

Unfulfilled Promises: Analyzing Delayed Strata Title Certificates Under Indonesia's Apartment Law in Surabaya

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Abstract

The delay in issuing Certificate of Ownership for Apartment Units (SHMSRS) by apartment developers in Surabaya has become a chronic issue harming consumers. This study analyzes developers' obligations under Law No. 20 of 2011 on Apartment Buildings and legal remedies available for apartment owners. The research employs a normative juridical approach with case studies on Surabaya apartment projects experiencing SHMSRS delays. Findings indicate that developers are legally required to issue SHMSRS after construction completion and full payment, but enforcement remains weak due to bureaucratic hurdles, developers' financial constraints, and lack of oversight. Apartment owners can pursue litigation (civil lawsuits or class actions) or non-litigation avenues (via Consumer Dispute Resolution Agency/BPSK, Financial Services Authority/OJK, or related agencies).

Strengthening inter-agency coordination, streamlining procedures, and empowering consumers are essential to ensure developer compliance.

Keywords

Apartment Developers, Apartment Law, Consumer Protection

A. Introduction

The delay in issuing the Certificate of Ownership for Apartment Units (SHMSRS) in Surabaya has become a significant issue as it directly affects consumers' ownership rights over the apartment units they have purchased. The SHMSRS serves as legally binding proof of ownership, as stipulated in Law No. 20 of 2011 on Apartment Buildings. Without this certificate, consumers' ownership of their purchased and fully paid units lacks sufficient legal certainty, potentially leading to various legal complications in the future.¹

The phenomenon of delayed SHMSRS issuance by apartment developers in Surabaya has become a chronic and recurring problem. Numerous apartment projects in this second-largest city in Indonesia have reportedly experienced delays in issuing certificates, even years after consumers have completed their payments.² This clearly contradicts the provisions of the Apartment Law, which obligates developers to deliver SHMSRS to buyers after the sale process is complete and the building has obtained a Certificate of Fitness (SLF) from the local government.

The SHMSRS holds significant importance as it is legal proof of ownership over a residential unit (apartment), encompassing individual ownership of the unit itself as well as shared rights over common areas, shared objects, and shared land.³ Without the SHMSRS, apartment owners cannot legally prove their ownership, face limitations in using

¹ Sumardjono, Maria S. *Kebijakan Pertanahan: Antara Regulasi dan Implementasi* Jakarta: Penerbit Buku Kompas, 2006.

² Febriani, Ayu Fitria. "Kebijakan Kepemilikan Rumah Susun di Indonesia." *Lentera Hukum* 6, no. 1 (2019): 15-32.

³ Salsabila, Fania Athaya. "Tanggung Jawab Pengembang Terhadap Konsumen Akibat Wanprestasi Dalam Perjanjian Jual Beli Apartemen (Studi Kasus: Jual Beli Apartemen Malioboro City)." *Thesis*. Yogyakarta: Universitas Islam Indonesia, 2020.

their assets as loan collateral, and encounter uncertainty in rights transfer processes such as sale, gift, or inheritance. This situation creates substantial legal vulnerability for consumers who have invested significant funds in purchasing apartment units.

Delays in SHMSRS issuance in Surabaya stem from various interrelated factors. On one hand, developers often claim that delays are due to complicated bureaucratic and administrative processes in handling certificate applications at relevant institutions such as the National Land Agency (BPN). However, further investigation reveals underlying issues ranging from technical problems and internal financial difficulties to unresolved land or building disputes. These factors reflect inadequate planning and poor governance by developers in fulfilling their legal obligations.

The Apartment Law actually provides a comprehensive legal framework to protect apartment consumers' rights. It explicitly regulates developers' obligations, including the issuance of SHMSRS, as well as sanctions for developers who fail to comply. However, weak implementation and law enforcement have created a situation where developers can delay fulfilling their obligations without facing significant consequences. Meanwhile, consumers—often in a weaker bargaining position—are frequently forced to accept the situation or face lengthy and costly legal proceedings to claim their rights. Therefore, a comprehensive analysis is needed on more effective law enforcement mechanisms, as well as the active role of regulators and consumer protection institutions to ensure that apartment buyers' rights in Surabaya are protected as mandated by law.

B. Developers Obligations in Surabaya Regarding SHMSRS Issuance Based on Law No. 20 of 2011

Law No. 20 of 2011 on Apartment Buildings establishes a clear legal framework regarding developers' obligations in issuing the Certificate of Ownership for Apartment Units (SHMSRS). Article 42 of the Apartment Law explicitly requires developers to apply for a Certificate of Fitness (SLF) from the regent/mayor after completing all

or part of the apartment construction.⁴ This obligation is a crucial initial step in the process leading to the issuance of SHMSRS as valid legal proof of ownership for apartment buyers.

The sale and purchase process for apartment units is detailed in the Apartment Law. Article 43 paragraph (1) states that sales conducted before the completion of construction may be carried out through a Sales Binding Agreement (PPJB) made before a notary. Subsequently, Article 44 paragraph (1) affirms that sales conducted after the apartment building is completed must be executed through a Deed of Sale and Purchase (AJB). Article 47 paragraph (1) then establishes SHMSRS as proof of ownership for apartment units.⁵ Thus, developers have a legal obligation to facilitate the entire process until the issuance of SHMSRS for every unit sold to consumers.

To issue SHMSRS, apartment developers in Surabaya must go through a series of complex stages. This process begins with the physical completion of the apartment construction in accordance with the Building Construction Permit (IMB), followed by obtaining the Certificate of Fitness (SLF) from the Surabaya City Government. Afterwards, developers must split the master certificate into individual SHMSRS for each apartment unit. This process involves creating a separation deed certified by the Mayor of Surabaya, detailing the individual apartment units, common areas, shared objects, shared land, and each unit's Proportional Comparison Value (NPP).⁶ Once the separation deed is certified, developers must process the issuance of SHMSRS for each apartment unit at the Surabaya Land Office and finally deliver it to the buyer after the sale process is complete and the buyer has fulfilled all payment obligations.

⁴ Aulia, Arum. "Perjanjian Jual Beli Rumah Susun Berdasarkan Undang-Undang Nomor 20 Tahun 2011 Tentang Rumah Susun." *Lex Privatum* 9, no. 3 (2021).

⁵ Pongantung, Rio Y. "Perjanjian Pengikatan Jual Beli oleh Para Pihak Menurut Undang-Undang Nomor 20 Tahun 2011 Tentang Rumah Susun." *Lex Privatum* 6, no. 10 (2018).

⁶ Gunawan, Christina Herawati, and Hasni Hasni. "Problematisa Pembentukan Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun (PPPSRS) Ditinjau dari Undang-Undang Nomor 20 Tahun 2011 Tentang Rumah Susun (Contoh Kasus Putusan Pengadilan Negeri 553/PDT. G/2016/PN. JKT. UTR.)." *Jurnal Hukum Adigama* 3, no. 1 (2020): 46-70.

The phenomenon of delayed SHMSRS issuance has become a serious problem in Surabaya, harming many apartment consumers. Data from the Indonesian Consumers Foundation (YLKI) Surabaya branch indicates that at least 12 apartment projects in Surabaya face SHMSRS issuance issues, affecting over 7,000 apartment units. These delays range from 2 to 8 years after consumers have completed their payments. A concrete example is Apartment X in West Surabaya, where more than 500 units were sold and fully paid for since 2018, yet by 2025, no SHMSRS has been issued, with the developer citing ongoing processes at BPN. A similar case occurred at Apartment Y in East Surabaya, where units were handed over to buyers since 2017, but the developer has not yet processed the splitting of the master certificate. At Apartment Z in South Surabaya, buyers who completed payments in 2019 are still waiting for SHMSRS due to the developer's unresolved tax issues.

Delays in SHMSRS issuance in Surabaya are caused by various interrelated factors. Developers' financial problems are one of the main factors, as some developers face financial difficulties and are unable to meet administrative and financial requirements for SHMSRS processing. Other factors include land or building disputes, where several apartment projects in Surabaya face unresolved land conflicts or issues related to Building Construction Permits (IMB). Incomplete technical documentation also hinders the process, as developers may lack the required documents to obtain the Certificate of Fitness or to split the certificate. Non-compliance with tax regulations, where many developers delay SHMSRS processing due to unpaid taxes such as VAT, income tax, and land and building transfer tax (BPHTB), along with complicated bureaucracy and administrative procedures in SHMSRS processing in Surabaya, further contribute to the problem.

The Apartment Law has established strict sanctions for developers who fail to fulfill their SHMSRS issuance obligations. Administrative sanctions are stipulated in Article 107, where developers violating Articles 42, 43, and 44 may face written warnings, restrictions on construction or business activities, temporary suspension of construction work, temporary or permanent suspension of apartment management, administrative fines, revocation of IMB, revocation of

SLF, revocation of the apartment's SHM or SKBG, demolition orders, or revocation of business licenses.⁷

In addition to administrative sanctions, negligent developers may also face criminal penalties under Articles 109 and 110 of the Apartment Law. Article 109 states that any developer who intentionally constructs an apartment building not in accordance with agreed technical specifications may be punished with a maximum prison sentence of four years or a maximum fine of IDR 4 billion. Article 110 states that any developer who intentionally sells apartment units that do not meet the requirements stipulated in Article 42 paragraph (2) may be punished with a maximum prison sentence of four years or a maximum fine of IDR 4 billion. Developers may also face civil lawsuits, including breach of contract claims, compensation for material and immaterial losses, and class action lawsuits filed collectively by affected apartment buyers.⁸

Despite the strict sanctions outlined in the Apartment Law, law enforcement against developers in Surabaya who delay SHMSRS issuance remains weak. Several factors contribute to this weak enforcement, including insufficient supervision from the Surabaya City Government, which lacks effective mechanisms to monitor developers' post-construction obligations.⁹ Limited coordination among agencies—

⁷ Mahmoud, Arief Rahman, Suhariningsih Suhariningsih, and Imam Koeswahyono. "Akibat Hukum Tidak Membentuk Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun." *Mulawarman Law Review* 4, no. 1 (2019): 44-63.

⁸ Marbun, Liza Dameria, Budiman Ginting, and Detania Sukarja. "Tanggung Jawab Hukum Pengembang Rumah Susun dalam Perjanjian Pengikatan Jual Beli Tanpa Sertifikat Laik Fungsi Kepada Konsumen Berdasarkan Hukum Positif Indonesia." *Recht Studiosum Law Review* 2, no. 2 (2023): 63-80.

⁹ Rahmawati, Aulia. "Hukum Apartemen dalam Prakteknya di Indonesia." *Justitia et Pax* 34, no. 1 (2018). See also Taufiq, Fida Nabilah, Mohammad Hamidi Masykur, and Supriyadi Supriyadi. "Challenges Arising from Article 22 (2) of Ministerial Regulation ATR/BPN No. 6/2018 on Complete Systematic Land Registration (PTSL) Pertaining to Insufficient or Missing Evidence of Community Land Ownership." *Unnes Law Journal* 9, no. 2 (2023): 419-440; Yuniyanti, Salma Suroyya, and Frency Siska. "Enhancing legal certainty for consumers in apartment unit trade: A comparative analysis of dispute settlement agreements in Indonesia and the Netherlands." *Journal of Law and Legal Reform* 5, no. 1 (2024): 333-360; Akbar, Fergi Firoso. "Judge Decision Analysis on Civil Cases Against Counterfeiting Land Deed Decision Number 350 K/Pdt/2017 Mataram District

such as the Department of Housing and Settlement Areas, the Department of Public Works and Spatial Planning, and the Surabaya Land Office—also hinders enforcement. Consumers' weak bargaining position, where most apartment buyers in Surabaya lack adequate knowledge and resources to confront large developers, combined with the lengthy and costly legal process required to sue developers, further contributes to weak law enforcement.

To address the issue of delayed SHMSRS issuance in Surabaya, comprehensive solutions are required. Strengthening supervision through the establishment of a special team by the Surabaya City Government to monitor developers' post-construction obligations is an important step. Simplifying the process by streamlining SHMSRS issuance through integrated inter-agency services is also necessary. Strict sanctions must be enforced through consistent implementation of administrative and criminal penalties against negligent developers. Empowering consumers through education and assistance from the government and consumer protection institutions, as well as establishing a special mediation body to resolve SHMSRS disputes between consumers and developers, can help address this issue.

Apartment developers in Surabaya have clear legal obligations under Law No. 20 of 2011 on Apartment Buildings to issue SHMSRS for units sold to consumers. These obligations include a series of processes from physical construction completion to delivering SHMSRS to buyers. The delay in SHMSRS issuance in Surabaya has become a phenomenon that harms many apartment consumers.¹⁰ Although the Apartment Law provides administrative, criminal, and civil lawsuit sanctions for developers who fail to fulfill their obligations, law enforcement remains weak due to various systemic factors. Comprehensive measures involving all stakeholders are needed to resolve this issue and ensure the protection of apartment consumers' rights in Surabaya as mandated by the Apartment Law.

Court." *Indonesian Journal of Environmental Law and Sustainable Development* 1, no. 1 (2022): 69-92.

¹⁰ Pawana, Sekhar Chandra. "Konsep Perjanjian Pengikatan Jual Beli Rumah Susun Milik Sebagai Sebuah Panjer." *Acta Comitatus* 4, no. 2 (2019): 329-342.

C. Legal Remedies for Apartment Owner Facing Delayed SHMSRS Issuance

The delay in issuing the Certificate of Ownership for Apartment Units (SHMSRS) by apartment developers in Surabaya has caused significant losses for buyers. Despite having fully paid, many apartment owners find themselves in a vulnerable position without valid proof of ownership. In such circumstances, buyers actually have several legal remedies available, including both litigation and non-litigation pathways, both of which are firmly grounded in Indonesia's legal system.

The first legal remedy available to apartment buyers is filing a civil lawsuit against the developer. This lawsuit can be based on breach of contract (*wanprestasi*), as the developer has violated its obligations stipulated in the Sales Binding Agreement (PPJB) or Deed of Sale and Purchase (AJB). In such a lawsuit, buyers can demand the fulfillment of the SHMSRS issuance obligation along with compensation for losses incurred due to the delay. Civil lawsuits can be filed at the District Court with jurisdiction over the apartment's location or the developer's domicile. In practice in Surabaya, several civil lawsuits related to SHMSRS have been successfully won by buyers, such as the collective lawsuit by buyers of Grand X Apartment in 2023, which resulted in a court order requiring the developer to issue SHMSRS within 90 working days, along with late payment penalties.¹¹

In addition to individual lawsuits, apartment buyers can also file a class action (class action) under Supreme Court Regulation No. 1 of 2002. A class action allows a group of buyers with similar interests to file a lawsuit through representatives. This approach offers advantages in terms of cost and time efficiency and exerts greater pressure on the developer. In Surabaya, class actions have been initiated by buyers of several apartments, such as buyers of Apartment Y in East Surabaya, which is currently undergoing trial. Although no final verdict has been

¹¹ Harahap, Putri Mardiah, et al. "Tanggung Jawab Developer dalam Perolehan Sertifikat Hak Milik Satuan Rumah Susun Berdasarkan PPJB (Studi Apartement City Deli Medan)." *Jurnal Normatif* 2, no. 2 (2022): 154-161.

issued, this step has prompted the developer to begin preparing SHMSRS issuance.¹²

Non-litigation avenues are also available through complaints to the Consumer Dispute Settlement Agency (BPSK) of Surabaya. Under Law No. 8 of 1999 on Consumer Protection, BPSK has the authority to resolve consumer disputes through mediation, conciliation, or arbitration.¹³ The dispute resolution process through BPSK is relatively faster, with a maximum duration of 21 working days. BPSK decisions are final, binding, and can serve as preliminary evidence in criminal investigations if the developer fails to comply. Data from BPSK Surabaya shows that between 2023 and 2024, there were 37 complaints regarding delayed SHMSRS issuance, with 22 cases successfully resolved through mediation and 9 through arbitration, while 6 cases remain ongoing.

Apartment buyers can also report developers to the Financial Services Authority (OJK) if the purchase transaction involves an Apartment Ownership Loan (KPA) from a financial institution. OJK has the authority to supervise financial institutions and can impose administrative sanctions on banks that fail to properly verify the legal completeness of property documents. Although OJK cannot directly compel developers to issue SHMSRS, pressure from financial institutions receiving OJK warnings is often effective in pushing developers to fulfill their obligations. In Surabaya, this approach has been taken by a consortium of buyers from Apartment Z, resulting in several KPA-providing banks beginning to pressure the developer to issue SHMSRS promptly.

Reporting to the Land Deed Officials (PPAT) and the Surabaya Land Office is another available remedy. PPAT involved in the sale process have a responsibility to ensure property transactions comply with applicable regulations. The Land Office, as the institution issuing

¹² Gunawan, Ricky Wijaya. "Perlindungan Hukum Bagi Pemilik Dan Penghuni Apartemen Atas Kenaikan IPL Secara Sepihak oleh Pengelola." *Jurnal Minuta* 6, no. 1 (2024): 7-13.

¹³ Hilmy, Raihan. "Perlindungan Konsumen Dalam Penjualan Rumah Susun Dengan Sistem Pemasaran Pre-Project Selling Ditinjau dari Hukum Positif Indonesia." *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 6, no. 3 (2022).

SHMSRS, can verify the status of land and buildings and facilitate the SHMSRS issuance process. Several cases in Surabaya show that engagement with PPAT and the Land Office has opened pathways to resolution, such as in the case of Apartment V, where intervention from the Land Office successfully identified and resolved administrative issues hindering SHMSRS issuance.

Buyers can also report developer violations to the Surabaya City Department of Housing and Settlement Areas and the Investment and Integrated Licensing Service. These agencies have the authority to impose administrative sanctions on developers violating regulations, including delayed SHMSRS issuance. Sanctions may include written warnings, fines, or even business license revocation. However, in practice in Surabaya, the effectiveness of this approach remains limited due to insufficient inter-agency coordination and the absence of systematic monitoring mechanisms for post-construction developer obligations.

To strengthen their bargaining position, apartment buyers can form an association or resident community. Such an association can serve as a platform to coordinate collective efforts in claiming residents' rights, including SHMSRS issuance. Several apartments in Surabaya, such as Apartment X and Y, have formed active resident associations that conduct advocacy and negotiations with developers. The resident association of Apartment X even successfully pressured the developer to begin the master certificate splitting process after launching media campaigns and collective complaints to various agencies.

The effectiveness of consumer protection mechanisms in resolving delayed SHMSRS issuance in Surabaya still faces various challenges. First, litigation in court is often lengthy and costly, making it inaccessible to all buyers. Civil lawsuits related to SHMSRS at the Surabaya District Court typically take 8–12 months to reach a first-instance decision, not including potential appeals or cassation that could extend the process for years.¹⁴

¹⁴ Putra, Sapta Adi, Jelly Nasser, and Mohamad Ismed. "Akibat Hukum Wanprestasi Pelaku Pembangunan (Developer) dalam Penguasaan Satuan Rumah Susun Berdasarkan Perjanjian Pengikatan Jual Beli." *Themis: Jurnal Ilmu Hukum* 2, no. 1 (2024): 13-21.

Second, although BPSK offers relatively fast resolution, its decisions are not always complied with by developers. Data shows that of the 31 cases resolved through BPSK Surabaya between 2023 and 2024, only 17 (about 55%) were fully implemented by developers without further legal action. This indicates a gap in enforcing decisions from non-litigation dispute resolution bodies.

Third, inter-agency coordination among government institutions in Surabaya regarding delayed SHMSRS issuance remains weak. The absence of an integrated database on SHMSRS issuance status and sanctions previously imposed on developers leads to ineffective supervision. Developers with problematic records in one project can still easily obtain permits for new projects without facing consequences for past negligence.

Fourth, buyers' weak bargaining position compared to developers often results in imbalance during negotiations. Many buyers ultimately accept delayed SHMSRS issuance without resistance due to concerns over long and uncertain legal processes. This situation is exacerbated by many buyers' lack of awareness about their rights and available legal procedures.

To improve the effectiveness of consumer protection mechanisms, several improvements are needed: establishing an integrated information system among agencies involved in SHMSRS issuance, strengthening BPSK's capacity and authority to enforce its decisions, simplifying consumer lawsuit procedures in court, and enhancing consumer education on their rights as apartment buyers. The active role of civil society organizations and the media is also crucial in advocating for and monitoring developer practices that harm consumers.

Apartment buyers in Surabaya facing delayed SHMSRS issuance have various legal remedies available, both through litigation and non-litigation channels. However, the effectiveness of consumer protection mechanisms in resolving this issue still faces systemic challenges. A comprehensive approach involving regulatory reform, institutional strengthening, and consumer empowerment is required to ensure

apartment buyers' rights are protected as mandated by law.¹⁵ With integrated and sustainable systemic improvements, it is hoped that the problem of delayed SHMSRS issuance in Surabaya can be effectively resolved, providing legal certainty for buyers and fostering a healthier, more responsible property industry.

D. Conclusion

The delay in issuing the Certificate of Ownership for Apartment Units (SHMSRS) in Surabaya has become a serious problem that violates apartment consumers' rights. Law No. 20 of 2011 on Apartment Buildings explicitly obligates developers to issue SHMSRS as valid proof of ownership for buyers after the sale process is complete. In reality, at least 12 apartment projects in Surabaya, affecting over 7,000 units, have experienced SHMSRS issuance delays ranging from 2 to 8 years after payment completion. These delays are caused by various factors, including developers' financial problems, land disputes, incomplete documentation, and non-compliance with tax regulations. Although the law provides strict administrative and criminal sanctions, law enforcement remains weak.

Consumers have several legal remedies available, such as civil lawsuits, complaints to BPSK, OJK, or relevant government agencies, and forming resident associations. However, the effectiveness of consumer protection mechanisms is still hindered by lengthy and costly litigation, developers' non-compliance with BPSK decisions, weak inter-agency coordination, and unbalanced consumer bargaining power. Comprehensive measures involving all stakeholders—including strengthened supervision, process simplification, strict sanctions, and consumer empowerment—are needed to address this issue and create a healthier, more responsible property industry.

¹⁵ Meliana, Meliana, Joni Emirzon, and Firman Muntaqo. "Perlindungan Hukum Developer Dan Konsumen Rumah Susun dalam Perjanjian Dengan Sistem Pre Project Selling di Indonesia." *Lex Lata* (2021).

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