LEGAL PROTECTION AGAINST HOME OWNERSHIP CREDIT DEBTORS WITH THE FLEXIBILITY OF BANKING POLICIES IN CREDIT AGREEMENTS WITHOUT THE CREDITOR’S PERMISSION


ABSTRACT

Introduction: The Job Creation Law's implementation in 2023 will significantly alter corporate rivalry and investment, particularly in the housing industry. This modification attempts to take into account the changing circumstances that both customers of housing and creditors or housing providers must deal with. Law Number 1 of 2011 further stipulates that all Indonesians in middle-class and lower-class economic categories must have access to livable housing.

Objective: This article's goals are to clarify the legal ramifications of moving credit with collateral as a home ownership credit object without the creditor's consent and to outline the legal safeguards available to new home ownership credit (KPR) debtors in Medan who are still obligated to their banks by collateral.

Methods: The laws and rules governing the distribution and financing of house ownership credit (KPR) in Indonesia are examined using a comparative legal analysis in this article. The efficacy of these regulatory actions is assessed by the author from a formal legal standpoint. The qualitative parameters of agreement laws in house ownership credit (KPR) are included in this study, along with the degree of legislative and banking policy development in Indonesia with regard to KPR financing.

Results: Based on the analysis of the Court Decision, the research results demonstrate that credit transfers without the creditor's consent, which are frequently done in society, can be said to be legally valid as long as there are no parties who are disadvantaged and the new debtor has good faith intentions to uphold the rights and obligations of a determined contract. When a credit transfer is done without the consent of the creditor or notary, it is considered legally void and loses legal protection in the event that the new debtor breaches the terms of the agreement between the old and new debtors. Additionally, the new debtor's failure to fulfill their obligations demonstrates their lack of good faith.

Conclusion: A policy regarding the validity of transferring home ownership credit (KPR) without the creditor's permission with provisions that do not cause losses to either the creditor or the new debtor should be developed in order to address the issue of legal protection for debtors of KPR who transfer without the creditor's consent.

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PROTEÇÃO JURÍDICA CONTRA DEVEDORES DE CRÉDITO DOMÉSTICOS COM A FLEXIBILIDADE DAS POLÍTICAS BANCÁRIAS EM CONTRATOS DE CRÉDITO SEM A PERMISSÃO DO CREDOR

RESUMO

Introdução: A implementação da Lei de Criação de Emprego em 2023 irá alterar significativamente a rivalidade e o investimento das empresas, particularmente no sector da habitação. Esta modificação tenta ter em conta a alteração das circunstâncias que tanto os clientes da habitação como os credores ou os prestadores de habitação têm de enfrentar. A Lei n. º 1 de 2011 estipula ainda que todos os indonésios pertencentes às categorias económicas de classe média e baixa devem ter acesso a habitações habitáveis.

Objetivo: Os objetivos deste artigo são clarificar as consequências jurídicas da transferência de crédito com garantia como objeto de crédito de propriedade de uma casa sem o consentimento do credor e delinear as salvaguardas jurídicas disponíveis para os novos devedores de crédito de propriedade de uma casa (KPR) em Medan que ainda estão obrigados aos seus bancos por garantia.

Métodos: As leis e regras que regem a distribuição e o financiamento do crédito de propriedade da casa (KPR) na Indonésia são examinadas usando uma análise jurídica comparativa neste artigo. A eficácia dessas ações regulatórias é avaliada pelo autor do ponto de vista jurídico formal. Os parâmetros qualitativos das leis de acordo em crédito de propriedade de casa (KPR) estão incluídos neste estudo, juntamente com o grau de desenvolvimento da política legislativa e bancária na Indonésia no que diz respeito ao financiamento do KPR.

Resultados: Com base na análise da decisão do Tribunal, os resultados da investigação demonstram que as transferências de créditos sem o consentimento do credor, que são frequentemente feitas na sociedade, podem ser consideradas legalmente válidas desde que não haja partes que estejam em desvantagem e o novo devedor tenha intenções de boa-fé de defender os direitos e obrigações de um determinado contrato. Quando uma transferência de crédito é feita sem o consentimento do credor ou notário, é considerada legalmente nula e perde a proteção legal no caso de que o novo devedor viola os termos do acordo entre o antigo e o novo devedor. Além disso, o incumprimento das obrigações por parte do novo devedor demonstra a sua falta de boa-fé.

Conclusão: Deve ser desenvolvida uma política relativa à validade da transferência do crédito de propriedade sobre a habitação (RCP) sem a autorização do credor, com disposições que não causem perdas nem ao credor nem ao novo devedor, a fim de resolver a questão da proteção jurídica dos devedores do RCP que procedam à transferência sem o consentimento do credor.

Palavras-chave: defesa jurídica, seguro, crédito para a propriedade de casa, sem o consentimento do credor.
1 INTRODUCTION

The goal of Pancasila based national development is to raise the standard of living for social justice and better the welfare of Indonesian society as a whole, in line with national ideals. The government offers Home Ownership Credit (KPR) facilities as one of its initiatives to enhance community welfare (Kusuma & Irianto, 2023). Since not everyone can purchase these essentials with cash, a financial institution is required to offer financial support in the form of credit distribution, particularly in the case of Home Ownership Credit (KPR) (Rahman, 2020). But we frequently discover that not everyone can afford a home of their own to meet their basic necessities. The buying price of a private home might amount to hundreds of millions or even billions of rupiah, which hinders many of them from realizing their dream of owning one (Azis, 2023). Those in this group are low income individuals. In real life, sales and purchases of immovable property, such as homes or land, sometimes involve agreements with the option to repurchase the goods (Dominika, 2017).

One of the most frequent issues with Home Ownership Credit (KPR) implementation is the transfer of rights to the KPR object a house by the debtor to a third party without the bank's knowledge, either before the KPR period expires or is paid off. According to the statistics, there were 30 instances of over-credit transfers of rights to items without the bank's knowledge; of these, 28 were deemed legally valid based on factors taken into account in court rulings throughout many Indonesian court districts. Most individuals believe that all that is needed for a house sale and purchase agreement is a receipt showing that the seller and the buyer have paid each other (Nikmah et al., 2020). The Bank will demand the presence of the previous debtor as the party entering into the credit agreement and if a third party requests collateral or collateral after the installment payment period has been paid in full. The availability of sales through credit transactions has had an influence. In this instance, the issue is that, as the credit agreement's successor, the buyer may find it challenging to obtain the mortgaged deed if the first debtor passes away, relocates, or goes missing (Binsneyder Meike, 2020).

2 THEORETICAL FRAMEWORK

A widely accepted legal construction that serves as a foundation for the parties to agree on the rights and obligations in a contract and as evidence of complete ownership of the rights is the contractual relationship between the creditor and debtor in a home
ownership credit (KPR) agreement. Under the terms of a home ownership credit (KPR) contract, a creditor also known as the provider of facilities in KPR financing and the home ownership credit (KPR) customer, or debtor, enter into a legal relationship whereby the KPR debtor fulfills its obligations on the credit as specified in the KPR contract. Due to a selection of factors, including the debtor's inability to meet the specified credit, the transfer of home ownership credit (KPR) rights, and an increase in credit transfer, problems pertaining to creditors' and debtors' rights and obligations for KPR, problem resolution, and other problems are becoming more complex. Without the consent of the creditor and without obtaining the difficult-to-obtain proof of ownership required to be eligible for home ownership credit (KPR) (Agustini, 2019).

These variables have led to variations in the home ownership credit facilities (KPR) that are obtained by capital owners or members of upper economic groups from members of weaker groups or those without a home, exceeding the goals of the creation of Law No. 1/2011 and creating disputes over ownership rights. residence on the KPR (home ownership credit) (Swadana et al., 2023). Consequently, in order to effectively address inconsistencies in acquiring home ownership credit (KPR) facilities in the housing market utilizing the home ownership credit (KPR) financing method, it is required to amend suitable regulatory laws. As trade, investment, and capital movements become more liberalized, there is a growing disparity in the availability of house ownership credit facilities (KPR) as a result of this deviation. Thus, the preservation of the rights balance between creditors and home ownership credit (KPR) debtors is greatly aided by the protection of KPR debtors through the provision of legal certainty in the over-credit system without the need for creditor consent. The dynamics between supply and demand for home ownership credit (KPR) in this context are controlled by a number of laws and regulations, banking practices, and government oversight of home ownership credit (KPR) financing. Given the growing demand for housing, it is imperative that policymakers engage through a legislative strategy that prioritizes stability and balance for borrowers under the home ownership credit (KPR). There is a paradigm shift in the home ownership credit (KPR) financing system due to the existence of laws designed to safeguard debtors who genuinely believe they are eligible for KPR. If there is legal certainty and balanced legal protection between the rights and obligations of creditors and home ownership credit (KPR) debtors, then economic development and expansion
become an appealing focus point. In this regard, expanding and meeting the 1945 Constitution's Article 28 Letter I requirement for a decent existence will open up new avenues for enhancing welfare in the housing development industry.

Numerous scholarly works have elucidated the difficulties associated with putting programs in place to address housing requirements for members of lower middle-class demographics. Research on the legal protection of creditors with mortgage rights for building use rights on land with management rights has been done by Agus Suprihanto. Marwah used the Annuity Interest Method to investigate the Principle of Balance in Home Ownership Credit Agreements. Debby Oktavia Sitompul (Study at PT. Bank Rakyat Indonesia Medan Putri Hijau Branch Office) has looked into the legal protection for consumers in home sale and purchase agreements through home ownership credit facilities. In addition, Hendro Prawoto has investigated the legal evaluation of the debtor transfer procedure executed at the PT. State Savings Bank (Persero) Semarang Branch under the auspices of the Home Ownership Credit Agreement (KPR). The application of the prudential principle to home ownership credit agreements was the subject of research by Andrean Zige. These studies, however, highlight the shortcomings in offering a thorough examination of the legal protection and ramifications based on the balance value and legal certainty of house ownership credit (KPR) arrangements.

3 RESEARCH METHOD

The study employs a comparative legal analysis of the housing and settlement rules and regulations enacted in Indonesia under Law No. 1/2011, with a particular emphasis on the KPR financing system for communities connected to banks or creditors. This comparative analysis's primary focus is on the laws that Indonesia enacted in 2021, along with the corresponding rules and guidelines that govern different areas such who is eligible for house ownership credit facilities (KPR), requirements for applying for a home ownership credit facility (KPR), how simple it is to apply for one for those who do not yet own a home, how payments are made within a KPR, the legal certainty of the right to KPR after repayment, the transfer of KPR rights to other parties, and the execution of KPR agreements (Prakoso et al., 2022).

Among the primary topics of examination are the following legal acts:

1. Law No. 5/1960
2. Law No. 1/2011
3. Law No. 10/1998
4. Law No. 6/2023
5. The Civil Law Code

By taking into account legal actions pertaining to the topic of the house ownership credit (KPR) financing system and the transfer of home ownership credit, this study complies with the principle of object suitability. A number of rules that were put into effect in accordance with the designated research time period for home ownership credit (KPR) financing and transitions between 2015 and 2022 are included in this legal action. Various sources are consulted or interviewed in order to gather and arrange the information that is required. These sources include media materials, official publications, official websites of the financial services authority (OJK), national and regional banks, as well as the Indonesian Central Statistics Agency. Furthermore, the Indonesian Employers’ Confederation, the Ministry of Economy, the Ministry of Public Works and Public Housing, National Banks and Regional Banks, and the Consumer Protection Agency were consulted for information and data. One way to explain the process of granting home ownership credit is as follows:

Figures. 1: Process of Granting Credit for Home Ownership

Source: Indonesian debtors' creditors and the financing flows and credit process of home ownership (KPR)

The relationship between the debtor and the new debtor utilizing the over credit technique has a clear legal relationship based on the agreement that has been formed by the parties as specified in Articles 1320 and 1338 of the Civil Code, as can be seen from the flow of granting home ownership credit above. The focus of comparative legal study is on a number of crucial treaty law principles:

1. Economic and administrative measures targeted at resolving obstacles in providing housing for those without a home and economically disadvantaged groups.
2. The interaction between debtors and creditors on the legal certainty of house ownership credit (KPR).

3. The effect on home ownership credit (KPR) debtors who are burdened by interest rate policies and are unable to fulfill their commitments to pay home ownership credit (KPR).

Formal legal theory is used to evaluate the efficacy of the regulatory structure governing the investigated legal acts. The degree of legislative development in the areas of regulating financing programs and allocating home ownership credit (KPR) based on balance values and legal certainty is one aspect of the qualitative state of legislative regulations that the authors assess. Furthermore, the regulations examined pertain to the government's endeavors to safeguard home ownership credit (KPR) debtors for a contract that solely safeguards creditors, taking into account elements like the agreement's form and method of implementation, its temporal and spatial dimensions, and its relationship with other legal acts. Potential strategies to address the financial and social issues in the home ownership credit (KPR) distribution and financing system are taken into consideration when analyzing the substantive aspects of legal provisions pertaining to regulations for the distribution and financing of KPR. Additionally, Law No. 1/2011 aligns the distribution of KPR to the public or KPR debtors.

4 RESULTS AND DISCUSSIONS

In contemporary times, the demand for housing among Indonesians is rising in tandem with their rising per capita income; since 2014, the GDP or PNB has had an impact on this rise in national income (Fuji Rahayu, 2020). One of the main causes of the bad credit epidemic in the banking industry is debtor default or payment delays (Moertiono, 2021). The success and smoothness of credit payments for subsidized mortgage housing are not immediately correlated with the high demand for such housing. Due to this circumstance, issues come up or the Medan bank program for the realization of subsidized KPR homes is not operating efficiently. Of course, this puts pressure on people to find quick fixes for their bad credit, and taking out too many subsidized KPR house loans is one of those quick fixes. It is believed that if the parties do not act in accordance with legally valid civil regulations or other legal provisions, new legal issues may arise that will affect both home owners/debtors and new home buyers/new debtors.
who would receive the property, pertaining to credit operations (Herma Daryanti, Suryadi, 2022).

In order to give debtors the same standing with regard to issues that arise in an agreed upon contract agreement, the Bank must distribute and grant home ownership credit (KPR) in compliance with the rules and principles established. Drawing from the Banking Law No. 10/1998 Article 29 paragraph 2: "Banks are required to carry out business activities in accordance with the precautionary principle and to maintain the bank's soundness level in accordance with the provisions of capital adequacy, asset quality, management quality, liquidity, profitability, solvency, and other aspects related to bank business." Based on the contents of this article, banks should adhere to the principle of prudence in all aspects of their banking operations, particularly when extending credit. Any justification not to do so is obviously extremely unlikely. The necessity to apply the prudential principle in lending context is further explained in article 29 paragraph 3 of the Banking Law No. 10/1998, which states that "banks are obliged to take the following steps in providing credit or financing based on sharia principles and carrying out other business activities, which does not harm the bank and the interests of customers who entrust their funds to the bank." Article 29 paragraph 4 of the Banking Law No. 10/1998, on the other hand, says that banks have a duty to advise consumers of potential loss risks associated with transactions they complete through the bank (Hashif, 2021). The existence of a type of agreement that is only made by one party is meant to create practicality and save time in reaching agreement between the parties in the agreement, with respect to the legal connection between debtors and creditors. It is a standard agreement (standard contract) since standard forms have been offered in practice (Lahilote, 2016). Information regarding debtor issues with housing providers and finance distributors for house ownership credit (creditors) can be obtained through the Indonesian Consumers Foundation (YLKI).
Table 2: YLKI’s Housing Sector Complaints

<table>
<thead>
<tr>
<th>Mortgage Consumer Report</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2020</td>
</tr>
<tr>
<td>Bank</td>
<td>33.50%</td>
</tr>
<tr>
<td>Developer</td>
<td>5.70%</td>
</tr>
</tbody>
</table>

Source: Foundation Data for the Year 2020–2022 of the Consumer Institute of Indonesia (YLKI) Concerning Consumer Issues Against Housing Creditors.

The aforementioned data explains that the most common housing-related issue that YLKI accepts has to do with the certificate that the developer failed to provide to the customer and the customer's failure to pay the bank due to changes in the bank's interest rate and the amount of money that developers set in order to expedite construction. The Housing and Settlements Act No. 1/2011 stipulates in article 106 (c) that the landowner may transfer or discharge their right to land in order to provide property for the development of houses, housing, and settlements. The data indicates that certain debtor rights have been overlooked.

In situations where some credit arrangements have an uneven stance, legal protection for debtors as customers in banking becomes crucial. Because banks like to be in a strong negotiating position, they often draft typical contracts with hefty immunity from accusations clauses for efficiency-related reasons. The use of standard contracts is forbidden by Government Regulation Number 8 of 1999 addressing consumer protection. Likewise, POJK No. 1/POJK.07/2013 concerning Consumer Protection in the Field of Financial Services was released by the Financial Services Authority (FSA)/Financial Services Authority (OJK), which oversees financial institutions (Jahri, 2017). The idea behind banks' need to be transparent is that debtor clients are capable of determining if a credit transaction is actually in their best interests, and transparency requirements provide them the freedom to select terms that work in their favor (Sugarda, 2008).

An individual is free to accept or reject an agreement reached with another person depending on his or her subjective or objective criteria. Due to the parties' unequal bargaining positions, general contract freedom might result in unfairness. Limited development of contract freedom is brought about by laws, morality, and public order. Contractual freedom must have constraints and must no longer be based only on the parties' free choice. Contractual restrictions are linked to public order, propriety, decency, and general standards. Limitations on contract freedom are put in place to ensure that each party's rights and obligations are balanced and fair, and that their desires are met (Devi et al., 2023). Accordingly, the transfer of home ownership credit (KPR) from the
previous debtor to the new debtor can be considered lawful under the theory of limited freedom of contract or legally demanding Article 1338 Civil Code, provided that it is based on the good faith of the parties and does not result in any loss as a result of the agreement, whether with or without the creditor's permission. In order to enable more flexible contractual structures for creditor-debtor interactions in the distribution and financing of home ownership credit (KPR), a policy is required to determine the validity of a contract. This policy approach, instead of depending on standard contracts, gives more weight to agreements that allow debtors to make their own decisions. Additional protection against default on the terms of the agreement between the debtor and creditor may be included in this policy.

4.1 THE PRINCIPLES OF GOOD FAITH AND THE BALANCE OF A CONTRACT ARE PREREQUISITES FOR AN AGREEMENT TO BE DEEMED VALID

When a real estate developer works with the Bank to construct a project, particularly when selling homes to customers via Home Ownership Credit (KPR) facilities, the developer and the Bank will continue to enter into a cooperation agreement that includes the terms of the agreement as stated in agreement clauses (Siregar et al., 2021). An agreement for collaboration has been reached between banks and developers in response to the intensifying rivalry in the housing industry purchase a refund guarantee. The developer and the buyer will sign a legally binding sale and purchase agreement, and once the certificate is ready for the sale and purchase, the buyer will be called back for the second signing the deed in order to resolve the issue of buying and selling homes where the certificate is still pending or not yet ready. purchasing, selling, and securing collateral with bank. Since the Bank does not now have preferential rights over collateral connected to the credit facilities that have been granted to customers or debtors, this is actually highly dangerous for the Bank as the funder. In order to mitigate this risk, the developer has promised in the Cooperation Agreement between the Bank and the Developer to purchase the collateral back in the event that the credit facility extended to the Debtor by the Bank does not settle downright or a bad credit event arises prior to the collateral’s certificate being issued (Wahyu Deny Handayani, 2022).

Three processes or procedures that can be utilized to transfer receivables are governed by the Civil Code:

a. Novation Debt Renewal (novasi)
is an agreement that replaces an existing agreement by removing the old one and creating a new one in its place. Three categories of novation are listed in Article 1413 of the Civil Code: 1) Objective novation, which can happen by altering the agreement's terms. 2) Passive subjective novation can happen in an unpromising way when the original debtor is replaced by a new debtor without the old debtor's assistance; and 3) Active subjective novation is always a three-sided agreement because the debtor needs to bind himself to a new creditor. Replacement of the contents of the obligation occurs when the debtor's obligation to fulfill a certain achievement is replaced with another performance. Debt renewal, also known as novation, is essentially a new agreement that replaces the previous one. As such, anything that was a part of the previous agreement, including pledges and special rights, does not transfer to the new agreement unless it is specifically agreed upon that the pledge and special rights that served as collateral for the previous agreement would remain in place and be transferred to the new agreement.

b. Subrogation

According to Article 1400 of the Civil Code, subrogation is defined as "the replacement of the debtor's rights by a third party, who pays the debtor, either by agreement or by law." The following are the subrogation elements: Three things can happen: a) A third party replaces the creditor's rights based on an outdated agreement; b) A third party pays the creditor; and c) It happens as a result of a law or agreement. Article 1401 of the Civil Code governs subrogation based on agreements, stating that this substitution can only take place with the consent of: 1) If the debtor, by receiving payment from a third party, determines that this person will replace his or her rights, claims, privileges and mortgages against the debtor; and 2) If the debtor borrows a certain amount of money to pay off the debt, and stipulates that the person who lent the money will replace the rights of the debtor, then in order for this subrogation to be valid, both the money borrowing agreement and the proof of review must be made with an authentic deed, and in The loan agreement letter must state that the money is being borrowed to pay off the debt. In the meantime, the repayment letter needs to clarify that the funds lent by the new debtor were used to make the payment. According to the preceding statement of Article 1401 of the Civil Code, there are only two limited options for
subrogation based on an agreement; there are no additional options (Justitia & Aidi, 2018).

c. Moving receivables around (cessie)

Regarding the KPR object However, in contrast, with implementationcession Customers become involved because debtors frequently oppose to decisions being made about them. Debtors frequently believe that the creditor's procedures namely, Article 613 of the Civil Code are not in compliance with the relevant laws. Legal certainty, specifically as stated in the Dutch Civil Code's Article 613, is subject to many interpretations in translation. Conflicts arise in practice, especially when it comes to the application of KPR, because debtors and creditors have divergent interpretations and points of view (Agung La Tenritata et al., 2022).

From the foregoing, it can be concluded that the concept of freedom of contract has been violated and that some limitations apply when executing contracts that are derived from standard contracts. As a result, there is an imbalance in the rights of creditors and debtors to contract freedom. The debtor still refers to the normal contract, which calls for transferring home ownership credit with the creditor's consent, even though creditors are free to make an immediate transfer without the debtor's consent (Vellinda, 2022). As stated in Article 1338, paragraph 3 of the Civil Code, good faith can serve as the foundation for a contract's balance, which should make arrangements for issues that may arise from it easier. This principle highlights the need for the parties to enter into an agreement based on propriety and good faith, which implies that in order to accomplish shared objectives, the parties' agreement must be founded on honesty. The agreement's implementation must also take into account social interactions and what is proper to do. This is an unchangeable concept that is a need in all agreements and cannot be removed even with the consent of the parties. It is impossible to divorce the formation of contract law itself from the development of good faith in Roman law. Roman law initially only recognized strict law decisions, or contracts resulting from legal actions (business) that formally and strictly refer to civil rights. A court must make a decision in compliance with the law in such a contract matter. The judge must follow the terms of the contract exactly as they are written. Develop good faith judgments next. Based on lawful actions, good faith judgments are referred to as good faith business. International law, which mandates that parties making and carrying out contracts do so in good faith, is where draft
commerce originated (Priyono, 2017). The following justifies a comparison of the laws controlling the financing and distribution of house ownership credit:

### Table 3: Comparison of Agreement Laws for Home Ownership Credit (KPR)

<table>
<thead>
<tr>
<th>THE CODE</th>
<th>CHAPTER</th>
<th>ABOVE IN THE ARTICLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 5/1960</td>
<td>Paragraph 1 of Article 25</td>
<td>By attaching mortgage rights to property rights, debts can be paid with these rights as collateral</td>
</tr>
<tr>
<td></td>
<td>Paragraph 1 of Article 26</td>
<td>Government regulations govern the monitoring of acts designed to transfer ownership rights, such as sales, exchanges, grants, wills, and customary gifts.</td>
</tr>
<tr>
<td>Law No. 1/2011</td>
<td>Paragraph 1 of Article 19</td>
<td>Housing needs are met by providing houses and housing, which is one of the fundamental human necessities for enhancing and equating the welfare of individuals.</td>
</tr>
<tr>
<td></td>
<td>Paragraph 2 of Article 19</td>
<td>The government, regional governments, and/or individual citizens administer houses and housing as specified in paragraph (1) in order to ensure that every citizen has the right to live in, enjoy, and/or have a decent house in a healthy, safe, harmonious, and regular manner.</td>
</tr>
<tr>
<td>Law No. 10/1998</td>
<td>Article 37: A salutation for selling, transferring, or giving administration of bank claims to a third party without the debtor customer's consent.</td>
<td></td>
</tr>
<tr>
<td>Law No. 6/2023</td>
<td>Paragraph 1 of Article 55</td>
<td>Owners of public houses with amenities provided by the federal, state, or local governments are only permitted to rent out their properties or transfer ownership to another person in the following situations: a. inheritance; b. occupation following a minimum of 5 (five) years.</td>
</tr>
<tr>
<td>The Civil Law Code</td>
<td>Article 1338</td>
<td>The parties’ agreement becomes enforceable against them.</td>
</tr>
<tr>
<td></td>
<td>Article 1320</td>
<td>1) Adult/competent; 2) not subject to supervision; 3) justifiable cause; and 4) agreed upon.</td>
</tr>
</tbody>
</table>


The balance in the standard contract, which is created as the basis for the parties, namely the creditor and debtor, declares that the agreement in a home ownership credit (KPR) agreement has issues and is illegal based on the legal rules mentioned above and the analysis that has been done. Compulsion is created for one of the parties when the freedom of the parties to determine an agreement on the debtor's protection and capacities is not formulated. In order to prevent the occurrence of transfers of home ownership credit without the consent of the creditor, a policy that offers a more equitable and balanced position to a contract should be developed (Sarah D.L. Roeroe, Michael Brama, Soeikromo, 2019). Ensuring legal certainty for creditors about the rights that developers as home ownership credit (KPR) developers guarantee is a top objective in order to reduce
damages for creditors against negligent developers through the creation of more stringent restrictions.

5 CONCLUSION

In order to increase flexibility and empower banks, creditors, and home ownership credit debtors (mortgage holders), this study offers evidence of the overall effectiveness of banking policies in the field of home ownership credit (KPR) distribution and banking financing systems for home ownership credit programs for those who do not own a home. Whether the strategy is implemented with or without the consent of the creditor, it is necessary to provide legal protection for debtors who own their homes. In addition, the ease with which one can apply for house ownership credit facilities increases purchasing power in the real estate market and reduces the likelihood that home ownership credit debtors would default, which in turn affects creditor losses. The contractual agreement between creditors and borrowers, which is decided upon based on mutual agreement between creditors and debtors, is one of the positive developments that have been adopted. Furthermore, home ownership credit (KPR) contracts are streamlined to govern the legal interactions between debtors and creditors, as well as between debtors and new debtors. Labor is also tailored to specific situations, particularly for debtors operating small or medium-sized businesses. The goal of banking regulations on house ownership credit (KPR) is also to shield debtors and creditors from potential losses resulting from noncompliance with agreements. Creditors have a number of options available to them, including deferring payments to debtors who are struggling financially as a result of a decline in business income, granting debtors permission to transfer rights without creditor consent and including clauses if the creditor is unable to satisfy the debtor’s requests regarding the sale price, and streamlining terms and conditions for recipients of home ownership credit (KPR), including the addition of credit term contracts. Similarly, those who owe money on their home ownership credit (KPR) are afforded multiple choices, one of which is to choose the format of their KPR contract. Specifically, the capacity of house ownership credit (KPR) debtors and transfers made without the consent of the creditor are recognized as legitimate legal acts on the grounds that they do not result in losses for any of the parties involved. Home ownership credit (KPR) financing is made easier with the help of policies that effectively control the forms of legal action that can be taken by debtors and creditors. This keeps the financing distribution and receipt of
KPR financing flexible, exactly as Law Number 1 of 2011 intended, and helps the greater middle-class and lower-class community meet their basic needs for livable housing.
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