

Tenant Liability for Breach of House Maintenance Clause in a Lease Agreement Based on Good Faith (Study in Gading Serpong)

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Abstract

The ever-increasing demand for housing has driven the popularity of residential rental alternatives, yet in practice, these arrangements are often marred by challenges related to property maintenance. This study examines breaches of contract in residential lease agreements at the Topaz Cluster in Gading Serpong, where tenants have failed to maintain the building's physical condition and electronic facilities. The purpose of this research is to analyze the implementation of lease agreements from a civil law perspective and to examine the forms of tenant liability for maintenance breaches based on the principle of good faith. The methodology employed is empirical legal research with a qualitative approach. Primary data was obtained through interviews with homeowners and property consultants, as well as document analysis, while secondary data was collected through a literature review of relevant laws and legal literature. The results of the study indicate that the implementation of the agreement in the Topaz Cluster meets the validity requirements of a contract under Article 1320 of the Civil Code. However, the tenant was found to have breached the contract by neglecting maintenance obligations, resulting in structural damage exceeding normal wear and tear as well as damage to the provided electronic facilities. The dispute was resolved through non-litigation procedures. The tenant demonstrated post-contractual good faith by agreeing to cover all restoration costs with personal funds. The study concludes that the principle of good faith functions as an objective standard of conduct and a legal parameter in measuring the responsibility for performance.

KEYWORDS



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Lease Agreement, Breach of Contract, Home Maintenance, Principle of Good Faith

Introduction

Housing is a primary human need, alongside clothing and food. Housing, or residential property, plays a crucial role in shaping a nation's character and personality, while also being one of the efforts to build independent and productive human resources.¹ The function of a home is not limited to providing shelter alone, but also encompasses fulfilling other needs, such as a sense of security and comfort.

As the population grows, the need for housing—whether in urban or rural areas—continues to rise each year.² This increase is particularly evident in major cities such as Jakarta, Tangerang, Surabaya, and others. According to data from the Central Statistics Agency (BPS) of Tangerang Regency, as of February 2025, the population of Tangerang Regency reached 3.5 million, with the growth rate rising by approximately 0.9 percentage points, from 1.93% to 2.83%.³ Due to the region's growing population, demand for housing has also increased significantly, especially amid the massive infrastructure development underway.

Based on data from Rumah123, the Tangerang region leads the market with the highest national demand for residential housing, accounting for 16.8% of total demand. Following behind are South Jakarta at 11.4% and West Jakarta at 9.8%.⁴

¹ Adam Amirul Faiq and Frency Siska, "Perjanjian Sewa-Menyewa Tanah Untuk Perumahan Dan Permukiman Ditinjau Dari Ketentuan Buku III KUHPdata Serta Dihubungkan Dengan Peraturan Perundang-Undangan," *Bandung Conference Series: Law Studies*, 2022, 1326–33.

² Salvadoris Pieter, Zegovia Parera, and Emiliana. B Rahail, "Pendampingan Dan Pelatihan Penyusunan Kontrak Sewa Menyewa Bagi Pengusaha Rumah Kos Di Kelurahan Rimba Jaya," *Jurnal Pengabdian Hukum & Humaniora* 3, no. 2 (2023): 93–106.

³ Dinas Kependudukan dan Pencatatan Sipil Kabupaten Tangerang/ Population and Civil Registration Office of Tangerang Regency

⁴ Ade Hapsari, "Tangerang Paling Diburu! Gen Z Bungkam Isu Lesunya Properti 2025", *Metrotvnews.com*, <https://www.metrotvnews.com/read/b7WCgyn7-tangerang-paling-diburu-gen-z-bungkam-isu-lesunya-properti-2025>, diakses pada 24 Maret 2026

In response to the public's significant need for housing, individuals strive to meet this housing need through various means, such as building their own homes, purchasing a home, or renting (leasing) a home owned by others. As of March 2025, 4.22% of residential buildings in Tangerang Regency were recorded as being under lease (rental) agreements.⁵ The existence of these rental homes can indirectly assist the government in meeting the public's housing needs.

The act of renting a home establishes a legal relationship between the homeowner and the tenant, typically formalized in a contract known as a lease agreement. The purpose of the lease agreement is to grant the tenant the exclusive right of use. Such a lease agreement constitutes a personal right (obligatory right), not a right in rem (material right).⁶

Historically, the term "agreement" originates from Dutch, specifically the words *overeenkomst* and *verbinten*.⁷ Various experts offer differing definitions of an agreement; one such definition comes from R. Subekti, a civil law expert. According to him, a contract is an event in which one person promises to another, or two people mutually promise to do something.⁸ contract creates, modifies, or extinguishes rights while simultaneously establishing a legal relationship between the parties. Thus, a contract not only serves as the basis for a legal relationship but also brings about the legal consequences desired by the parties involved.⁹

In general, the Civil Code (KUH Perdata) provides regulations regarding leases, as set forth in Article 1548. Essentially, this article stipulates that a lease is an agreement whereby the first party provides

⁵ Badan Pusat Statistik, *Survei Sosial Ekonomi Nasional (Susenas)* Maret

⁶ Robbi Firly and Firgiyabi Mahlafi, "Tinjauan Yuridis Wanprestasi Dalam Perjanjian Sewa Menyewa Rumah (Studi Putusan Nomor 177/Pdt.G/2019/PN.Jkt.Utr)," *Jurnal Sains Student Research* 1 No. 1 (2023): 857–68.

⁷ Febrihadi Suparidho and Ade Sultan Muhammad, "Analisis Yuridis Akibat Terjadinya Wanprestasi Dalam Perjanjian Sewa Menyewa Berdasarkan KUHPerdata," *Jurnal Kolaboratif Sains* 8, no. 11 (2025): 7384–88, <https://doi.org/10.56338/jks.v8i11.7509>.

⁸ Taufik Hidayat Lubis, "Hukum Perjanjian Di Indonesia" 2, no. 3 (2022): 177–90.

⁹ Herlien Budiono, *Ajaran Umum Hukum Perjanjian Dan Penerapannya Di Bidang Kenotariatan* (Jakarta: PT. Citra Aditya Bakti, 2019).

property to the second party, on the condition that the second party fulfills its payment obligations in accordance with the value and duration specified in the contract.¹⁰

In addition to the Civil Code, Government Regulation No. 44 of 1994 on Non-Owner Occupancy of Houses (GR No. 4 of 1994) also regulates leases of immovable property, such as houses. This regulation stipulates that a residential lease agreement must be made with a clearly defined term. Further provisions require that it be in writing and include the rights and obligations of both parties, the lease term, and the amount of rent. Like most agreements, a lease agreement is consensual, meaning the agreement is considered valid and binding once both parties reach an agreement on the terms contained therein.

The relationship formed by the agreement between the homeowner and the tenant is not merely an economic transaction but a legal relationship known as a contract. From this contractual relationship arise rights and obligations for the parties involved as a form of reciprocal relationship within the agreement.¹¹ In its form, a lease agreement constitutes a series of contractual obligations encompassing promises or commitments expressed either orally or in writing.¹²

In a contract, including a lease agreement, there are two parties: the tenant and the landlord.¹³ In a residential lease agreement, the lessor has the right to receive rent and the obligation to hand over the leased property to the tenant. Meanwhile, the tenant has the right to use the leased property

¹⁰ Muhammad Farhan Gayo and Heru Sugiyono, "Penerapan Asas Pacta Sunt Servanda Dalam Perjanjian Sewa Menyewa Ruang Usaha," *Justitia: Jurnal Ilmu Hukum Dan Humaniora* 8, no. 3 (2021): 245–54.

¹¹ Dewa Gede Swamitra Mahottama, "Perlindungan Hukum Pemegang Hak Sewa Dalam Kepemilikan Atas Objek Sewa Tanah Yang Berada Dalam Eksekusi Hak Tanggungan Menurut Hukum Positif Di Indonesia," *Jurnal Pacta Sunt Servanda* 6 No. 1 (2025): 1–12.

¹² Grisella Avelyn and Michelle Clementina Bianca, "Analisis Aspek Hukum Perjanjian Sewa Menyewa Dalam Konteks Hukum Perdata Indonesia" 4 (2024).

¹³ Sri Mega et al., "Akibat Hukum Terkait Wanprestasi Dalam Perjanjian Sewa Menyewa Gedung," *Jurnal Ilmu Hukum* 01, no. 2 (2023): 117–34.

and the obligation to pay rent on time, as well as other obligations stipulated in the agreement.

However, in the implementation of residential lease agreements, issues often arise because one party is negligent or in breach of contract, thereby violating the terms of the agreement. Failing to meet the conditions agreed upon in the contract is referred to as a breach of contract under contract law.¹⁴ Such negligence can leave the other party feeling wronged and may prompt them to assert their rights.

Generally, residential lease agreements follow the same principles as lease agreements in general. The agreement must be entered into by legally competent parties, clearly define the leased property, be based on mutual consent, and be executed in good faith (*good faith*). A lease agreement is important because it protects the rights and obligations of the parties; thus, when issues arise, the risk of disputes can be minimized, and there is a strong basis for holding parties accountable for actions or circumstances that cause the problem.

In general, negligence or breach of contract in lease agreements includes late payments and property damage. This is precisely what occurred in a residential lease in Gading Serpong, a district in the Tangerang Regency. Gading Serpong is a self-contained city known for its culinary scene, premium cluster housing, and comprehensive facilities, including malls, hospitals, and educational centers. Recognizing this opportunity, many business operators have entered the property market by renting out homes as residences. However, issues frequently arise in lease agreements. One such case occurred in the lease practices at Topaz Cluster in Gading Serpong.

The legal relationship between the owner and the tenant at Topaz Cluster is formalized in a written agreement containing mutually agreed-upon clauses. One such clause explicitly addresses the maintenance of the

¹⁴ Nur Azza and Morlin Iwanti, "AKIBAT HUKUM WANPRESTASI SERTA UPAYA HUKUM WANPRESTASI BERDASARKAN UNDANG-UNDANG YANG BERLAKU" VI, no. 2 (2022): 346–51.

rented house and the allocation of responsibility for property damage during the lease term. This clause aims to ensure that the rented house remains functional and is returned to both parties in good condition, as agreed.

Fulfilling these maintenance obligations essentially manifests the application of the Principle of Good Faith, or *Goede Trouw* in Dutch, as stipulated in Article 1338(3) of the Civil Code. This article states that a contract must be performed in good faith. In the context of maintaining a rented house, this principle requires the tenant not only to occupy the leased property but also to act honestly, appropriately, and responsibly, as a good homeowner would.

Issues arise when the property is returned to the owner at the end of the lease term in poor condition compared to when it was initially handed over and the air conditioner is damaged. This directly causes financial loss for the property owner. Such negligence constitutes a breach of contract because the tenant failed to fulfill their obligations as stipulated in the agreement. As the aggrieved party, the homeowner may pursue legal action to seek compensation. As the party causing the loss, the tenant must compensate for the damages as a form of accountability for their actions.

Several studies have examined the responsibilities of tenants in residential lease agreements. The extant studies referenced in this research include the following: A study by Adhi Pradanan Putra, titled "Tanggung Jawab Penyewa dalam Pemeliharaan dan Perawatan Rumah yang Disewa (Studi Kasus Perjanjian Sewa Menyewa di Kelurahan Tengah Kecamatan Pontianak Kota)," was the first to examine the reasons tenants fail to fulfill their obligations. It also describes the dispute resolution efforts undertaken. Secondly, a study was conducted by Satria Amin Syuja, entitled "Pertanggungjawaban Penyewa terhadap Kerusakan Rumah Sewa pada saat Perjanjian Sewa Menyewa Berakhir dihubungkan dengan Pasal 1562 KUHPerdara: Studi Kasus Desa Nagasari Kecamatan Serang Baru

Kabupaten Bekasi". This study focuses on the tenant's liability for such damages using Article 1562 of the Civil Code as an analytical framework.

The subsequent study to which the author refers is the research written by Manaon Damianus Sirait, Johannes Ibrahim Kosasih, and Desak Gde Dwi Arini titled "Asas Itikad Baik dalam Perjanjian Sewa Menyewa Rumah Kantor." The present study examines the importance of applying the principle of good faith in office space lease agreements. In the fourth section of the study, the authors, Zafira Azzahrah and Siti Malikhatun Badriyah, present their findings on the subject of "Wanprestasi Penyewa dalam Perjanjian Sewa Rumah Tinggal: Studi di Desa Klidon Sleman," which examines the forms of tenant breach of contract and the forms of liability for such breaches. Fifthly, a study by Thasya Ainun Novitasari, titled "Tinjauan Yuridis terhadap Perbuatan Wanprestasi dalam Perjanjian Sewa Menyewa Rumah Toko (Studi Putusan Nomor 96/Pdt.G/2021/Pn. Mtr)" is also pertinent to this subject. The present study focuses on the analysis of the ruling regarding breach of contract in rent payments and the judge's considerations in deciding the case.

In contrast to the five previous studies, the author's research offers novel features in the focus of analysis, the object of the lease, and a more specific research locus. If the references above focus more on the factors causing the tenant's economic inability, the object of the lease (an office house), or the analysis of court decisions, this research specifically examines the implementation of residential rentals in Tangerang Regency, namely in the Topaz Cluster, Gading Serpong. The main difference in this research lies in the use of the Principle of Good Faith (*Goede Trouw*) as the main parameter for assessing the tenant's responsibility for the house maintenance clause and damage to electronic facilities. Thus, this research not only examines breach of contract normatively, but also dissects how the standards of propriety and honesty in caring for the leased object in a modern residential environment are tested as manifestations of good faith under Article 1338, verse (3), of the Civil Code.

In relation to the background that the author has described, this research focuses on two main problems, namely: (1) How is the implementation of the residential rental agreement implemented in the Topaz Cluster, Gading Serpong, reviewed from a Civil Law perspective? (2) What is the form of the tenant's responsibility for default on the maintenance of the rented house based on the principle of good faith? The purpose of this research is to analyze the Civil Code as a reference for the implementation of the residential rental agreement in the Topaz Cluster, Gading Serpong, and to determine the form of the tenant's responsibility for default in the maintenance of the rented house based on the principle of good faith.

Methods

In writing this study, the author used a qualitative approach, specifically empirical legal research, also known as non-doctrinal research. The choice of a qualitative approach is based on the need to investigate and explore information related to a phenomenon, as well as to deeply understand the substantive meaning behind that phenomenon, which in this case pertains to breaches of maintenance obligations in residential lease agreements. Meanwhile, empirical legal research (non-doctrinal) examines and analyzes applicable legal provisions in relation to what actually occurs in society.¹⁵

The data used in this study include primary and secondary data. Primary data were obtained directly from primary sources through interviews with the first parties—namely, the homeowners and property consultants handling residential lease agreements in the Topaz Cluster, Gading Serpong, Tangerang Regency—as well as a document review of the clauses in residential lease agreements related to the research topic. Meanwhile, secondary data were obtained from a literature review,

¹⁵ Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktis* (Jakarta: Rineka Cipta, 2014).

including legislation, legal theories, and relevant literature pertinent to the research problem.

Data collection techniques included interviews, observations, and document analysis to obtain relevant data and ensure the validity of the data required for the study. In qualitative research, data analysis is descriptive and carried out through a systematic process that includes organizing data, reducing data to focus on crucial points, interpreting the data, and drawing conclusions based on the research findings. The reason for using descriptive analysis is to provide a comprehensive, clear, and systematic overview of residential lease agreement practices in the Topaz Cluster, Gading Serpong, issues related to breach of contract, and the tenant's responsibilities from the perspectives of civil law, theory, and legal principles—specifically the principle of good faith.

Result and Discussion

1. The Implementation of Residential Lease Agreements in the Topaz Cluster, Gading Serpong, from a Civil Law Perspective

The rapid population growth year after year has led to an increase in public needs, one of which is the need for housing. Housing has become a primary necessity, serving as a place to live, a shelter, and a safe and comfortable place to rest.¹⁶ The high demand for housing has prompted businesses in the real estate sector to continuously develop innovations in modern housing and methods for providing housing, whether through the construction of homes for sale or for rent. Rental housing plays a crucial

¹⁶ Sendy Anaty, Siti Malikhatun Badriyah, and Adya Paramita Prabandari, "Kekuatan Hukum Pada Perjanjian Pengikatan Jual BeliBaik Rumahdan Ruko (Kios)Di Perumnas," *Notarius* 14 No.2 (2021).

role for those who cannot yet afford the standard housing prices offered by the formal sector.¹⁷

Leasing is the transfer of the right to use a piece of property to another party so that the latter may derive utility from it, with the user obligated to pay rent.¹⁸ The provision of residential housing, whether through sale and purchase or lease agreements, requires a contract as the legal basis for such activities. If a house is built for sale, a sale and purchase agreement is entered into; similarly, if a house is intended for rent, a lease agreement applies.

From a legal perspective, the Civil Code regulates the foundation of agreements as a source of obligations under Article 1233, stating that all agreements exist, whether by agreement or by law.¹⁹ This provision is further clarified in Article 1313, which states: "A contract is an act whereby one or more persons bind themselves to one or more other persons." From the content of this article, it can be concluded that a contract creates a legal relationship between the parties, known as an obligation, and within this obligation lie the rights and obligations of the parties who have bound themselves to one another.

Recognition of the principle of freedom of contract is reflected in Article 1338 of the Civil Code. This principle allows every person the autonomy to independently determine with whom to reach an agreement, formulate the form and content of the agreement, and select the legal basis to be applied in the contract.²⁰ This demonstrates that the system under the Civil Code is open-ended. Through the recognition of this freedom, each

¹⁷ Karimatus Sholihah, M. Hidayat, and Sri Anggraini Kusuma Dewi, "Tinjauan Hukum Keabsahan Sewa Menyewa Rumah Untuk Tempat Tinggal Atau Hunian," *Innovative: Journal Of Social Science Research* 3, no. 4 (2023): 522–30.

¹⁸ Yuliani, Nanda Amalia, and Tri Widya Kurniasari, "Wanprestasi Dalam Perjanjian Sewa Menyewa Rumah (Studi Penelitian Di Dusun A Desa Panggoi Kecamatan Muara Dua Kota Lhokseumawe)," *Jurnal Ilmu Hukum Reusam* VIII, no. Mei (2020): 69–82.

¹⁹ Michael Alpray Siregar et al., "Analisis Kewajiban Para Pihak Dalam Perjanjian Sewa Menyewa Rumah Tinggal," *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 382–86.

²⁰ Kemal Juniardi, Komariah, and Dwi Ratna Indri Hapsari, "Penerapan Asas Kebebasan Berkontrak Dan Asas Proporsionalitas Dalam Perjanjian Kerja Antara Pekerja Dengan Pengusaha Di Banjarmasin," *Indonesian Law Reform Journal* 1, no. 2 (2021): 257–72.

party can participate in a contract with confidence, while minimizing the risk of being influenced by external factors that could disrupt the process or its outcome.²¹

Furthermore, contract law is complementary, as stated in Article 1339 of the Civil Code, which reads: “An agreement is not only binding on what is expressly stipulated therein, but also on everything that, by its nature, is required by justice, custom, or law.” Thus, a contract is not only binding on the terms explicitly set forth in the agreement's clauses but also encompasses all matters deemed reasonable and customary under the law, custom, and the principles of good faith in contractual practice.

Drafting an effective agreement requires thorough preparation and planning, supported by binding preliminary discussions. The parties—namely, the owner of the leased property and the tenant—must allocate sufficient time to discuss the agreement's purpose and objectives. Additionally, the language and terminology used in the agreement must be easily understood by the parties involved to prevent future misunderstandings.

There are provisions regarding the drafting of lease agreements for residential homes, shops, and boarding houses, referencing Government Regulation No. 44 of 1994 on Residential Occupancy by Non-Owners. Article 4 states that lease agreements for homes, shop houses, and boarding houses must be in writing, and the main provisions are as follows:

Article 4

- (1) The occupancy of a house through a lease is based on a written agreement between the owner and the tenant.
- (2) The written agreement referred to in paragraph (1) must at least include provisions regarding rights and obligations, the lease term, and the amount of rent.

²¹ Gusti Ayu et al., “Pengimplemetasian Asas Dalam Hukum Perikatan Khususnya Asas Konsensualisme,” *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2, no. 1 (2025): 146–59.

The provisions in this Article aim to establish legal certainty for the parties involved in the agreement, whether they are the owners of the leased property or the tenants, and to serve as a legal basis in the event of future contractual disputes.

Residential lease agreements in the Topaz Cluster, Gading Serpong, Tangerang Regency, utilize a standard written agreement drafted by the Property Office as the intermediary between the homeowner and the tenant. An agreement is considered valid if it meets the requirements stipulated in Article 1320 of the Civil Code, which states:

For a legally valid agreement to exist, four terms must be met:

1. the consent of the parties entering into the agreement;
2. the capacity to enter into a contract;
3. a specific subject matter;
4. a cause that is not prohibited.

Referring to that article, the lease agreement for the Topaz Cluster residential units meets all four requirements: the subject matter pertains to the lease and is not prohibited, and the agreement was entered into by both parties who are legally competent, namely the homeowner and the tenant. The capacity to perform legal acts is generally determined by the individual (person), encompassing the legal age (*meerderjarig*) and the sound mind. Furthermore, the residential lease agreement in the Topaz Cluster demonstrates the application of the principle of consensualism, whereby the legal relationship is considered valid and binding upon the agreement of the owner and the tenant regarding rights and obligations..

The residential lease agreement in the Topaz Cluster falls under the category of an obligatory agreement, which is an agreement obligating a party to deliver or pay something.²² In this agreement, the rights and obligations of each party are set forth in the contract clauses and are absolute and non-modifiable. The drafting of the contract clauses must clearly and in detail reflect the full intent and will of the parties, in

²² Komariah, *Hukum Perdata (Edisi Revisi)* (Universitas Muhammadiyah Malang, 2019).

accordance with applicable legal norms, and use proper Indonesian language conventions.²³ The homeowner has the primary right to receive payment of rent and the security deposit, while the tenant has the primary right to receive the house and agreed-upon facilities in good condition. In residential leasing, a security deposit is a sum of money paid by the tenant to the homeowner at the beginning of the lease term, serving as a guarantee to protect the homeowner from damage caused by the tenant. In this context, the tenant is obligated to pay a one-year rent of Rp 65,000,000.00 and a deposit of Rp 8,000,000.00.

Furthermore, the homeowner is responsible for granting the tenant the right to use the house as a residence, which is formalized by handing over the keys upon signing the agreement. The agreement is signed before the lease period begins. The lease period agreed upon in this agreement is one year. The homeowner is also obligated to hand over the house and all facilities—including furniture and electronic appliances—in good condition, well-maintained, and fully functional as agreed.

The homeowner's obligation to hand over the house in a well-maintained condition gives rise to a corresponding obligation for the tenant to maintain the house and its facilities.

The obligation to maintain the quality of the facilities and the functionality of the building is explicitly stated in a maintenance clause of the contract. This is as set forth in Article 4 regarding Maintenance and Responsibility, which essentially says:

1. **Party Two** accepts all facilities rented from **Party One** in a clean and well-maintained condition. Therefore, the **Second Party** promises and undertakes to return all such facilities at the end of the lease term in clean and same well-maintained condition as when received, and the **Second Party**, under no circumstances or for any

²³ I Made Sukayasa, I Nyoman Putu Budiarta, and Luh Putu Suryani, "TANGGUNG JAWAB HUKUM TERHADAP ADANYA WANPRESTASI DALAM PERJANJIAN SEWA MENYEWA RUMAH TOKO (RUKO)," *Jurnal Konstruksi Hukum* 2, no. 1 (2021): 97–101.

reason, shall be entitled to or permitted to claim compensation or demand any other costs from the **First Party**.

2. The **Second Party** must maintain and care for all facilities leased under this agreement, and all routine and minor repairs shall be borne and paid for by the **Second Party**, including maintenance of water systems, toilets, sinks, replacement of broken window glass, and repair of damaged locks or hinges resulting from the use of the premises by the **Second Party**. Except for damage or destruction caused by force majeure/natural disasters, including damage resulting from natural disasters in general, which shall be borne by the **First Party**.
3. All forms of repairs shall be discussed in advance and agreed upon by both parties.

Paragraphs 1 and 2 of the clause in question, which govern the obligations of the second party—the tenant—to maintain the rented dwelling and return the facilities in the same well-maintained condition as when they were received, constitute an implementation of Articles 1560, Article 1564, and Article 1566 of the Civil Code, which state that the tenant is responsible for all maintenance of the leased property and liable for any damage occurring during the lease term, unless proven otherwise. Paragraph 3 of that clause serves as a preventive mechanism in the legal relationship between the landlord and the tenant. his clause clarifies who bears the costs before repairs are carried out, thereby minimizing the risk of unexpected billing at the end of the lease term, which often triggers conflicts.

The entire set of clauses in the residential lease agreement for the Topaz Cluster is a concrete manifestation of the principle of *pacta sunt servanda* in the legal relationship between the landlord and the tenant. Pursuant to Article 1338 of the Civil Code, every agreement validly entered into is binding as law upon the parties who made it. his means that every provision—from the determination of the lease term and rental price to

maintenance, to other clauses outlining the rights and obligations of the parties—is a manifestation of the parties’ sovereign will, which must be fully respected and enforced.

The existence of this principle provides legal certainty that the relationship formed through this lease agreement is not merely an administrative formality, but a binding obligation carrying legal consequences if not carried out as it should be. The parties have consciously bound themselves, so that any deviation from any provision that may arise during the execution of this agreement may constitute a legal violation and may entitle the injured party to demand accountability from the party that committed the violation, to ensure that the rights of the injured party are protected.

In line with the binding force of a contract, the fulfillment of all clauses within the contract must also be grounded in good faith, as mandated by Article 1338 of the Civil Code. The principle of good faith requires the parties not only to adhere strictly to the literal wording of the contract but also to carry out their rights and obligations with honesty and propriety. In the context of housing within the Topaz Cluster, the application of good faith serves as a crucial instrument to prevent either party from deviating from or neglecting their obligations.

Furthermore, good faith also serves as an objective standard of conduct ensuring that the objectives of the residential lease agreement—including the fulfillment of the tenant’s need for decent, safe, and comfortable housing, as well as the protection of the property owner’s asset value—can be achieved harmoniously. Thus, good faith acts as the ‘spirit’ that guides the implementation of the agreement so that it remains within the bounds of legal morality, ensuring that every action taken by the owner or tenant reflects a mutual respect for each party’s legal interests.

2. Tenant Liability for Breach of House Maintenance Clause Based on the Principle of Good Faith

Legally defined, a contract is a legal event in which one party promises to another, or both parties mutually promise to perform a certain act. The legal consequences arising from a contract begin with the establishment of a legal relationship between the parties.²⁴ A legal relationship is a relationship governed by law concerning the rights and obligations of citizens or regulating interactions between individuals in society.

The enforcement of a contract is based on the principle of overall balance among the obligations of the parties. However, over time, contract enforcement does not always proceed smoothly. There are situations in which a debtor cannot fulfill their obligations, which, in civil law, is referred to as a breach of contract.

The term “breach of contract” originates from the Dutch word ‘*wanprestatie*’, meaning the failure to fulfill the obligations (performance) established in a contractual agreement.²⁵ According to the Legal Dictionary, breach of contract is defined as negligence, omission, breach of promise, or failure to fulfill obligations as agreed.²⁶ Thus, it can be concluded that a situation where, due to the debtor’s negligence or fault, the performance agreed upon in a contract cannot be fulfilled—and such non-fulfillment is not caused by force majeure—is referred to as breach of contract.

Generally, performance under a contract encompasses three elements: delivering something, performing an act, or refraining from an act, as stipulated in Article 1234 of the Civil Code, which sets out the purpose of a contractual obligation. If any one of these three elements is not satisfied, it may constitute a breach of contract. The forms of breach of contract are

²⁴ Robbi Firly and Firgiyabi Mahlafi, “Tinjauan Yuridis Wanprestasi Dalam Perjanjian Sewa Menyewa Rumah (Studi Putusan Nomor 177/Pdt.G/2019/PN.Jkt.Utr),” *Jurnal Sains Student Research* 1 No. 1 (2023): 857–68.

²⁵ Agus Prasetia Wiranto, “Tanggung Jawab Hukum Atas Wanprestasi Yang Dilakukan Oleh Para Pihak Dalam Perjanjian Sewa-Menyewa Benda Tidak Bergerak (Studi Kasus Rumah Kost Di Perumahan Genuk)” (Universitas Islam Sultan Agung Semarang, 2021).

²⁶ Sudarsono, *Kamus Hukum* (Rineka Cipta, 2007).

categorized into three types, namely: a) The debtor fails to fulfill the obligation entirely; b) The debtor fails to fulfill the obligation on time (is late); and c) The debtor's performance of the obligation does not conform to what was agreed upon.²⁷ However, it should be noted that the inability to perform the agreement or delays in its performance are not always due to the debtor's negligence. A situation may be classified as force majeure or an overmacht if the event occurs beyond the debtor's authority or control, is urgent, and could not have been foreseen at the time the agreement was made. Force majeure generally refers to natural events, such as natural disasters, war, epidemics, and other unforeseen circumstances.²⁸ Due to such compelling circumstances, the debtor cannot fully fulfill their obligations. Furthermore, such events are not included among the risks that the debtor is obligated to bear as stipulated in the contract.²⁹

In the context of lease agreements in the Topaz Cluster, the debtor refers to the tenant. As the author has previously explained, the implementation of an agreement does not always proceed smoothly after it has been agreed upon and signed by both parties; this is also the case with the implementation of residential lease agreements in the Topaz Cluster, Gading Serpong, Tangerang Regency.

Based on interviews conducted by the author with homeowners and property consultants handling residential lease agreements in the Topaz Cluster, Gading Serpong, significant obstacles were identified in their implementation, ultimately resulting in losses for one of the parties. After the lease term ended, the process of returning the residential unit to the owner was carried out. This handover process also included a comprehensive inspection of the house, covering the building's condition

²⁷ Nabila Alysha et al., "Analisis Wanprestasi Dan Penerapan Klausul Non-Competition Dalam Putusan Mahkamah Agung Nomor 1785 K / Pdt / 2023," *Media Hukum Indonesia (MHI)* 4, no. 1 (2025): 386–94.

²⁸ Daryl John Rasuh, "Kajian Hukum Keadaan Memaksa (Force Majeure) Menurut Pasal 1244 Dan Pasal 1245 Kitab Undang-Undang Hukum Perdata," *Lex Privatum* 4 No. 2 (2016): 175.

²⁹ Aifian and Rosnani Lakunna, "Kajian Yuridis Wanprestasi Dalam Perjanjian Jual Beli Online," *Jurnal Ilmu Hukum Toposantoro* 1 No 4 (2024): 381–86.

and the furniture and electronic appliances provided by the homeowner from the outset as rental amenities.

During the inspection, significant structural and aesthetic damage was found on the house, exceeding the limits of normal wear and tear. Normal wear and tear is a legal concept in landlord-tenant law, referring to gradual damage or deterioration of a property or item that occurs naturally due to daily use and aging.³⁰ Key findings include damage to the ceiling, which is on the verge of collapse—a condition that not only compromises aesthetics but also threatens the building's structural safety. Additionally, widespread black stains and moss growth were observed on the walls, indicating prolonged exposure to moisture. This condition is exacerbated by massive rainwater seepage through cracks in the walls, thereby gradually triggering structural cracks in the house's walls.

The nearly collapsed ceiling, moss-covered walls, and wall cracks caused by water seepage are clear evidence of building quality degradation during the lease period. From a legal perspective, such physical damage directly correlates with Article 1564 of the Civil Code, which essentially states that the burden of proof lies with the tenant. The tenant must prove that the structural and aesthetic damage resulted from hidden defects or force majeure, not from negligence in maintenance.

However, following further discussions between the owner and the tenant, facilitated by a property consultant, the tenant was unable to prove that the structural and aesthetic damage occurred beyond their control or constituted a latent defect or force majeure, nor could the damage be categorized as normal wear and tear based on several established facts, namely:

³⁰ Ben Luxon, "What is Normal Wear and Tear in A Rental?", Landlord Studio, <https://www.landlordstudio.com/blog/wear-and-tear-in-a-rental-property#:~:text=Apa%20itu%20keausan?.jawab%20pemilik%20properti%2C%20bukan%20penyewa.>, diakses pada 2 April 2026

- 1) The house is not an old building and had undergone a complete renovation by the homeowner before the lease began;
- 2) There is a 60-day repair warranty period from the first day of occupancy, after which any damage is the tenant's responsibility.

These two facts are reinforced by the tenant's lack of intent to take preventive measures to address minor damage to the building's structural condition. As a result of this neglect, minor damage could escalate into significant structural damage by the end of the lease term.

In addition to structural and aesthetic damage to the building, there were also indications of the tenant's negligence regarding the maintenance of electronic equipment, specifically the AC (Air Conditioner). In the lease agreement, the tenant is obligated to perform maintenance on the AC at least twice a year. Furthermore, the tenant is required to submit proof of maintenance in the form of documentation from the maintenance process or receipts for AC maintenance payments. Unfortunately, the tenant failed to fulfill this obligation, resulting in the AC not functioning properly as it did when first handed over.

The overall damage incurred to the rental home in the Topaz Cluster was caused by a single action on the part of the tenant—one that seemed simple yet had significant consequences: neglect or indifference. The tenant's neglect of minor damage triggered a domino effect, making the damage more severe and widespread. The domino effect of this neglect results in significant material and immaterial losses for the property owner, including substantial structural repair costs that may exceed the deposit amount, as well as the burden of repairing or replacing electronic facilities such as air conditioners.

In addition to these substantial costs, there is also a loss in the form of opportunity cost. The opportunity cost here is the loss of potential income because the property cannot be re-rented to a new prospective tenant immediately due to its uninhabitable physical condition, which requires

time for repairs. This resulting economic depreciation of the asset demonstrates that the tenant's negligence is not merely a technical maintenance issue but a breach of contract that undermines the investment value of the homeowner's property.

Furthermore, based on the three categories of breach of contract, the tenant's actions fall under the category of "failure to perform as agreed," since in this case, the tenant has returned the rented house but failed to return it in its original condition, as the house is in a damaged state due to neglect of maintenance.

Legal principles serve as the supporting pillars that provide direction, purpose, and essential evaluation, embodying values and ethical demands.³¹ In this context, the principle of good faith (*Goede Trouw*) must serve as the fundamental foundation for the parties involved in the agreement, both during the pre-contractual stage and throughout the execution of the agreement, even though this principle is not explicitly stated in the lease agreement. Historically, the principle of good faith is a legacy of Roman law rooted in the *ex bona fides*, a moral requirement in contracts that has evolved over a long history. This principle stems from the social ethics of ancient Roman society, which emphasized obedience and integrity, applicable to both the state and to individuals or communities.³²

In Indonesian positive law regarding residential leases, the manifestation of good faith is enshrined in Article 1560, verse (1) of the Civil Code, which requires the tenant to act as a "Good Householder" (*Bonus Pater Familias*) in using the leased property. This provision requires the tenant to maintain the property with the same level of care and diligence as the original owner.

³¹ Endang Suprpti and Arihta Esther Iarigan, "Itikad Baik Dalam Perjanjian Suatu Perspektif Hukum Dan Keadilan," *Jurnal Sosial Dan Budaya Syar-I* 8, no. 1 (2021): 147–58, <https://doi.org/10.15408/sjsbs.v8i1.19377>.

³² Ridwan Khairandy, *Itikad Baik Dalam Kebebasan Berkontrak* (Jakarta: Universitas Indonesia, 2003).

In the context of the lease agreement at Topaz Cluster, the principle of good faith transforms from a mere moral norm into a legal parameter that critically measures the quality of the tenant's performance. In this case, the tenant has violated the provisions of Article 4 of the Topaz Cluster Lease Agreement regarding Maintenance and Responsibility, as the author has previously outlined in the preceding discussion. There are two main points in that clause that the tenant has failed to fulfill, namely: 1) The tenant has failed to properly maintain the house and care for the provided electronic facilities, as evidenced by neglect or indifference toward minor structural damage that escalated into severe structural damage, as well as damage to electronic facilities; 2) The tenant has failed to return the house as the leased property in a well-maintained condition. Referring to the principle of good faith, the tenant's performance of obligations was carried out improperly and dishonestly, leading to the conclusion that the tenant acted in bad faith in fulfilling their obligations.

In response to these various damages and losses, the houseowner pursued a non-litigation path through a joint consultation process between the owner and the tenant, facilitated by a property consultant handling the lease agreement. This out-of-court dispute resolution process through the consensus-based consultation mechanism is grounded in the principle of a win-win solution, as it is based on mutual agreement, making the decisions reached more readily accepted by all parties. Additionally, resolving disputes through this method ensures the confidentiality of the parties, as it avoids the need for public court proceedings that are widely publicized.³³ Consultation also serves as a manifestation of the principle of good faith in the post-contractual phase, as the parties seek to resolve obstacles to the agreement's implementation honestly and appropriately.

During the hearing, the tenant failed to prove the existence of hidden defects or force majeure that caused structural damage to the rented house

³³ Yohan Bakarbesy et al., "ASPEK HUKUM DALAM PENYELESAIAN SENGKETA PERDATA MELALUI MEDIASI DI PENGADILAN NEGERI SORONG" 7, no. 1 (2024): 115–25.

and damage to electronic equipment. The law stipulates that the debtor (in this case, the tenant) must first be deemed in default (*ingebrekestelling*) before compensation can be claimed.³⁴ Based on the tenant's failure to meet the burden of proof, the tenant was deemed in default of their obligations, and the homeowner is entitled to claim damages.

This legal consequence in the form of a damages claim reinforces the application of the Theory of Legal Certainty in contractual relationships. Legal certainty emphasizes certainty regarding the regulations themselves or regulatory certainty (*Sicherheit des Rechts*).³⁵ In essence, the law must be certain and just; certain in the sense of serving as a reference or guideline for action, and just because such guidelines must prioritize an order deemed correct and reasonable.³⁶ This is consistent with Article 1338 of the Civil Code, which adopts the principle of *pacta sunt servanda*, whereby every agreement made in a lawful manner becomes a binding law for the parties. A tenant who has breached the contract by neglecting their maintenance responsibilities regarding the rented house, thereby causing damage, may be held liable and required to pay compensation by the homeowner pursuant to Article 1243 of the Civil Code, which essentially provides that compensation for damages resulting from the failure to fulfill a contractual obligation becomes mandatory once the party is declared in default of the obligation.

In line with the Theory of Legal Certainty, the Theory of Legal Protection can also be used to analyze breach of contract in the context of this residential lease agreement. The theory of legal protection serves to provide protection for the aggrieved party, both preventively through

³⁴ Nashiffa Thuraya Hidayat and Ardiansyah, "Tinjauan Yuridis Tentang Perjanjian Sewa-Menyewa Rumah Menurut Kitab Undang-Undang Hukum Perdata Studi Kasus : Putusan Pengadilan Negeri Jakarta Utara Nomor 177 / Pdt . G / 2019," *Journal Humaniora: Jurnal Hukum Dan Ilmu Sosial* 03, no. 02 (2025): 106–13.

³⁵ Dessy Sunarsi, Liza Marina, and Dedy Wahyudi, "KEPASTIAN PERLINDUNGAN HUKUM BAGI PELAKU BISNIS RUMAH TOKO," *Supremasi Jurnal Hukum* 4, no. 2 (2022): 200–212.

³⁶ Arif Rifqi Muslim and Achmad Busro, "Tinjauan Yuridis Pelaksanaan Perjanjian Sewa Menyewa Rumah Toko Di Wilayah Semarang Barat," *Notarius* 15, no. 2 (2022): 939–52.

clauses in the agreement that clearly and explicitly define rights and obligations, and repressively through legal action in the event of a breach.

Based on these theoretical foundations, the property owner then proceeds to file a claim for damages/compensation against the tenant. The owner requests that the tenant restore the house to its original condition upon handover, meaning the tenant must repair all structural and aesthetic damages to the building. Furthermore, the owner also requests repairs for damage to electronic facilities, specifically the air conditioner (AC), by either replacing it with a new unit or repairing the existing one.

As a form of accountability for their mistake, the tenant expresses willingness to cover all costs arising from structural and aesthetic damage to the building, as well as damage to electronic facilities, using personal funds. This decision was made because the tenant acknowledged that the damage resulted from their own negligence. Since the tenant has agreed to cover the costs using personal funds in accordance with the amount of compensation required, the security deposit paid at the beginning of the lease term remains intact and is not deducted for repair costs; thus, the deposit can be fully refunded to the tenant once the entire restoration process is completed.

Legal liability based on breach of contract rests on the existence of a contractual relationship.³⁷ The tenant's steps toward accountability reflect an effort to fulfill the obligation to compensate for damages as stipulated in Article 1243 of the Civil Code. Furthermore, voluntarily compensating for the damages—without using the deposit—also constitutes a tangible demonstration of good faith in the post-contractual phase. Although the tenant had previously demonstrated bad faith due to negligence in fulfilling maintenance responsibilities for the house and its electronic facilities, their willingness to restore the property's condition indicates that the tenant is

³⁷ Masayu Robianti and Sri Zanariyah, "Penyelesaian Wanprestasi Dalam Perjanjian Sewa Menyewa Rumah Antara Konsumen Dengan Perumahan Palem Asri Natar," *Jurnal Komunikasi Hukum* 8, no. 1 (2022): 404–18.

striving to comply with the provisions of Article 1560, verse (1), of the Civil Code. This resolution proves that the principle of good faith functions not only as a standard of conduct during the term of the agreement but also as a legal parameter for measuring the liability of a party that fails to fulfill its obligations in restoring the other party's rights in a proper and honest manner.

Conclusion

The execution of the residential lease agreement in the Topaz Cluster, Gading Serpong, has formally met the legal requirements for a valid agreement as stipulated in Article 1320 of the Civil Code, which includes consent, legal capacity, a specific subject matter, and a lawful cause. Although this agreement is binding on the parties like a law as stipulated in Article 1338 of the Civil Code, in practice, an obstacle has arisen due to the tenant's breach of contract. This breach consists of a failure to fulfill maintenance obligations, resulting in structural damage to the building that does not fall under normal wear and tear, as well as damage to electronic facilities. The tenant was deemed to have violated the principle of "Good Householder" (*Bonus Pater Familias*) as mandated by Article 1560 verse (1) of the Civil Code, which requires the tenant to maintain the leased property with full responsibility, just as a homeowner would. The dispute was successfully resolved through non-litigation by mutual agreement, wherein the tenant demonstrated post-contractual good faith by voluntarily bearing all costs of physical restoration. Thus, the principle of good faith serves as both an objective standard of conduct and a legal parameter for measuring the responsibility to fulfill obligations under a lease agreement.

As a preventive measure to minimize the risk of breach of contract in the future, particularly regarding home maintenance, the parties should clarify clauses regarding periodic inspection procedures—not only at the end of the lease term—to detect minor damages as early as possible. Furthermore, the content and legal implications of the agreement drafted

and signed must be fully understood by the parties, including through legal counsel during the drafting process. Subsequently, the parties—whether the homeowner or tenant—should internalize the principle of good faith not only as a moral norm but also as an objective standard of conduct throughout all stages of the contract, from pre-contractual to post-contractual. In the event of a breach of contract, the parties are advised to prioritize the mechanism of mutual consultation as a manifestation of post-contractual good faith to achieve a fair and honest resolution, and to avoid the greater costs and time involved in litigation.

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