

Factoring dalam pembelian properti dengan sistem pre project selling = Factoring in property purchasing using pre-project selling system : a study on client and dobtor?s responsibilities on unpaid account payables within property purchasing)

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Abstrak

Tesis ini membahas mengenai anjak piutang (factoring) sebagai salah satu bentuk bantuan (back up) permodalan bagi developer yang mengadakan pemasaran produk properti dengan sistem pre project selling. Adapun piutang yang dijualbelikan dan/atau dialihkan kepada perusahaan anjak piutang (factor) adalah piutang dagang milik developer yang ditimbulkan dari pembayaran bertahap oleh para konsumennya. Terhadap transaksi anjak piutang ini terdapat potensi tidak terbayarnya piutang dagang kepada factor. Hal ini dapat disebabkan antara lain, pertama, konsumen tidak mau membayar kewajibannya dikarenakan adanya kelalaian atau kesalahan dari developer bahkan dapat mengakibatkan hubungan hukum antara developer dan konsumen menjadi berakhir, kedua, konsumen tidak sanggup untuk memenuhi kewajibannya dikarenakan kemampuannya yang menurun. Dalam perjanjian factoring, mengenai penanggungans resiko terdapat dua jenis pembagian yang dikenal dengan istilah with recourse dan without recourse. Perjanjian factoring with recourse penanggungans resiko tidak terbayarnya piutang dagang dikembalikan kepada klien dalam hal ini developer, namun dalam perjanjian factoring without recourse resiko tidak terbayarnya piutang dagang menjadi tanggungjawab factor. Untuk perlindungan hak tagih factor agar factor tidak dianggap lalai, maka perjanjian factoring dalam pembelian properti dengan sistem Pre Project Selling menggunakan cara with recourse.

.....This thesis discusses factoring issue as one of the investment backup for developers who market property products using pre-project selling. Account payables traded and/or transferred to factor company is commercial account payables belonging to developer payable on instalment by it?s consumers. Within factor transaction, there are however, possibilities of unpayable commercial account payables to words factors. This may be caused by several factors, including the reluctance of consumers tp pay due to developers mistake or negligence. In some case this may even lead to termination of legal relationship between the developer and it?s consumers. Another factor causing unpayable of commercial account payables is the consumer?s inability to fulfil their obligation to pay due to their decreasing financial capability. In factoring agreement there are two types of riskliability with regards to factoring agreement, with recourse and without recourse. In with recourse system, account payables are referred to client, which in this case is developer. However, in without recourse system, account payables are referred to it and the responsibility of factor. To protect factor rights as to not be perceived negligent, factoring agreement on property purchase with pre-project selling is recommended to use with recourse system.