

Project Account Regulations In Property Development

Preproject Selling System In Indonesia

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ABSTRACT

This study aims to analyze the weaknesses in legal regulations related to the use of escrow accounts in the pre-project selling system in Indonesia and to formulate an ideal regulatory model based on a comparative approach. The practice of pre-project selling, which has developed through Sales and Purchase Agreements (PPJB), demonstrates an imbalance in the position of consumers and developers, particularly in terms of fund management. The absence of mandatory escrow account use raises the risk of misuse of funds, default, and potential systemic consumer losses. This study uses normative legal research methods with statutory, conceptual, and comparative approaches, comparing the Indonesian legal system with those of Singapore and Saudi Arabia. The results show that Indonesia still relies on a contractual approach (contract-based protection), which is unable to provide optimal legal protection, especially in the preventive aspect. In contrast, Singapore and Saudi Arabia have adopted a regulatory-based protection approach through mandatory escrow account use, fund segregation, progress-based disbursement, and independent oversight. This difference indicates a normative gap that has impacted weak legal certainty and consumer protection in Indonesia. The conclusion of this study emphasizes the need for legal reconstruction through imperative escrow account regulations, accompanied by an integrated oversight mechanism and effective sanctions. This reform is expected to create preventative legal protection, increase transparency and accountability, and strengthen public trust in the property sector.

Keywords: Project Account, Property Development, Pre Project Selling System, Indonesia.

1. INTRODUCTION

The need for housing, as a basic human need, demonstrates the strategic position of the property sector in society's social and economic life. Housing, as one of the three basic needs, alongside food and clothing, serves not only as a place to live but also as a means of protection, social stability, and a symbol of prosperity. In modern developments, housing has even undergone a transformation in meaning into a high-value investment instrument.. The continuous growth of the population is directly proportional to the increasing need for adequate housing. This situation is driving the growth of the property industry as a leading sector in national development. Companies operating in this sector are competing to provide housing products that not only meet functional requirements but also provide added economic value for consumers.

In the context of national development, Indonesia, as a developing country, continues to accelerate development in various sectors, including the property sector. This development is



oriented not only toward providing physical infrastructure but also toward improving the quality of life of the community. In this regard, the relationship between businesses and consumers is crucial, as stipulated in Law Number 8 of 1999 concerning Consumer Protection, which provides definitions and legal protection for both parties. Property buying and selling transactions are a form of economic activity that is highly sought after by the public. Property is viewed not only as a necessary place to live but also as a long-term investment instrument that promises profits. This further strengthens the property sector's position as a highly attractive sector among the wider community. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987).

As public interest in property grows, business owners and developers are becoming increasingly innovative in marketing their products. One widely used strategy is pre-project selling, which involves selling property units before construction is complete, often even while still in the planning stages. This strategy benefits developers in terms of project funding while offering more competitive prices to consumers. However, pre-project selling also carries significant risks, especially for consumers. Under this system, consumers purchase property that doesn't yet exist, relying heavily on trust in the developer. The risk of construction failure, delays, and even default poses a real threat that can significantly harm consumers. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

In practice, pre-project selling transactions involve several important legal instruments, such as the Sales and Purchase Agreement (PPJB), the Sale and Purchase Deed (AJB), and a credit agreement through a banking institution. These instruments form the basis of the legal relationship between the parties and serve as legal protection in the event of a future dispute. Regulations regarding pre-project selling in Indonesia have been accommodated in Law Number 1 of 2011 concerning Housing and Residential Areas. This law legitimizes the practice of selling property before construction is completed, with certain conditions that must be met by the developer, such as certainty of land status, building permits, and the availability of supporting infrastructure and facilities. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019). (Djumialdji, 1996).

Despite these normative regulations, implementation in the field has revealed various problems. One of the main issues is the lack of guarantee that funds paid by consumers are actually used for project development. This opens up the opportunity for misuse of funds by developers. Cases of default in various regions indicate that many consumers are harmed by projects that remain unfinished even though payments have been made. This situation reflects the weak legal protection for consumers in Indonesia's pre-project selling system. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).



This problem is further complicated by the lack of regulations explicitly mandating the use of escrow accounts in property transactions. However, escrow accounts can be a crucial tool in ensuring transparency and accountability in the use of consumer funds. In practice, funds paid by consumers are generally directly received and managed by developers without adequate oversight mechanisms. This has the potential to create moral hazard, where developers may use these funds for purposes other than the promised project development.

Normatively, Law Number 1 of 2011 does regulate a limit on developer withdrawals, reaching a maximum of 80% before certain conditions are met. However, this provision is not yet effective in preventing misuse of funds, especially when the project is not yet fully completed but the funds have been almost entirely paid by consumers. The absence of regulations regarding project accounts in the Indonesian legal system indicates a legal vacuum that needs to be filled immediately. This gap is one of the main factors contributing to the weak legal protection for consumers in pre-project selling transactions. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

In comparison, several countries have strictly regulated the use of project accounts in property transactions. Singapore, for example, requires every developer to open a dedicated project account for each development, allowing for strict monitoring of consumer funds. Furthermore, Saudi Arabia implements an escrow account system in pre-project sales property transactions. Under this system, consumer funds are held in a separate account and can only be disbursed based on construction progress verified by the relevant authorities.

The implementation of the project account system in these countries has been proven to increase consumer confidence and minimize the risk of misuse of funds by developers. This demonstrates that clear and firm regulations regarding the management of consumer funds are a crucial factor in creating legal certainty. Therefore, the urgency of regulating project accounts within the pre-project selling system in Indonesia is increasingly apparent. Without an effective oversight mechanism for the use of consumer funds, the potential for losses will continue to occur and public trust in the property sector may decline. Based on this description, this research is relevant to examine in depth the construction of project account regulations in property development using the pre-project selling system in Indonesia. This study is expected to contribute to formulating regulatory concepts that can achieve legal certainty and optimal protection for consumers. (Mertokusumo, 2009; Otto, 2012). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

2. RESEARCH METHODS

The research method used in the author's research is normative legal research. Normative legal research is defined as a research method on statutory regulations, both from a vertical and horizontal legal hierarchy. The approaches used in this research are the statutory approach, the conceptual approach, and the comparative approach. The types and sources of legal materials are primary legal materials and secondary legal materials. The legal material search technique in this research uses library studies and internet research. After all legal materials are collected, they are then analyzed using the interpretation method, namely by using the juridical method in discussing a legal issue. The author researches by interpreting all primary, secondary, and tertiary legal materials related to the main problem, then the author qualifies the related legal materials, then the legal materials are systematically arranged to facilitate the compilation of legal materials. (Bahder Johan Nasution, 2008; Ibrahim, 2012; Marzuki, 2011; Soekanto, 2007).

3. RESULTS AND DISCUSSION

Project Account Management in Property Sales and Purchases with the Pre-Project Selling System in Indonesia

1. Property Sales System with Pre-Project Selling System in Indonesia

The development of the property sector in Indonesia in recent years has shown very rapid dynamics, both in terms of the increasing number of projects and the complexity of their management. This is influenced by the increasing public demand for adequate housing and business space, in line with population growth and national economic development. The property sector even holds a strategic position because it has a multiplier effect on other sectors such as construction, banking, and the building materials industry, so its existence has an impact not only on economic aspects, but also social. Conceptually, the term "property" is derived from the English word "property," which refers to something owned by an individual or legal entity. In the Indonesian context, property is defined as land, buildings, and all facilities and infrastructure attached to and forming an inseparable whole. Thus, property is understood not only as a physical object, but also as a functional entity that has utility and economic value. (Djumialdji, 1996).

Furthermore, from a legal perspective, property is part of the property law regime that legitimizes the owner to control, use, and exploit an asset. This control is not absolute, but rather subject to applicable legal provisions, so every activity related to property must consider aspects of legality and legal certainty. This is crucial to ensure the protection of the rights of the parties involved in property transactions. Broadly speaking, property also has a significant economic dimension. As understood in legal and economic literature, property serves not only as a residence



or business facility but also as an investment instrument with the potential for long-term profits. The economic value inherent in property makes it an object that can be bought and sold and transferred through various legal mechanisms, such as sale, gift, or inheritance. (Mertokusumo, 2009; Otto, 2012).

In general, property can be classified into two main categories: real property and personal property. Real property refers to land and anything permanently attached to it, such as buildings and plants. Meanwhile, personal property includes movable objects, both tangible and intangible, such as vehicles and intellectual property. This distinction is important because it determines the legal regime applicable to each type of property. In the context of land law in Indonesia, real property holds a crucial position because it is directly related to land rights. These rights include Ownership Rights (Hak Milik), Building Use Rights (HGB), Usage Rights (Hak Pakai), and Mortgage Rights (Hak Tanggungan). Each of these rights has distinct characteristics and limitations, which directly affect the legal relationship between the owner and the property object and the mechanism for its transfer. (Djumialdji, 1996).

Property ownership is essentially a form of civil rights that grants the owner the authority to control and utilize an asset. From a modern perspective, ownership rights are understood not only as physical control but also as a bundle of rights that includes the right to use, benefit from, transfer, and defend the property from interference by others. This concept demonstrates that property ownership has complex dimensions, both from a legal and economic perspective. Recognition of property ownership rights also has implications for legal protection for owners. The state, through legislation, guarantees that everyone has the right to own property as long as it is acquired legally and does not conflict with the public interest. Therefore, legal certainty is a crucial aspect in all activities related to property, including construction and sales transactions. (Mertokusumo, 2009; Otto, 2012).

In practice, property development and sales activities in Indonesia are regulated by Law Number 1 of 2011 concerning Housing and Residential Areas. This law not only regulates the technical aspects of development but also emphasizes the importance of consumer protection and order in property transactions. Through this regulation, the government seeks to create a balance between the interests of business actors and consumers in the housing sector. One practice that has developed in the property sector is the use of a pre-project selling system, a method of selling property before construction is completed. This system provides developers with advantages in terms of financing, but on the other hand, it poses risks for consumers because the object being traded is not yet physically available. Therefore, a legal instrument is needed that can guarantee certainty and protection for the parties, particularly through the use of a Sales and Purchase



Agreement (PPJB) as the basis for the legal relationship between developers and consumers. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

2. The Urgency of Project Accounts in Property Sales with a Pre-Project Selling System

Consumer protection law is essentially a normative instrument designed to guarantee security and fairness for consumers in every transaction of goods and/or services. From a doctrinal perspective, AZ Nasution defines consumer law as the entirety of principles and rules that regulate and protect consumers in their relationships with providers of goods and services. This definition emphasizes that consumer protection functions not only as a response to violations, but also as a preventive system that maintains a balanced relationship between business actors and consumers. In the context of positive law in Indonesia, the principles of consumer protection have been accommodated through Law Number 8 of 1999 concerning Consumer Protection. This law emphasizes that consumer protection is based on five main principles: the principles of benefit, justice, balance, security and safety, and legal certainty. These five principles serve as the foundation for building a protection system that not only protects consumers but also provides certainty for business actors in carrying out their economic activities. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Mertokusumo, 2009; Otto, 2012). (Djumialdji, 1996).

The principle of benefit implies that every consumer protection effort must provide the greatest possible benefit to all parties. In this regard, protection should not be solely consumer-oriented but must also consider the sustainability of business actors. This creates a mutually beneficial and sustainable relationship within the economic system. The principle of justice emphasizes the importance of fair treatment in legal relationships between consumers and businesses. In practice, this principle serves as the basis for law enforcement to prevent discrimination or abuse of a dominant position by one party. Justice in consumer protection means a balance between the rights and obligations of each party. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987).

Furthermore, the principle of balance requires proportionality between the interests of consumers and business actors. In many cases, consumers tend to be in a weaker position than business actors, necessitating regulatory intervention to create this balance. This principle is highly relevant in property transactions, particularly in pre-project selling systems that have the potential to create information and bargaining power imbalances. The principle of consumer safety and security aims to guarantee that the goods and/or services consumed will not cause harm, either physical or non-physical. In the property context, this aspect relates not only to building quality but also to transaction security, including ensuring that funds paid by consumers are used according to



their intended use. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019). (Djumialdji, 1996).

The principle of legal certainty emphasizes that all parties involved in a transaction must comply with applicable legal provisions. Legal certainty is a crucial element in providing consumer protection, as without clear norms, the potential for disputes and losses increases. Therefore, clear and firm regulations are a primary requirement in the property sector. In addition to these principles, consumer protection also encompasses recognition of basic consumer rights. These rights include the right to security, the right to information, the right to choose, and the right to be heard. These four rights are key pillars in ensuring that consumers have a fair and equitable position in every transaction, including pre-project property purchases. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Mertokusumo, 2009; Otto, 2012).

However, in the practice of selling property using the pre-project selling system in Indonesia, the protection of consumer rights still faces various obstacles. One of the main problems is the absence of a mandatory use of a project account as a mechanism for securing consumer funds. This results in funds paid by consumers being completely controlled by the developer without adequate supervision. The provisions in Article 42 paragraph (2) of Law Number 1 of 2011 concerning Housing and Residential Areas do regulate certain conditions before property marketing is carried out. However, these provisions do not explicitly regulate the use of project accounts. As a result, there is a legal vacuum that has the potential to harm consumers, especially in the case of misuse of funds by developers. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

In practice, the lack of regulations regarding project accounts often leads to various problems, such as stalled projects, construction delays, and even default by developers. This situation indicates that existing legal protections are not yet able to provide optimal security for consumers. Therefore, additional mechanisms are needed to strengthen this protection system. One such mechanism is the use of project accounts or escrow accounts. In this system, funds paid by consumers are not received directly by the developer but are instead deposited with an independent third party, such as a bank. These funds are then disbursed in installments according to verified construction progress.

The implementation of project accounts as a consumer protection instrument has been adopted in various countries, including Singapore. Regulations in that country require every developer to open a project account for each development project. All funds received from consumers must be deposited into this account and can only be used in accordance with established provisions. Besides Singapore, other countries, such as Saudi Arabia, also implement an escrow



account system in property transactions. Under this system, funds can only be disbursed after meeting certain requirements set by the relevant authorities. This demonstrates that the use of project accounts is an effective practice in providing consumer protection. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987).

From a civil law perspective, a property sale and purchase transaction essentially begins with an agreement between the parties. However, in a pre-project selling system, this agreement is outlined in a preliminary Sales and Purchase Agreement (PPJB). This PPJB forms the basis of the legal relationship between the developer and the consumer before the transfer of rights through a Deed of Sale and Purchase. Although the PPJB provides the legal basis for the relationship between the parties, its existence is not sufficient to guarantee comprehensive consumer protection. This is because the PPJB only regulates contractual rights and obligations, without providing guarantees regarding the use of funds paid by consumers. Therefore, additional instruments such as project accounts are needed to complement this protection. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

From the perspective of Satjipto Rahardjo's legal protection theory, legal protection must be both preventative and repressive. The use of project accounts can be categorized as a form of preventative protection because it can prevent losses before disputes arise. On the other hand, this mechanism also has a repressive function because it can act as a control tool in the event of violations by developers. Thus, the use of project accounts serves not only as a financial instrument but also as a legal mechanism that provides certainty, transparency, and accountability in property transactions. The existence of this mechanism can strengthen the position of consumers and create a more balanced legal relationship between consumers and business actors.

Construction of Project Account Arrangements in Property Development Pre-Project Selling System in Indonesia to Achieve Legal Certainty.

1. Comparison of pre-project selling property sales systems in Indonesia, Singapore, and Saudi Arabia

The 2003 United Nations Convention Against Corruption (UNCAC) is the first globally binding international legal instrument for combating corruption. This convention was born as a manifestation of the seriousness of the international community, particularly the United Nations, in responding to corruption as an extraordinary crime that threatens the economic, political, and social stability of countries worldwide. The UNCAC was drafted by upholding the principles of equal sovereignty of states, equal rights, territorial integrity, and non-intervention. These principles emphasize that corruption eradication must be carried out through international cooperation that



mutually respects the legal sovereignty of each country, without violating the basic principles of international law.

This convention was agreed upon at a Summit held in Merida, Mexico, in December 2003, and signed by all participating countries, including Indonesia. By signing it, Indonesia officially declared its commitment as a State Party legally bound by all provisions stipulated in the UNCAC. This commitment was then confirmed through the ratification of the UNCAC into national law with Law Number 7 of 2006. Through this ratification, Indonesia accepted eight chapters and seventy-one articles of the UNCAC, with the only reservation being Article 66 paragraph (2) which regulates the dispute resolution mechanism between countries.

This ratification has legal consequences, requiring Indonesia to adjust its national legal system to align with the principles, objectives, and mechanisms stipulated in the UNCAC. Therefore, ratification is not merely a symbolic act, but rather requires concrete steps in the formation and adjustment of national regulations. Broadly speaking, the UNCAC contains five main pillars: corruption prevention, criminalization and law enforcement, international cooperation, technical assistance and information exchange, and asset recovery. Of these five pillars, asset recovery occupies a strategic position because it directly addresses the goals of substantive justice and restitution of state losses.

In the Indonesian context, regulations regarding asset recovery are highly relevant, given that corruption has caused systemic losses to the country's finances and economy. These losses ultimately have a direct impact on the obstruction of the fulfillment of the community's social and economic rights. As a state based on the rule of law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution, Indonesia has a constitutional obligation to uphold the law in order to achieve its national goals, namely advancing public welfare. The principle of the rule of law requires not only legal certainty but also justice and benefit. (Mertokusumo, 2009; Otto, 2012).

Indonesia's concept of a legal state has also developed in line with the principles of a welfare state, which obligates the state to actively protect and fulfill the basic rights of its citizens. Within this framework, corruption eradication must not only focus on punishing perpetrators but also on recovering losses suffered by the state and society. Corruption is essentially an economically motivated crime, with the primary goal of unlawfully obtaining financial gain. Corruptors often exploit development projects, public funds, and state policies as a means to enrich themselves, thereby denying the benefits of development that should be enjoyed by the wider community.

The systemic impact of corruption is explicitly recognized in the preamble to Law Number 20 of 2001, which states that corruption not only harms state finances but also violates the social



and economic rights of the community. Therefore, corruption is classified as an extraordinary crime, the eradication of which must be carried out in an extraordinary manner. Based on this understanding, the state should not only focus on punishing perpetrators, but also on restoring the rights of the community that have been violated through corruption. A law enforcement orientation that solely emphasizes imprisonment without asset recovery has the potential to ignore the interests of victims in the broader sense, namely the state and society.

Corruption eradication that ends only with the criminalization of perpetrators, while the proceeds of crime remain in the hands of the perpetrators or related parties, has proven ineffective in providing a significant deterrent effect. This situation actually creates a paradox, where perpetrators continue to enjoy the proceeds of their crimes even after serving their sentences. Furthermore, from a national economic perspective, this approach creates a double burden. The state must bear the costs of law enforcement and corrections, while the financial losses caused by corruption cannot be fully recovered.

It is in this context that the concept of Non-Conviction-Based Asset Forfeiture (NCB) becomes relevant as a legal instrument for recovering assets derived from corruption. This concept allows the state to seize assets derived from criminal acts without having to wait for a criminal conviction. NCB is a mechanism recognized in the UNCAC and designed to overcome the limitations of the conventional criminal justice system, particularly when the perpetrator dies, flees, or is outside the jurisdiction of national law.

However, to date, Indonesia has not comprehensively implemented the NCB concept in positive law. Asset confiscation is still dominated by the conviction-based asset forfeiture mechanism as stipulated in the Corruption Eradication Law, which requires a final and binding court decision. This requirement often poses a serious obstacle in practice, given that assets obtained from corruption are often hidden through cross-border money laundering schemes and complex ownership structures. As a result, even if the perpetrator is successfully apprehended or prosecuted, the assets targeted for confiscation are difficult for law enforcement to access.

Experience from major cases in Indonesia demonstrates that the limitations of legal instruments for asset confiscation have deprived the state of the opportunity to optimally recover state financial losses. In some cases, assets resulting from crimes continue to circulate within the national economic system. NCB offers a different approach, emphasizing the object of the asset (in rem) rather than individual culpability (in personam). Thus, the focus of the evidence shifts to the relationship between the asset and the crime, rather than proving the perpetrator's criminal guilt.

However, the implementation of NCB has also raised serious debate regarding the protection of human rights, particularly the right to property and the principle of due process of

law. These concerns must be addressed through the formulation of clear, transparent regulations that provide adequate procedural guarantees. The Indonesian Constitution itself recognizes that human rights are not absolute. Article 28J paragraph (2) of the 1945 Constitution emphasizes that the exercise of human rights may be limited by law for the sake of public interest, public order, and the protection of the rights of others.

Therefore, the regulation of NCBs in national law does not conflict with human rights principles as long as they are designed proportionally and guarantee an effective judicial oversight mechanism. In fact, such regulations can serve as a means to uphold substantive justice for victims of corruption. Experience in other countries shows that the success of NCB implementation depends heavily on the balance between effective asset recovery and the protection of citizens' constitutional rights. This principle should be the primary reference for Indonesia. Therefore, the need for NCB regulations in Indonesian positive law is an urgent legal necessity. These regulations are expected to close the legal gap in the confiscation of assets resulting from corruption while strengthening Indonesia's commitment to being a state based on the rule of law that upholds justice, benefit, and legal certainty. (Mertokusumo, 2009; Otto, 2012).

2. Construction of Project Account Arrangements to Achieve Legal Certainty (Mertokusumo, 2009; Otto, 2012).

A comparative approach in comparative law studies plays a crucial role in formulating legal constructs that are not only descriptive but also prescriptive. Therefore, the analysis should not simply outline the norms applicable in each country but should also identify the strengths and weaknesses of the legal systems being compared. In this context, a comparative approach is used to examine pre-project selling regulations in Indonesia, Singapore, and Saudi Arabia to identify the ideal regulatory model, particularly regarding consumer fund protection through the project account mechanism. The first stage in this approach is descriptive, systematically outlining the regulatory framework of each country. In Indonesia, the practice of pre-project selling has developed as a consequence of the principle of freedom of contract in civil law. The relationship between developers and consumers is generally bound by a Sales and Purchase Agreement (PPJB) before the property is completed. However, regulations regarding the security of consumer funds are still partial and not yet integrated into a comprehensive system. (Isnaeni, 2018; Gomulja & Adjie, 2020). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

The absence of a normative obligation regarding the use of segregated accounts in the Indonesian legal system indicates a significant legal gap. In practice, funds paid by consumers are often directly managed by developers without adequate control mechanisms. This situation opens up opportunities for misuse of funds and increases the risk of project failure, thus weakening legal

protection for consumers. In contrast to Indonesia, Singapore has a stricter and more structured regulatory system through the Housing Developers (Control and Licensing) Act. Under this system, developers are required to open a project account for each development project. All funds received from consumers must be deposited in this account and cannot be freely used by the developer.

The fund management mechanism in Singapore is implemented through a progressive payment scheme, which disburses funds in stages according to construction progress. Each disbursement stage must be verified by an independent party, such as an architect or quantity surveyor. This creates a strict control system over the use of funds and minimizes the risk of moral hazard. Meanwhile, Saudi Arabia also implements a similar system through the use of escrow accounts in property projects based on pre-project sales. This system is under the supervision of real estate authorities, who ensure that consumer funds are used only for the benefit of the project in question. Thus, consumer protection relies not only on the contract but also on a structured oversight system. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987).

In the Saudi Arabian system, escrow accounts serve not only as holding accounts for funds but also as a monitoring instrument involving various parties, such as banks, engineering consultants, and auditors. Funds can only be disbursed after verification of construction progress, thus creating high accountability in project fund management. The differences between the three countries demonstrate differing paradigms in consumer protection. Indonesia still relies on a contractual approach, where consumer protection depends on the content of the agreement between the parties. Meanwhile, Singapore and Saudi Arabia have adopted a structural approach that places regulation as the primary instrument for consumer protection. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987).

In the second stage, a comparative analysis is conducted based on specific criteria, one of which is consumer fund management. In this context, Singapore implements a strict segregation of funds principle, ensuring that consumer funds are not mixed with developer operational funds. This ensures that these funds are used solely for the development of the project in question. Furthermore, Singapore's fund disbursement mechanism is based on the conditional disbursement principle, where developers can only access funds after meeting certain conditions, namely construction progress. This system fosters strong financial discipline and reduces the risk of misuse of funds by developers.

Saudi Arabia also implements a similar principle through its escrow account system. Under this system, consumer funds are held in a dedicated account and can only be used for specific project purposes. The use of these funds is monitored by various parties, creating a high



level of transparency and accountability. In contrast, in Indonesia, the management of consumer funds remains lax. The lack of a requirement to use separate accounts often results in consumer funds being mixed with developer funds. This increases the risk of misuse and reduces legal protection for consumers

In terms of transparency and accountability, Singapore and Saudi Arabia also demonstrate more advanced systems than Indonesia. In both countries, developers are required to submit regular reports on fund usage and construction progress. These reports can be audited and verified by independent parties. Meanwhile, in Indonesia, the obligation to report on fund usage remains unregulated. This makes it difficult to monitor developer fund use. As a result, consumers often lack sufficient information regarding the progress of the projects they purchase.

In terms of oversight, Singapore and Saudi Arabia have robust external oversight mechanisms. In Singapore, oversight is carried out by government authorities with broad authority to regulate and supervise the property sector. Meanwhile, in Saudi Arabia, oversight is carried out by a dedicated agency in collaboration with independent parties. Conversely, in Indonesia, oversight of the property sector remains administrative in nature and lacks the support of an independent agency specifically overseeing consumer fund management. This limits the effectiveness of oversight and makes it unable to effectively prevent violations.

Thus, it can be concluded that the main difference between the three countries lies in the level of state intervention in regulating the property sector. Singapore and Saudi Arabia demonstrate a strong state role in regulating and overseeing consumer fund management, while Indonesia still allows considerable scope for market mechanisms. Based on this comparative analysis, it can be concluded that the systems implemented in Singapore and Saudi Arabia are more effective in providing legal protection for consumers. This is due to the combination of firm regulations, strict oversight mechanisms, and transparency in fund management. Therefore, a reconstruction of regulations in Indonesia is needed, leading to the implementation of a mandatory project account system. This regulation must be accompanied by an effective oversight mechanism and transparent reporting requirements, thereby increasing legal certainty and protecting consumers in property transactions using the pre-project selling system. (Mertokusumo, 2009; Otto, 2012). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

Table 1. Comparison Table Pre-Project Selling

Regulatory Aspects	Indonesia	Singapore	Saudi Arabia
Project Account Obligations	Not yet imperative (only PPJB recommendation)	Mandatory escrow via the Housing Developers Act; funds locked until handover	Mandatory Sharia-compliant escrow via Real Estate Development



			Law; strict oversight by SAMA
Development Supervision	Limited (OSS-RBA, but weak execution)	Integrated online (BCA oversight); progress must be reported	Digital platform and periodic audits; priority of sharia compliance
Consumer Protection	Partial via UUPK; lawsuits are often problematic	Strong: progressive payment and bank guarantee	Imperative: separate buyer funds, developer criminal sanctions

In Indonesia's property law regime, the practice of pre-project selling has essentially gained legitimacy through the construction of a Sales and Purchase Agreement (PPJB), which is rooted in the principle of freedom of contract as stipulated in Article 1338 of the Civil Code. However, this recognition is implicit and not accompanied by comprehensive regulations regarding the protection of consumer funds. Existing regulations tend to focus on administrative aspects such as permits, land status, and development progress, without addressing the fundamental aspect of project financial governance. Consequently, there is no normative obligation for developers to use an escrow account mechanism as an instrument for securing consumer funds. This absence of regulations regarding escrow accounts creates a significant regulatory lacuna in the national property law system. Without the obligation to segregate funds, funds paid by consumers through PPJB often go directly into the developer's general treasury. This practice of commingling funds opens up room for misuse, as there is no clear delineation between project funds and company operational funds. In such conditions, consumers lose control over the funds they have paid, thus increasing the risk of loss if the project experiences obstacles or even fails to be completed. (Isnaeni, 2018; Gomulja & Adjie, 2020). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

Doctrinally, this situation contradicts the principle of balance in modern contract law, which demands a proportional distribution of rights and obligations between the parties. Freedom of contract cannot be understood as absolute; it must be limited by the principle of good faith, which demands honesty, fairness, and justice in the implementation of agreements. In the context of PPJB, this principle is difficult to realize due to the unequal legal relationship structure between developers and consumers. This imbalance is reflected in information asymmetry, where all strategic information related to the project is controlled by the developer, while consumers are in a weak informational position. Consumers lack adequate access to the project's financial condition, construction progress, or potential risks. This prevents consumers from making fully rational



decisions, as they are based on incomplete or even biased information. (Isnaeni, 2018; Gomulja & Adjie, 2020).

Furthermore, the lack of a control mechanism for the use of paid funds further exacerbates the consumer's situation. Once payment is made, the consumer has no effective legal instrument to ensure that the funds are used in accordance with the project's development objectives. In this situation, the entire risk of project failure is de facto transferred to the consumer, while the developer retains discretion in managing the funds. From a risk allocation perspective, this situation demonstrates a disproportionate risk shifting. The developer benefits from initial financing from the consumer without any obligation to provide security for the funds, while the consumer bears the risk of losing the funds without adequate protection. This clearly contradicts the principle of fairness in contract law, which requires a balance of risks between the parties.

The absence of an escrow account also increases the potential for default by the developer. If the developer fails to complete the project as agreed, consumers can theoretically sue for damages. However, in practice, recovery of losses is extremely difficult because the funds paid have often been used for other purposes and are no longer available for repayment. In addition to default, the use of consumer funds for purposes other than those agreed upon can also be classified as an unlawful act. Such actions violate norms of propriety and legal obligations that require developers to use funds according to their intended use. If the elements of an unlawful act are met, the developer can be held civilly liable for losses suffered by consumers.

Furthermore, under certain circumstances, misuse of consumer funds can lead to criminal liability. If there is an element of fraud or embezzlement, the act is no longer simply a contractual breach but enters the realm of criminal law. This demonstrates that the absence of an escrow mechanism not only impacts civil matters but also has the potential to lead to more serious legal consequences. From a consumer protection law perspective, the absence of an escrow account directly undermines guarantees of consumer security and safety. In the context of property transactions, the concept of security encompasses not only the physical aspects of the building but also the financial aspects. Without a mechanism to safeguard funds, consumers have no assurance that their investment will produce the promised property. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Djumialdji, 1996).

This situation creates a systemic vulnerability for consumers in pre-project selling transactions. The risks faced are not solely individual, but can occur broadly and repeatedly across multiple projects. This indicates a structural weakness in the legal system that is unable to provide effective protection for consumers. Conceptually, this condition can be categorized as a default by design, a failure stemming from the regulatory design itself. The state not only fails to provide



preventative mechanisms but also indirectly allows a legal structure that allows for consumer harm. Thus, this problem lies not solely in implementation but also in the inadequate construction of norms. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

In practice, the PPJB used in pre-project selling often takes the form of a standard adhesion contract drafted unilaterally by the developer. Consumers have little room to negotiate the terms of the agreement. This situation further reinforces the unequal bargaining position and opens up opportunities for the inclusion of clauses that are detrimental to consumers. The absence of an escrow account exacerbates this situation because there is no structural mechanism to counterbalance the developer's power. The principle of good faith, which should be the foundation of contractual relationships, loses its operational power because it is not supported by effective oversight instruments. In this situation, contract law no longer functions as a tool of justice but instead has the potential to become a tool to legitimize inequality. Therefore, it can be concluded that the absence of escrow account regulations in the pre-project selling system in Indonesia not only creates problems at the individual level but also reflects systemic weaknesses in legal protection. To address these problems, imperative regulatory intervention is needed to create a more just, transparent, and accountable protection mechanism, thereby restoring balance in the legal relationship between developers and consumers. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

4. CONCLUSION

Pre-project selling regulations within Indonesia's property law regime still exhibit fundamental weaknesses, particularly regarding consumer fund protection. The absence of mandatory escrow accounts or project accounts results in a lack of a mechanism for segregating funds, leaving consumer funds vulnerable to misuse through commingling practices. This situation creates a structural imbalance between developers and consumers, increasing the risk of default, unlawful acts, and even potential criminal offenses. Normatively, this contradicts the principles of balance, good faith, and consumer protection, and reflects a regulatory design failure (default by design) that fails to provide preventative legal certainty for consumers in property transactions. (Shidarta, 2000; Shofie, 2000; Hadjon, 1987). (Mertokusumo, 2009; Otto, 2012). (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

Comparative analysis shows that Indonesia lags behind countries like Singapore and Saudi Arabia in terms of consumer fund management and legal protection mechanisms in pre-project selling. Both countries have adopted a regulatory-based protection approach through mandatory escrow accounts, strict oversight, and a fund disbursement system based on verified development

progress. This model has proven effective in increasing transparency and accountability, while minimizing the risk of moral hazard. Therefore, legal reconstruction in Indonesia needs to be directed at establishing imperative, integrated, and implementable norms, including mandatory escrow account use, strengthened oversight, and refined preventive and repressive protection mechanisms, to create a fair, certain, and sustainable pre-project selling system. (Hutagaol, 2021; Rimbawa, 2021; Hidayah & Nugraheni, 2025; Bhakti, 2019).

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