means the debtor is obliged to carry out certain actions that have been stipulated in the agreement by complying with all the provisions in the agreement.

In an agreement where the achievement is "not doing anything" means the debtor does not do the actions agreed upon in the agreement. In the implementation of renting a house in Canggü City, the tenant did not fulfill his achievements, namely to give something. Based on the legal provisions in Article 1235 paragraph 1 of the Civil Code, giving something has the meaning of surrendering real control of an object from the debtor to the creditor or vice versa.

As agreed in the lease agreement between the lessee and the homeowner, the lessee is obliged to pay the house rent by giving a certain amount of money to the homeowner in accordance with the agreement. According to R. Subekti, the actions of the parties that can be said to have committed a default are divided into four types, namely as follows: "(1) not carrying out achievements, (2) carrying out achievements, but not as promised, (3) achievements that are late, and (4) do what according to the agreement should not be done. Default can be interpreted by not fulfilling the achievements agreed in the agreement. Non-fulfillment of achievements can occur due to two possibilities, namely: "(1) due to (the lessee's) error, either intentionally or negligently, (2) due to force majeure." Because an error either intentionally or negligently is an error by the debtor which causes a loss for the creditor. Negligence in this case can be interpreted as an act in which the tenant knows that the possibility of adverse consequences for the homeowner but does not necessarily want this action to be carried out by the parties to an agreement.

Deliberation is an act done knowingly and willingly. In deliberate action, there is no need for the intention to cause harm to others, but when the creator, even though he knows the consequences, he still does the deed. The unilateral termination of the rental agreement for renting a house in Canggü City was due to the fault of the tenant himself which included the intentional factor of the tenant. Where the lessee consciously does not fulfill his achievements to make house rental payments in the form of an amount of money to the house owner in accordance with what was agreed, in addition to that the lessee irresponsibly leaves the rented house without notifying the house owner with the aim of preventing himself from fulfilling will achievement in the rental agreement to rent a house. Therefore, the loss for the home owner can be blamed on the tenant, because there is an element of error on the part of the tenant so that the loss can be accounted for to him. In the building lease agreement in Canggü City, non-fulfillment of achievements by the tenants results in losses for the homeowners due to non-fulfillment of the rights of the homeowners to obtain payment for the lease of the building in the form of an amount of money as agreed. A default by the lessee certainly has legal consequences for him. Legal consequences are consequences caused by law, against an act committed by a legal subject. The legal consequences of default for the debtor in the lease agreement are: "(1) the debtor must pay compensation for the loss suffered by the lessor (Article 1243 of the Civil Code); (2) if the agreement is reciprocal, the creditor can demand termination or cancellation of the agreement through the court (Article 1266 of the Civil Code); (3) the debtor must accept the transfer of risk from the time the default occurs (in Article 1237 paragraph 2 of the Civil Code); (4) the debtor is obliged to fulfill the agreement if it is still possible or the cancellation of the agreement is accompanied by payment of compensation (Article 1267 of the Civil Code); (5) the debtor is required to pay court costs if the debtor is found guilty in the leasing agreement.

In the rental agreement to rent a house in Cangu City, the legal consequences for the tenant who unilaterally terminates the rental agreement to rent a house in Cangu City are the obligation to pay compensation for losses suffered by the landlord and the transfer of risks as a result of non-performance to pay the rent. house by the tenant. What is meant by losses in Article 1243 of the Civil Code are losses that arise because the debtor commits a default. Where the loss must be replaced by the debtor starting from the time he is declared negligent. The elements of compensation are based on the provisions of Article 1246 of the Civil Code, namely: "(1) costs (cost), any money that must be spent by the creditor as a result of default. (2) losses (damages), reduced value of the creditor's assets due to default by the debtor. (3) interest or interest, profits that should have been obtained by the creditor but were not obtained as a result of default by the debtor. Efforts to provide legal protection for the owner of the rental house due to the unilateral termination of the rental agreement in Canggu City can be obtained through dispute resolution as stipulated in Articles 147 to 149 of Law Number 1 of 2011 concerning Housing and Residential Areas. According to the legal dictionary, a dispute is a condition where there are differences of opinion that are mutually defended between the parties. In civil law scholarship, disputes can arise due to differences of opinion regarding an agreement or other unlawful acts. Differences of opinion regarding the agreement are usually related to its content, implementation, and interpretation.

Based on Article 147 of the Law on Housing and Settlement Areas, "Resolving disputes in the housing sector must first be sought based on deliberation to reach a consensus". Based on Article 148 paragraph 1 of the Law on Housing and Residential Areas, "In the event that dispute resolution through deliberation for consensus is not reached, the injured party can sue through a court that is within the general court environment or outside the court based on the voluntary choice of the parties to the dispute through an alternative dispute resolution ". Based on Article 148 paragraph 2, "Dispute settlement outside the court as referred to in paragraph (1) is carried out through arbitration, consultation, negotiation, mediation, conciliation, and/or expert judgment in accordance with statutory provisions". Therefore, in order to obtain legal protection for the owner of the rented house due to the unilateral termination of the house rental agreement, it can be obtained through dispute resolution by both parties, both dispute resolution through the court (litigation) and dispute resolution outside the court (non-litigation) which is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Efforts for legal protection for the owner of a rented house due to the unilateral termination of the rental agreement in Canggu City can be obtained by means of resolving disputes outside the court. This is because the agreement on renting a house is made verbally, so that even though legally the parties are allowed to make an agreement verbally, in its development an agreement made orally cannot be defended anymore in relation to the interest of proof. Even though an oral agreement is legal and has the force of law to declare someone in default, if the verbal agreement is denied or not recognized by the party suspected of having committed a default, this verbal agreement has no legal force to declare someone in default, because the agreement can be true and may also not exist depending on the evidence of the parties. It is possible for homeowners to obtain legal protection through settling disputes in court by filing a breach of contract, as long as the homeowner in this case is able to prove it.

What needs to be proven is the event of the legal relationship. In this case, the home owner must be able to show evidence to confirm the existence of a unilateral termination default in the house rental agreement. Various types of evidence based on Article 1866 of the Civil Code, are as follows: "Written evidence; Witness evidence; Presumptive evidence; Confession evidence; and oath evidence." The legal protection effort chosen by the home owner for losses suffered due to the unilateral termination of the rental agreement is by resolving disputes outside the court, namely through mediation. Mediation is a dispute resolution process in the form of negotiations to solve problems with the help of neutral parties to find solutions in resolving disputes that satisfy both parties.

6. Conclusion

Hasaka Villa Cangu has the right to enter into a rental agreement for the villa building which is located on private land which is under the control of Ni Luh Kordi to a third party if prior written approval has been obtained from Ni Luh Kordi stating that the party Ni Luh Kordi agreed to give approval to Hasana Villa Cangu to be able to build a building in the form of a villa and in the future lease the villa building to a third party for a certain period of time which is no longer than the lease term of the land.

The lease agreement made between PT. Marelti Karya Indonesia as the party that leases the Hasaka Villa Cangu which has not yet been built is legal according to the law because it has fulfilled the legal terms of the agreement as stipulated in Article 1320 of the Civil Code. This can happen if prior written approval has been obtained from Ni Luh Kordi which contains that Ni Luh Kordi agrees to give approval to Hasana Villa Cangu to be able to build a building in the form of a villa and in the future lease the villa building to a third party in certain period of time which is no longer than the term of land lease from Hasana Villa Cangu to Ni Luh Kordi.

Legal protection can be given to parties who have suffered losses as a result of defaults on lease agreements on land and buildings. Parties who are harmed by default can ask for money in the nominal amount of the loss caused by default. The next legal protection can be carried out if it turns out that Hasana Villa Cangu has not received written approval from the land owner to be able to lease back Hasana Villa Cangu, then the act committed by Hasana Villa Cangu is classified as an illegal act. Therefore, the agreement made between Hasana Villa Cangu and the lessee does not fulfill the objective legal requirements of the agreement, namely in the form of a halal cause. Therefore, the agreement has legal consequences, namely in the form of null and void, therefore the injured party can ask for compensation from the opposing party in accordance with the nominal loss for the null and void agreement as explained above.

References

- Bahder J. Nasution, **Metode Penelitian**, Mandar Maju, Bandung, 2008.
- Boedi Harsono, **Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria**, Penerbit PT. Djambatan *Publisher*, Jakarta, 2003.
- Fitria Dewi Navisa, F. Qotrunnada, A. Bastomi, **Konsep Jual Beli dalam Bisnis Afiliasi: Perspektif Hukum Perjanjian**, Thalibul Ilmi Publishing, Sidoarjo, 2023.
- Fitria Dewi Navisa, Rohmatun Nafisah, **Perlindungan Hukum Terhadap Keluarga Jenazah Yang Terkena Dampak Covid-19 Atas Penolakan Pemakaman**, *Yurispruden: Jurnal Universitas Islam Malang*, Vol. 3 No. 2, Edisi Juni 2023.

- Fitria Dewi Navisa, M. L. Rahmawati, Muhammad Rizaldi Hendriawan, Sofiatul Istiqomah, Indah Iftiati, Risky Akbar, Aditya Andika Kameswara, T. Anjas Andi Prsetyo, Hikmatul Azizah, **Penyuluhan Hukum Untuk Mewujudkan Masyarakat Anti Penyalahgunaan Narkotika Dan Psikotropika**, Jurnal Pembelajaran Pemberdayaan Masyarakat, Volume. 1, Nomor. 3, 2020.
- Herlien Budiono, **Ajaran umum Hukum Perjanjian dan penerapannya Pada bidang kenotariatan**, Bandung, peberbit PT Aditya Bakti *publisher*, 2009.
- J. Satrio, **Hukum Perjanjian**, Bandung, PT. Citra Aditya Bakti, 1999.
- Kitab Undang-Undang Hukum Perdata.
- Lili Rasjidi dan I.B Wyasa Putra, **Hukum sebagai Suatu Sistem**, Penerbit Perseroan Terbatas Remaja Rosdakarya *Press and Publisher*, Bandung, 1993.
- Lili Rasjidi, **Hukum Sebagai Suatu Sistem**, Remaja Rusdakarya, Bandung, 1993.
- Peter Mahmud Marzuki, **Penelitian Hukum**, Penerbit Kencana, Jakarta, 2008.
- R. Setiawan, **Hukum Perikatan Umumnya**, Bina Cipta, Bandung, 1987.
- R. Subekti, **Hukum Perjanjian**, Cetakan Ke-19, PT. Intermasa, Jakarta, 2002.
- R. Wirjono Prodjodikoro, **Azas-Azas Hukum Perdata**, Sumur, Bandung, 1992.
- Salim H.S, **Perkembangan Hukum Kontrak Innominat di Indonesia**, penerbit Perseroan Terbatas PT. Sinar Grafika *press and publisher*, Jakarta, 2010.
- Satijipto Raharjo, **Ilmu Hukum**, PT. Citra Aditya Bakti, Bandung, 2000.
- Subekti, **Pokok-Pokok Hukum Perdata**, PT. Intermasa, Jakarta, 2001.
- Sudikno Mertokusumo, **Bab-Bab tentang Penemuan Hukum**, cetakan pertama, Perseroan Terbatas PT. Citra Aditya Bakti *Publsiher*, Bandung, 2013.
- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.
- Urip Santoso, **Pendaftaran Peralihan Hak Atas Tanah**, Kencana, Jakarta, 2015.

Conflict of Interest Statement: The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

Copyright: © International Significance of Notary. This is an open access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC-BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

International Significance of Notary is an open access and peer-reviewed journal published by Master Of Notarial, Universitas Islam Malang, Indonesia.

