



## **IMPLEMENTATION OF PROVISION OF PUBLIC FACILITIES AND SOCIAL FACILITIES BY PUBLIC COMPANIES IN THE BUMI PALANGKA III NATIONAL HOUSING AREA**

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### **Abstrak**

The aim of this research is to explain and analyze the implementation of the provision of children's playgrounds by the Bumi Palangka III National Housing Public Company and how the government is responsible for managing children's playgrounds - the subsidiary of the Bumi Palangka III national housing public company in Palangka Raya City. The method used is empirical legal research with data collection techniques through interviews with the Bumi Palangka National Housing Public Company and the Residents/Communities of the Bumi Palangka III National Housing Society. The results of this research are the efforts of the Palangkaraya city government in managing children's playgrounds by collaborating with the private sector and related agencies to build public facilities and social facilities based on site plan which has been mutually agreed upon by the Palangka Raya City Government and Perumnas general implementation of the obligation to provide public facilities and social facilities at Bumi Palangka III National Housing implemented quite well by the developer, by providing several facilities which are the basic needs of housing residents.

**Kata Kunci:** Implementation; General Facilities and Social Facilities; Bumi Palangka National Housing III.

### **INTRODUCTION**

Housing development is one of the important things in the regional development strategy which concerns

broad aspects in the field of population, and is closely related to economic development and social life in the context of strengthening national resilience. In

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this regard, the construction of housing and settlements as regulated in Article 3 of Law of the Republic of Indonesia Number 1 of 2011 concerning Housing and Settlement Areas (hereinafter abbreviated as Law No. 1/2011 concerning Housing and Settlement Areas) aims to:<sup>2</sup>

1. Providing legal certainty for the administration of housing and residential areas;
2. Support regional planning and development as well as proportional population distribution through the growth of residential environments and residential areas in accordance with spatial planning to achieve a balance of interests, especially for low-income communities (MBR);
3. Increasing the usability and results of natural resources for housing development while still paying attention to the preservation of environmental functions, both in urban and rural areas;
4. Empowering stakeholders in the field of housing development and residential areas;
5. Supporting development in the economic, social and cultural fields; And
6. Ensure the creation of livable and affordable homes in a healthy, safe, harmonious, orderly, planned, integrated and sustainable environment.

The availability of social facilities in the residential environment has an important role in the development of housing residents' activities. This is in line with the function of housing which is not only as a place to live, but also to fulfill social, economic and cultural needs in order to improve the quality of life of residents, so it is necessary to provide social facilities in it. Social facilities can be interpreted as activities and materials that serve the needs of society in providing social, mental and spiritual satisfaction.<sup>3</sup>

Normatively, the provision of social facilities in residential environments in Indonesia is adjusted to the standards of the Public Works Department (2004), namely SNI 03-1733-2004 concerning Procedures for Planning Housing Environments in Urban Areas and SNI 03-6981-2004 concerning Procedures for Planning Simple Housing Environments Not Arranged in Urban Areas. The allocation for the provision of social facilities is adjusted to the radius of the service area, the location of appropriate social facilities, and the number of residents. There is a rule that the percentage of land use in a housing complex is 60% (Sixty) for residential plots and 40% (Forty) for facilities and infrastructure.<sup>4</sup>

In line with increasingly rapid population growth, demands for the availability of various facilities that support people's lives have also increased. Every individual always wants the house they live in to meet health standards, construction standards, the availability of public facilities, social facilities and adequate environmental

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<sup>2</sup> Parawari, Syamsul Bakhri & Lisa Mery, *Implementasi Penyediaan Fasilitas Umum Fasilitas Sosial Dalam Rangka Pembangunan Perumahan Di Kawasan Permukiman*, Jurnal Petikum, Volume 7, Nomor

1, Fakultas Hukum, Universitas Indonesia Timur, Makassar, April-2020, hlm. 81

<sup>3</sup> *Ibid*, p. 372

<sup>4</sup> *Ibid*, p. 373

infrastructure. Related to public infrastructure, facilities and utilities according to Article 1 of Law no. 1/2011 concerning Housing and Settlement Areas are supporting equipment for residential environmental services mentioned in Article 1 letter d PMDN No. 9/2009 concerning Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments hereinafter referred to as PMDN 9/2009, which consists of buildings required in the environmental service system organized by government agencies, including:<sup>5</sup>

1. Education
2. Health
3. Expenses and business
4. Government and public services
5. Worship
6. Recreation and culture
7. Sports and open fields, And
8. Public cemetery.

Ideally, housing development also builds Social Facilities and Public Facilities which are also built by developers with supervision from the government and the community. Seeing the importance of social facilities and public facilities such as places of worship, playgrounds, schools, places for waste disposal and so on, their construction should receive more attention from the community. It is stated in Article 7, Article 8, and Article 9 of the Minister of Home Affairs Regulation Number 9 of 2009 concerning Guidelines for the Delivery of Regional Housing and Settlement Infrastructure and Utilities (hereinafter abbreviated as PMDN No. 9/2009 concerning Guidelines for the

Delivery of Regional Housing and Settlement Infrastructure and Utilities ), that housing facilities and utilities must be owned by a housing complex to support the socio-economic and cultural activities of the community. Thus, it is clear that every housing/settlement development must have public facilities and social facilities.

In accordance with the Minister of Home Affairs Regulation Number 9 of 2009 above Article 11 paragraph (1) and paragraph (2), it is stated that the regional government asks developers to hand over infrastructure, facilities and utilities for housing and settlements. The delivery period is no later than 1 (one) year after the maintenance period and in accordance with the site plan that has been approved by the regional government. The handover of infrastructure, facilities and utilities in accordance with Article 1 point (3) can be carried out in stages (if carried out in stages) and carried out all at once if the development plan is not carried out in stages.<sup>6</sup>

After handing over social facilities and public facilities by the Regional Government developer, the developer is no longer responsible for their maintenance. Full responsibility has shifted to the Regional Government and Housing residents. In accordance with Article 22 paragraph (1), paragraph (2) and paragraph (3), it is stated that the Regional Government can collaborate with developers, private business entities and the public in managing infrastructure, facilities and utilities. In this case, the person responsible is the manager/developer. Therefore, developers are allowed to provide social

<sup>5</sup> Rizaldi Suprptomo, *Pelaksanaan Undang-Undang Nomor 1 Tahun 2011 tentang Perumahan dan Kawasan Pemukiman*, Tesis, Fakultas Hukum Universitas Brawijaya, hlm. 2

<sup>6</sup> Susilawati Puspa, Purwoadmodjo Djumadi, *Tanggung Jawab Pengembang*

*Perumahan Dalam Penyerahan Fasilitas Kepada Pemerintah Kota Semarang*, Jurnal Notarius, Volume 12, Nomor 2, Fakultas Hukum, Universitas Diponegoro, Semarang 2019, hlm. 670

facilities and public facilities without incurring significant losses.<sup>7</sup>

The developer is only obliged to hand over the mature land to the Regional Government, then the Regional Government will appoint the relevant Department to carry out the construction of the facilities. However, sometimes problems arise when there is no match between the developer's promises to prospective residents and the housing marketing strategy. This problem causes the developer to not hand over social facilities and public facilities to the local government, which results in opportunities for developers or third parties to misuse the facilities.<sup>8</sup>

As is done by the Bumi Palangka III National Housing Public Housing. In terms of providing public facilities and social facilities, they are not fully provided as they should be. Perumnas Bumi Palangka III until the handover in 2020 did not provide a children's playground as one of the social facilities and supporting public facilities in a settlement. This is as regulated in Article 1 letter d PMDN No. 9/2009 concerning the Handover of Environmental Infrastructure which requires cemeteries to be provided by the National Housing Authority which will then be managed by the government after the handover takes place.

Furthermore, Perumnas Bumi Palangka III does not provide public facilities in the form of sports venues and children's playgrounds, which in this case are children's playgrounds. In the author's initial research, it was found that Perumnas Bumi Palangka III had initially prepared the land on which a children's playground would be built to be used as a place to socialize, relax and exercise. This is as regulated in PP no.12 of 2021 paragraph (6) letter b. What is

meant by "Facilities is the provision of small facilities including houses of worship, children's play areas, sports and public road signs" and Children's Rights to Play Spaces UU no. 23 of 2002 concerning Child Protection, rest, play and recreation are children's rights (Article 11). The existence of open space as a place or arena for children to play in a residential environment is very much needed. Naturally, a child's world is a world of learning and playing. Playing is an activity that children do to get pleasure, without considering the end result. Games have a huge influence on the growth and development of children's souls. A place where they socialize and process with the environment, and helps the sensory system and brain processes as a whole. From the playground, children learn sportsmanship, discipline and develop their personalities.

The availability of open space in residential areas has greatly reduced. Most houses no longer have yards. Here, children's needs for open spaces where they can play are often outweighed by the interests and needs of adults. Locations that were designated as parks or playgrounds have changed their function to become meeting buildings and badminton courts with concrete or paving floors. The availability and management of open space for children's play in housing is the responsibility of the developer. Developers are responsible for their obligations in providing infrastructure and facilities in accordance with residential area development standards. The open space built in these housing complexes is only provided as is, or occupies remaining land where it is impossible to build a house. Open spaces for children's play,

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<sup>7</sup> *Ibid*, p. 670

<sup>8</sup> *Ibid*, p. 671

both public and private, are very lacking in terms of quality and quantity.

Apart from reducing play space, technological developments have also changed the types of children's play activities in housing. Active game types have begun to shift to passive game types such as tablets (ipad), cellphones, play stations (*virtual playground*). Children today are more interested in invisible playgrounds, namely spontaneous play spaces consisting of layers that are invisible to the eye. This condition is a phenomenon that is difficult to avoid as technology develops. Based on the things above, we need to examine the availability of open space as a place for children to play in housing. Furthermore, to find out whether there is still a need for play space in housing as the types of children's games shift, technological developments, the rise of playgrounds outside housing and residents' activities.

Meanwhile, it is hoped that Perumnas can create housing that can meet the service needs of its residents by being equipped with adequate infrastructure, utilities, social facilities and public facilities according to the population it accommodates.<sup>9</sup> The existence of housing facilities has a very important role for housing residents in carrying out all their activities. Housing not only functions as a place to live but also to fulfill social, economic and cultural needs. To improve the quality of life of housing residents, it is necessary to provide social facilities to serve the community's needs in providing social, mental and spiritual satisfaction

## ANALYSIS AND DISCUSSION

### Palangkaraya City Government's Efforts to Manage Children's Playgrounds Provided by

## National Housing Public Housing in Bumi Palangka III

Article 33 paragraph (3) of the 1945 Constitution stipulates that: "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." The interpretation of these provisions confirms that the development of public facilities and social facilities is both a right and an obligation for the government. It is the government's right to appoint a third party, namely a developer, to develop public facilities and social facilities on behalf of the government in accordance with the planning and arrangements made by the government and in accordance with applicable laws and regulations.

The appointment of a third party is based on the government's awareness of its limitations, namely related to inadequate funding and human resources. The provisions on the obligation to have public facilities and social facilities in a residential area are contained in Article 23 of Law no. 1/2011 concerning Housing and Settlement Areas which regulates that:

- (1) Housing planning is carried out to meet housing needs;
- (2) Housing planning as intended in paragraph (1) consists of:
  - a. Home planning and design, And
  - b. Planning for housing infrastructure, facilities and public utilities.

So based on these provisions, from the start public facilities and social facilities must be included in the planning for the development of

<sup>9</sup> Widyonarso Setyo Eko dan Yulastuti Nany, *Tingkat Aksesibilitas Fasilitas Sosial Berdasarkan Konsep Unit Lingkungan Di Perumahan Banyumanik Kota Semarang*,

Jurnal Ruang, Volume II, Nomor 4, Fakultas Teknik, Universitas Diponegoro, 2014, hlm. 352

residential areas, in this case the development planning by Perumnas. Then details related to the classification of public facilities and social facilities as specified in Articles 8, 9 and 10 PMDN No. 9/2009 concerning Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments.

Articles 8, 9, and 10 PMDN No. 9/2009 concerning the Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments which are then better known as public facilities and social facilities in a housing area. Furthermore, the types and classification of public facilities and social facilities mentioned above are only found in PMDN No. 9/2009 concerning Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments, and in Republic of Indonesia Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas. Republic of Indonesia Government Regulation Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas does not provide details. So related to the types and classification of public facilities and social facilities, the author relies on PMDN No. 9/2009 concerning the Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments which is still in effect.

Furthermore, for the provisions in Article 8 and Article 10 PMDN No. 9/2009 concerning the Delivery of Environmental Infrastructure, Public

Utilities and Housing Social Facilities to Regional Governments is further regulated in Article 12 paragraph (1) that: "Delivery of infrastructure and utilities as intended in Article 8 and Article 10 for non-story housing in the form of land and buildings." Based on the acknowledgment from Perumnas that the details in Article 8 and Article 10 have been fulfilled and the handover has been carried out. The intended handover is carried out until delivery.

As the handover is made.<sup>10</sup> Meanwhile, the provisions in Article 9 PMDN No. 9/2009 concerning Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments as stipulated in Article 12 of PMDN No. 9/2009 concerning the Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments which regulates that: "The handover of facilities for non-flat housing as intended in Article 9 is in the form of land ready to build."

Based on the provisions above, it is clear that the provision of public facilities and social facilities by developers, in this case Perumnas, is required to be in the form of ready-to-build land. The ready-to-use land referred to is empty land which has been designated for building a building on it in accordance with what is regulated in Article 9 PMDN No. 9/2009 concerning Handover of Environmental Infrastructure, Public Utilities and Housing Social Facilities to Regional Governments. So that after the handover takes place, the land becomes the full responsibility of the government. However, in its implementation not everything went as planned, both by the

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<sup>10</sup> Data Primer Perusahaan Umum Perumahan Nasional yang diolah pada Tahun 2021

developer and by the Palangka Raya Government in this case.

### **Agreement to Provide Public Facilities and Social Facilities by the National Public Housing Company at Bumi Palangka III Housing**

The provision of public facilities and social facilities is an integral part of housing development. In housing development, of course, it does not only involve the government and developers, but also involves consumers. Consumer involvement because the consumers who will be the users of the housing built by the developer are consumers. The establishment of a relationship involving more than one party must be accompanied by legal protection for each party. However, if the implementation of the provision of public facilities and social facilities is not implemented properly, then the party who feels the most disadvantage is the consumer as the service user.

Therefore, from the start the law provides protection for each party. Legal protection of consumer rights is an inseparable part of healthy business activities.<sup>11</sup> In business activities between housing consumers and developers there must be a balance regarding legal protection between the two. The absence of balanced legal protection for consumers causes consumers to be in a weak position. Based on Article 4 of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (Consumer Protection Law), consumer rights are regulated as follows:

- a. The right to comfort, security and safety in consuming goods and/or services

- b. The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and conditions and guarantees promised
- c. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services
- d. The right to have opinions and complaints heard regarding the goods and/or services used
- e. The right to obtain appropriate advocacy, protection and efforts to resolve consumer protection disputes
- f. The right to receive consumer guidance and education
- g. The right to be treated or served correctly and honestly and not in a discriminatory manner
- h. The right to receive compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be; And
- i. Rights regulated in other statutory provisions.

The rights of housing consumers are also regulated in Article 129 of Law no. 1/2011 concerning Housing and Settlement Areas, namely:

- a. Occupy, enjoy, and/or own/obtain a decent home in a healthy, safe, harmonious and orderly environment

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<sup>11</sup> Ahmadi Miru, *Prinsip-Prinsip Perlindungan Hukum Bagi Konsumen di Indonesia*, Rajawali Press, Jakarta, 2013, hlm. 1

- b. Obtain information relating to the administration of housing and residential areas
- c. Obtaining benefits from the implementation of housing and residential areas
- d. Obtain appropriate compensation for losses experienced directly as a result of housing and residential area management
- e. Submitting a representative lawsuit to the court against the implementation of housing and residential areas that are detrimental to the community.

The existence of consumer rights is useful for protecting consumer interests, as stated in the aim of consumer protection, namely enhancing the life and dignity of consumers. So it is hoped that consumers will be aware of their rights and business actors are required to pay attention to what business actions are prohibited under the law, so that there are no violations of consumer rights.

The forms of violations that are often committed by developers involve violations of the collective rights of housing consumers. The violation concerns the provision of public facilities and social facilities that do not comply with requirements. Based on Article 1 number 2 of Law no. 1/2011 concerning Housing and Settlement Areas, the definition of housing is "a collection of houses as part of settlements, both urban and rural, which are equipped with public infrastructure, facilities and utilities as a result of efforts to provide livable houses."

Starting from the definition of housing, it is clear that infrastructure, facilities and public utilities are requirements that must be completed in housing. In fact, when the housing is still under construction, housing marketing through a preliminary sale and purchase agreement system can only be carried out after there is certainty about the availability of infrastructure, facilities and public utilities.<sup>12</sup> Furthermore, in Article 134 of Law no. 1/2011 concerning Housing and Settlement Areas regulates that "every person is prohibited from carrying out housing construction, which does not build housing in accordance with the agreed criteria, specifications, requirements, infrastructure, facilities and public utilities".

Article 134 Law no. 1/2011 above refers to Article 42 paragraphs (1) and (2) of Law no. 1/2011 which regulates that:

1. Single houses, row houses and/or flats which are still in the construction stage can be marketed through a preliminary sale and purchase agreement system in accordance with the provisions of statutory regulations.
2. The preliminary sale and purchase agreement as intended in paragraph (1) is executed after fulfilling the certainty requirements for:
  - a. land ownership status
  - b. the thing agreed upon
  - c. ownership of permission to construct the main building

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<sup>12</sup> Frans Mitrano, *Tanggung Jawab Pihak Pengembang Perumahan Berdasarkan Perjanjian jual Beli dengan Konsumen di Kota Pekan Baru*, Jurnal Hukum Respublica,



- d. availability of public infrastructure, facilities and utilities, And
- e. housing development of at least 20% (twenty percent).

So it is known that between developers and consumers there is an agreement, one of which contains the availability of infrastructure, facilities and public utilities. Regarding the form and content of the intended agreement, Perumnas is not pleased to show it. It only states that the form and contents of the agreement are the same as in general for developers to their consumers regarding the selling price and payment method and rights ownership status.

Furthermore, based on this, Perumnas is considered to be in default if in the preliminary sale and purchase agreement that has been agreed between Perumnas and the consumer it is stated regarding the classification/type of public facilities and social facilities that will be obtained by housing consumers, but in reality Perumnas does not comply perfectly. contents of the agreement. However, in general, in the sale and purchase agreement between the developer and the consumer as buyer there are no clauses relating to public facilities and social facilities. However, it is important to note that as a developer you must obtain approval from the local government.

Meanwhile, in Article 42 paragraph (1) of Law no. 1/2011 concerning Housing and Settlements clearly regulates this. Apart from what should have been agreed in the preliminary sale and purchase agreement in question, developers generally do not include clauses relating to the provision of public facilities and social facilities, but these provisions have also been clearly regulated in Law no. 1/2011 concerning Housing and Settlements, Article 1 number 6 Republic

of Indonesia Government Regulation Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas. So, for the sake of law, the provision of public facilities and social facilities by Perumnas is a necessity.

Based on the results of the author's research, the forms of default by Perumnas in this case are as follows:

a. Not providing public facilities and social facilities in accordance with agreements and provisions in applicable laws and regulations. Of course, this is contrary to the responsibilities of business actors (perumnas) in running their business.

b. The developer did not realize children's playground facilities. While in the agreement also in *site plan* There are children's playground facilities that will be built by Perumnas at the same time as building the housing, but after the housing is built, the promised children's playground does not exist or is replaced by a meeting building and badminton court for the benefit of adults. In this case, Perumnas is considered to have committed a breach of contract because it had promised that there would be facilities in the form of a children's playground, but these facilities could not be used because there were many wild plants.

This is certainly not in line with the provision that the availability of public facilities and social housing facilities is the obligation of housing and

settlement development organizers.<sup>13</sup> This can be seen in Article 19 of Law no. 1/2011 concerning Housing and Settlement Areas which regulates that "the provision of houses and housing is carried out to fulfill housing needs as one of the basic human needs for improving and equalizing people's welfare". The administration of houses and housing is carried out by the Government, Regional Government, and/or every person who guarantees the right of every citizen to occupy, enjoy, and/or have a decent house in a healthy, safe, harmonious and orderly environment.

Defaults committed by Perumnas open up opportunities for consumers to demand the provision of public facilities and social facilities. The right to demand from consumers will certainly force Perumnas to be responsible for the availability of public facilities and social facilities in housing areas. As the responsibility of Perumnas is based on the right to demand from consumers. Thus, according to Titik Tri Wulan, accountability must have a basis, namely things that give rise to the law for a person to sue another person as well as things that give rise to another person's legal obligation to provide accountability.<sup>14</sup> This is also similar to Purbacaraka's opinion which states that legal responsibility originates or arises from the use of facilities in the implementation of each person's ability to use the right or and carry out obligations.<sup>15</sup>

According to civil law, basic liability is divided into two types, namely error and risk. Thus, it is known as

responsibility based on errors (*Liability without based on fault*) with absolute risk or responsibility (*strict liability*).<sup>16</sup> The basic principle of responsibility based on mistakes means that a person must be responsible for making a mistake that harms other people. On the other hand, the principle of risk responsibility is that the plaintiff consumer is no longer obliged, but the defendant producer is directly responsible for the risk of his business.

According to the author, Perumnas in this case is responsible for the mistakes it made, namely in terms of providing public facilities and social facilities in the Bumi Palangka III housing area. This is a mistake on the part of Perumnas because the availability of public facilities and social facilities has been mandated in statutory regulations and has been agreed upon in the sale and purchase agreement made between the consumer as the home buyer and Perumnas as the developer/home provider. So it is clear that the availability of public facilities and social facilities in the Bumi Palangka III residential area by housing is not fulfilled as agreed. This non-fulfillment is the source of error from Perumnas. Based on the mistakes made by Perumnas, it does not rule out the possibility of Perumnas receiving sanctions, both administrative sanctions and criminal sanctions.

One of the problems that arises in the management of public facilities and social facilities by the government is related to the provision of children's playgrounds. As the place in question has been handed over in the

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<sup>13</sup> Ajiraksa, *Perencanaan dan Pengembang Perumahan*, Citra Adithya Bakti, Jakarta, 2002, hlm. 182

<sup>14</sup> Titik Tri Wulan dan Sintia Febrian, *Perlindungan Hukum Bagi Pasien*, Prestasi Pustaka, Jakarta, 2010, hlm. 48

<sup>15</sup> Purbacaraka, *Perihal Kaedah Hukum*, Citra Aditya, Bandung, 2010, hlm. 37

<sup>16</sup> *Ibid*, p. 49

handover. More details can be seen in the following table:

**Table. Site Plan availability of playground**

No.	Location	Available
1.	Blok A,B,C	1
2.	Blok D,E,F	1
3.	Blok G,H,I	0
4.	Blok J,K,L	0
Total		2

Source: Primary Data processed in 2024

Based on the table above, there are 4 location points for the planned construction of a playground. In fact, only 2 location points were realized by the developer. Meanwhile, the developer has provided land designated as a meeting hall and badminton court. Several efforts have been made by the government and Perumnas as the developer, which will be explained later:

#### 1. Palangka Raya Government Meeting and Coordination

Normatively, the provision of public facilities and social facilities in residential areas in Indonesia must meet standards with a ratio of the percentage of land use in a housing complex being 60% (sixty percent) for residential plots and 40% (forty percent) for public facilities and social facilities.<sup>17</sup> These provisions have been fulfilled by Perumnas in the Bumi Palangka III residential area, in fact, based on data in the field, Perumnas in the allocation of land for public facilities and social facilities has reached 50% (fifty percent)

<sup>17</sup> Results of an interview with AS Ary Arman Nur as a representative of the National Public Housing Company which was conducted on May 25 2021, at 12:05 WITA.

<sup>18</sup> *Ibid.*

<sup>19</sup> Results of the Coordination Meeting between the Makassar City Government, the Makassar City Financial and Asset Management

or is said to have exceeded the standards as determined.<sup>18</sup>

Regarding the provision of public facilities and social facilities that have not been provided by the developer A coordination meeting was held between the Palangka Raya Government, the Palangka Raya Financial and Asset Management Agency, and the Central Kalimantan Regional Perumnas. Meanwhile, at the meeting, the Palangka Raya Government urged Perumnas to immediately hand over the public facilities and social facilities at the Bumi Palangka III Housing Complex.<sup>19</sup>

Perumnas responded to this pressure by asking for a policy regarding the payment of compensation regarding the land where the children's playground is located. Apart from that, what needs to be resolved first are the inhibiting factors in the delivery of public facilities and social facilities by Perumnas. The inhibiting factor in question is a lack of awareness among adults regarding the rights and needs of children. The Palangka Raya government must socialize to adults/parents the importance of awareness regarding the rights and needs of children in regional and residential areas.<sup>20</sup>

#### 2. Sanctions and Compensation

Regarding the developer's obligation to hand over public facilities and social facilities as regulated in Article 9 PMDN No. 9/2009 concerning the Handover of Environmental Infrastructure, Public Utilities and

Agency, and the Regional VII National Housing Public Company with Mrs. Rahmatiah Sayuti, SH., MH as representative of the Makassar City Government which was held on May 31 2021, at 10:00: 00 WITA

<sup>20</sup> Results of an interview with Mrs. Fransiska Limbong as a representative of Perumnas conducted on May 25 2021, at 11:15 WITA

Housing Social Facilities to Regional Governments, facts on the ground show that in the handover, Perumnas did not provide a children's playground. So when handing over, the Palangka Raya Government demanded that this must be fulfilled.

Therefore, the Palangka Raya Government issued a warning and then continued by imposing administrative sanctions or even criminal sanctions as regulated in Articles 150 and 151 of Law no. 1/2011 concerning Housing and Settlement Areas. As the provisions stipulate, there must be a place for children to play and in reality this is not fulfilled.

Provisions regarding administrative sanctions are contained in Article 150 paragraph (2) of Law no. 1/2011 concerning Housing and Settlement Areas and explained more specifically in Article 136 of Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas, the administrative sanctions are in the form of:

- a. Written warnings Written warnings are given 2 (two) times with a maximum period of 5 (five) working days for each written warning. Any person who ignores the written warning will be subject to administrative sanctions in the form of temporary suspension of development implementation. And individuals who ignore the temporary suspension of development implementation will be subject to administrative sanctions in the form of an administrative fine of at least Rp. 10,000,000.00 (ten million rupiah) and a maximum of Rp.

50,000,000.00 (fifty million rupiah)

- b. Temporary suspension of development implementation, And
- c. Demolition Order.

Apart from that, the developer, in this case Perumnas, can also be charged under Article 151 of Law no. 1/2011 concerning Housing and Settlement Areas, which regulates that:

- a. Every person who carries out housing construction, who does not build housing in accordance with the agreed criteria, specifications, requirements, infrastructure, facilities and public utilities as intended in Article 134, shall be punished with a fine of a maximum of IDR 5,000,000,000.00 (five billion rupiah);
- b. In addition to the punishment as intended in paragraph (1), the perpetrator may be sentenced to additional punishment in the form of rebuilding housing in accordance with the agreed criteria, specifications, requirements, infrastructure, facilities and public utilities.

And the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection also imposes criminal sanctions for violators of consumer rights. As stated in paragraph 45 (3), "Settlement of disputes outside the court as intended in paragraph 2 does not eliminate criminal responsibility as

regulated in law." The sanctions that can be imposed are as follows:

- a. Administrative sanctions As regulated in Article 60 of the Consumer Protection Law, BPSK (Consumer Dispute Resolution Agency) has the right to impose administrative sanctions on business actors if they violate Article 19 paragraphs (2) and (3), Article 20, Article 25 and Article 26, in the form of fines maximum amount of IDR 200,000,000 (two hundred million rupiah)
- b. Basic Criminal Sanctions Three forms of criminal sanctions are as follows:
  - 1) Imprisonment Sanctions.
    - a) 5 years imprisonment, fine Rp. 2,000,000,000 (two billion rupiah), Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letters a, b, c, e and Article 18
    - b) Imprisonment 2 years fine Rp. 500,000,000 (five hundred million rupiah), Article 11, Article 12, Article 13, paragraph (1), Article 14, Article 16, Article 17 paragraph (1) letters d and f.
  - 2) Criminal sanctions outside the provisions of the Consumer Protection Law if a consumer experiences death, serious disability, serious illness or serious injury (Article 62 paragraph (3)).
- c. Additional Criminal Sanctions According to Article 63 of the Consumer Protection Law, it

is possible to impose additional criminal sanctions beyond the main criminal sanctions imposed based on Article 62. These sanctions are in the form of:

- 1) Confiscation of certain goods
- 2) Announcement of the judge's decision
- 3) Payment of compensation
- 4) Revocation of business license
- 5) Trading goods and/or services is prohibited
- 6) Must withdraw goods/services from circulation, and
- 7) The results of the monitoring are distributed to the general public.

It's just that in reality it is very rare to find consumers who feel westernized about public facilities and social facilities in the housing where they live. This could be caused by many things, but according to the author the main factor is the author's ignorance regarding his rights regarding the provision of public facilities and social facilities by the developer.

Based on the results of the meeting and coordination between Perumnas and the Palangka Raya City Government, it was determined that there would be cash compensation as a replacement for the transfer of children's playground land which was not provided. The agreed compensation is land transfer or a fine of 800,000,000.00 (eight hundred million rupiah) worth such compensation value is certainly not a small amount.

Of course, it is not an easy thing for Perumnas to spend the amount of money as mentioned above, both to compensate for the land where the children's playground is. The efforts currently being made by Perumnas are to

request a policy from the Palangka Raya Government to agree to transfer the building.

This is proven by the conversion of the children's playground into a meeting building and badminton court for the benefit of adults. Apart from that, there are also obstacles in managing children's playgrounds, namely the rejection by adults/parents, in this case related to land designated as children's play areas. Parents/adults argue that children often play with gadgets rather than playing outside the house/field.

Perumnas admitted that they had never given permission for the construction of meeting halls and badminton courts, but the Palangka Raya government itself continued to build them. Meanwhile, it is clear in Article 27 letter b of the Republic of Indonesia Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas. Republic of Indonesia Government Regulation Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas regulates that:

Utilization of housing infrastructure and facilities referred to in article 25 letter b is carried out:

- a. Based on the type of infrastructure and facilities in accordance with the provisions of the invitation regulations; And
- b. does not change the function and ownership status.

The transfer of functions that occurred could also be caused by Perumnas never taking a persuasive

approach. Approach itself in the KBBI is interpreted as a process, action, or way of approaching. It is also interpreted that an approach is an attitude or view about something, which usually takes the form of an assumption or a set of interrelated assumptions.

Meanwhile, persuasiveness is defined as communication that is used to influence and convince other people.<sup>21</sup>

In principle, persuasion is an effort to convey information and interact between people in conditions where both parties understand and agree to do something that is important for both parties. When communicating with others, each individual hopes that the message conveyed can be understood and believed.<sup>22</sup> Persuasion is a strategy that can be used so that the message you want to convey is understood and believed by other people.

In the end, the difference was that what was initially used as a children's playground was instead built with a meeting building and badminton court. The Palangka Raya government seems to have let go of this incident. Apart from that, there is also a lack of supervision from related parties. Supervision in this case is interpreted as the process of observing the implementation of all organizational activities to ensure that all work is carried out in accordance with previously established plans.<sup>23</sup> It is also interpreted as a form and pattern of action to provide understanding and awareness to a person or several people who are given a task to carry out using various available resources properly and correctly, so that errors and deviations do not occur which can actually create

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<sup>21</sup> Soleh Soemirat, Asep Suryana, *Komunikasi Persuasif*, Universitas Terbuka, Tangerang Selatan, 2014, hlm. 121

<sup>22</sup> *Ibid.*, p. 540

<sup>23</sup> Damang Avveroes Al-Khawarizmi, *Loc. Cit*

losses for the institution or organization.<sup>24</sup>

Supervision is an important thing on the part of the Palangka Raya Government, because correct and strict supervision will reduce the possibility of mistakes currently being made by Perumnas, namely related to non-fulfillment of public facilities and social facilities as agreed and regulated in the statutory regulations. applies. This is in line with Sujamto's opinion "supervision is all efforts or activities to find out and assess the actual reality regarding the implementation of tasks or activities, whether they are appropriate or not."<sup>25</sup> Supervision is also interpreted as a form and pattern of action to provide understanding and awareness to a person or several people who are given a task to carry out using various available resources properly and correctly, so that errors and deviations do not occur which can actually create losses for the institution or organization. <sup>26</sup>

Supervision carried out by the Palangka Raya Government must be continuous and systematic. As with the type of preliminary supervision (*steering controls*). This control is planned to address problems or deviations from standards or objectives and allows corrections to be made before a particular activity is completed. <sup>27</sup> Furthermore, the supervision process carried out by the Government is divided into 2 (two), namely:<sup>28</sup>

a. Supervision *Preventive* and *Repressif*

Supervision of regional government administration is carried out preventively and repressively. Preventive supervision is carried out before a regional government decision comes into force and for regional regulations before the regulation is promulgated, preventive supervision is not carried out on all decisions or regulations regarding certain matters, which according to the provisions of a Government Regulation or Law can only come into force after obtaining approval from authorized official. The form of preventive supervision is providing validation or non-validation.<sup>29</sup> Repressive supervision can be carried out at any time and on all decisions and Regional Regulations. A manifestation of repressive supervision is canceling or suspending the entry into force of a Regional Regulation. Postponing is a preparatory action for a cancellation, but this does not mean that every cancellation must always be preceded by a postponement, or in other words, cancellation can be carried out without a prior postponement. The agency authorized to carry out supervision is an authorized official.<sup>30</sup>

b. Active and Passive Surveillance

Close (active) supervision is carried out as a form of supervision carried out directly at the place of activity concerned. This is different from remote (passive) supervision which is often carried out by researching and testing

<sup>24</sup> Makmur, *Op. Cit.*, hlm. 176

<sup>25</sup> Jum Anggraini, *Hukum Administrasi Negara*, Graha Ilmu, Yogyakarta, 2012, hlm. 78

<sup>26</sup> Makmur, *Efektivitas Kebijakan Pengawasan*, PT. Refika Aditama, Bandung, 2011, hlm. 176

<sup>27</sup> *Ibid.*

<sup>28</sup> Irwan Soejito, *Hubungan Pemerintah Pusat dan Pemerintah Daerah*, PT Rineke Cipta, Jakarta, 1990, hlm.148-149

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

accountability letters accompanied by proof of receipts and expenditures.<sup>31</sup>

The implementation of regular supervision by the Palangka Raya Government on Perumnas should be a reference for Perumnas to implement and provide everything that has been agreed upon and also what has been previously regulated in the applicable laws and regulations

## CONCLUSION

The efforts made by the Palangka Raya City Government in managing children's playgrounds provided by Perumnas are: collaborating with the private sector and related agencies to build public facilities and social facilities based on *site plan* which has been mutually agreed upon by the Palangka Raya City Government and Perumnas. In general, the implementation of the obligation to provide public facilities and social facilities at Bumi Palangka III National Housing implemented quite well by the developer, by preparing several facilities which are the basic needs of the housing residents, such as waste water or sanitation infrastructure, drainage, TPS, shopping facilities, parking facilities, utilities such as clean water networks, electricity networks, transportation networks, namely infrastructure. roads such as concrete roads, and there are several shortcomings that have not yet been realized because the company relies on handing over land for social facilities that have been implemented to the government. The role of the Palangka Raya City Government in providing public facilities and social facilities is still in the form of accepting the handover of assets for public facilities and social facilities from developers and the implementation stage of management of

public facilities and social facilities has not yet reached the final stage of the legalization process

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Hasil wawancara dengan Ibu Fransiska Limbong selaku perwakilan pihak Perumnas yang dilakukan pada Tanggal 25 Mei 2021, pukul 11:15 WITA

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<sup>31</sup> *Ibid.*



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