

ANALYSIS OF BREACH OF CONTRACT IN SHOPHOUSE LEASE AGREEMENTS IN THE COMMERCIAL DISTRICT OF SAMARINDA CITY

Deviana Putri^{1*}, Fatimah Asyari², Farahwati³, Benhard Kurniawan Pasaribu⁴

^{1,2,3,4}Faculty of Law, 17 Agustus 1945 University, Samarinda, Indonesia
devitaputri1304@gmail.com^{1*}, farimah@gmail.com², farahwati@gmail.com³, benhard@gmail.com⁴,

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Abstract

This study aims to analyze the forms of default that occur in shop rental agreements in the commercial area of Samarinda City and examine the mechanisms for resolving them. The background of this study is based on the rapid development of the commercial area in Samarinda, which has made shop rental practices an important part of supporting economic activity. However, this practice is also prone to disputes due to the failure of one party to fulfill their obligations. This study uses an empirical approach, in which data was collected through interviews, questionnaires distributed to 25 respondents (shop owners and tenants), and case documentation at the Samarinda District Court. The results show that the most common form of default is late payment of rent (62% of shop owners), followed by misuse of the shop's function (18%) and unilateral termination of the contract (12%). In terms of dispute resolution, 70% of cases were resolved through non-litigation approaches such as deliberation and mediation, while 30% were resolved through litigation in court. This study also found that most lease agreements were made without the involvement of a notary or legal advisor, so the clauses in the agreement tended to be simple and legally weak. Based on these findings, this study concludes that default in shop rental agreements in Samarinda City is a real and recurring problem, but it can be minimized with stronger agreements, the involvement of notaries, and increased legal awareness among the parties. This study is expected to contribute to the development of civil law, particularly in the practice of rental agreements in commercial areas.

Keywords: breach of contract, lease agreement

INTRODUCTION

Agreements are very important legal instruments in society, especially in the field of civil law. As a form of agreement between two or more parties, agreements serve to bind the parties in a legal relationship that gives rise to rights and obligations. In the context of Indonesian civil law, agreements are comprehensively regulated in the Civil Code (KUH Perdata), starting from Article 1313, which provides a definition of an agreement, to provisions governing the implementation, breach, and termination of agreements. One of the most commonly used forms of agreement in everyday life is the lease agreement (Muslim & Busro, 2022).

Leasing, according to Article 1548 of the Civil Code, is an agreement whereby one party binds itself to provide the enjoyment of an item to another party for a certain period of time and in exchange for a price agreed upon by that party. Through a lease agreement, the owner of the property (in this case, the owner of the shop house) grants the tenant the right to use and enjoy the property in exchange for an agreed amount of rent. This mechanism is highly relevant in modern economic activities, especially in urban areas with high mobility and commercial activity (Avelyn & Bianca, 2024).

In the city of Samarinda, as one of the centers of trade and services in East Kalimantan, the practice of shop rental is a very common phenomenon. Shops are seen as vital assets for business actors because of their strategic location, multifunctionality as a place of business and residence, and ease of access for consumers. Therefore, it is not surprising that many business actors prefer to rent shops rather than buy land or new buildings that require large capital. However, the practice of renting and leasing Shophouses in Samarinda City are also subject to various legal issues related to the implementation of agreements (Y et al., 2020).

The commercial area of Samarinda City has grown rapidly in recent years in line with increased economic activity among the community. New commercial centers have sprung up at various strategic points, both along main roads and in residential areas that have developed into business centers. Shophouses have become one of the main choices for the community and business actors because of their dual function, namely as a place of residence and business space. This has made the practice of renting shophouses a very common phenomenon with high economic value.

The practice of renting shophouses in Samarinda is not without the potential for legal disputes. One of the most common problems is default, which is the failure of one party to fulfill their obligations in accordance with the agreed agreement. Default can take the form of late payment of rent, non-payment of rent, use of shop houses that is not in accordance with their intended purpose, and even unilateral actions to terminate the agreement before its time. This phenomenon not only causes financial losses but also creates legal uncertainty for the parties involved.

Another factor that exacerbates the situation is the weakness of the agreement clauses. Most rental agreements are only written in the form of simple documents without involving a notary or legal advisor. This condition means that the agreement often does not detail the legal consequences in the event of a breach of contract. As a result, when disputes arise, landlords and tenants often disagree on the interpretation of the agreement. It is also not uncommon for disputes to reach a dead end, requiring resolution through the courts.

This phenomenon highlights the importance of academic studies on default in shop rental agreements, particularly in the commercial area of Samarinda City. By examining the forms of default that occur, the settlement mechanisms used, and the effectiveness of civil law in providing protection for the parties, this study is expected to make a real contribution to the development of legal science and property business practices. In addition, the results of this research can be used as input for local governments, notaries, and business actors to develop a shop rental system that is more orderly, fair, and based on legal certainty.

One of the issues that often arises is default or breach of contract. Default in a lease agreement can occur for various reasons, such as the tenant not paying rent on time, late payment, misuse of the shop for activities outside the agreed purpose, or the tenant's refusal to vacate the shop after the agreement period ends. On the other hand, breach of contract can also be committed by the owner, for example, by unilaterally terminating the agreement or increasing the rent in the middle of the agreement period without the tenant's consent. All forms of breach of contract have the potential to cause material and immaterial losses to the other party (Wirakusuma et al., 2025).

The issue of default in shop rental agreements in Samarinda City is an interesting topic for research because this phenomenon is becoming increasingly common as the need for business space grows and the economic value of commercial areas rises. Disputes arising from default are often resolved through litigation in the Samarinda District Court. However, it is not uncommon for the parties to attempt to resolve disputes through non-litigation means such as deliberation, mediation, or involving a notary as a neutral party. This choice of resolution reflects the legal dynamics in society,

where the normative aspects of legislation meet the empirical aspects of dispute resolution practices in the field (Nazmi, 2024).

From a civil law perspective, the existence of default provides a legal basis for the aggrieved party to claim compensation, cancellation of the agreement, or fulfillment of the agreement as stipulated in Article 1243 of the Civil Code. However, in practice, the application of this provision often faces obstacles, either due to cost, time, or socio-economic relations between shop owners and tenants. Therefore, it is important to conduct a legal study that is not only normative but also empirical to see how this issue of default actually occurs and is resolved in practice in the city of Samarinda (Cintyara, 2023).

The research question in this study stems from the fact that the practice of renting shop houses in the commercial area of Samarinda often causes disputes due to default. The problems that arise are not only related to late rent payments, but also the use of shop houses that is not in accordance with the agreement and unilateral actions by one of the parties to the agreement. From these conditions, the main questions to be answered through this study are what forms of breach of contract occur in shop house rental agreements in Samarinda City, as well as how the dispute resolution mechanism for such breach of contract is based on Indonesian civil law provisions, both through litigation in court and non-litigation settlement through mediation and deliberation (Syarif et al., 2023).

In line with the research question, this study aims to identify and analyze the forms of default that often arise in shop rental agreements in Samarinda City and to examine the settlement mechanisms pursued by the parties. Thus, this study is expected to provide a deeper understanding of the practice of default in lease agreements and assess the extent to which Indonesian civil law is effective in providing legal protection for the parties involved in such agreements (Aulia & Busro, 2025).

The benefits of this study are divided into two aspects, namely theoretical and practical benefits. Theoretically, this study is expected to contribute to the development of legal science, particularly in the fields of civil law and contract law. The study of default in shop rental agreements is expected to enrich academic literature and serve as a reference for further research. Practically, this study is expected to benefit shop owners, tenants, legal practitioners, and law enforcement officials in Samarinda City in understanding and resolving breach of contract issues more effectively and fairly (Kurniawan et al., 2021).

In addition, this research also has socio-economic urgency. Commercial shop lease agreement disputes that are not resolved properly can have a negative impact on the investment climate and regional economic stability. Commercial shop owners may suffer financial losses due to non-payment of rent, while tenants may lose their place of business, which is their source of income. Therefore, the existence of clear legal regulations and effective settlement mechanisms is a prerequisite for creating legal certainty and justice for all parties.

RESEARCH METHOD

Legal research is essentially a scientific activity that aims to discover, develop, and prove the truth of legal knowledge in order to answer formulated problems. This research focuses on the analysis of default in shop rental agreements in the commercial area of Samarinda City, so that the methods used are not only normative but also combine an empirical approach to obtain a more comprehensive picture of practices in the field. The research used is normative-empirical legal research. Normative legal research is intended to examine the applicable legal rules, legal doctrines, and civil law principles governing lease agreements and breach of contract. This normative study will utilize legislation, particularly the Civil Code (KUH Perdata), which regulates lease agreements in Articles 1548 to 1600, as well as provisions regarding default in Article 1243 and related articles.

Meanwhile, empirical research was conducted by examining how these legal regulations are applied in practice, particularly in the commercial district of Samarinda. An empirical approach is necessary given that many disputes over shop house leases cannot be understood solely through the text of the law, but are also influenced by social, economic, and cultural factors within the community. Thus, a combination of normative and empirical approaches is expected to provide a comprehensive picture of the phenomenon of default in shop house lease agreements.

RESULTS AND DISCUSSION

Forms of Default in Shop Rental Agreements in the Commercial Area of Samarinda City

Based on field research conducted in the commercial area of Samarinda City, particularly in Segiri Market, S. Parman Street, and Pahlawan Street, it was found that defaulting on shop house lease agreements is a fairly common problem. Data was collected through interviews with 15 shop

tenants and 10 shop owners, which was then confirmed with lease agreements obtained from 8 cases. The data collection results showed that there were several dominant forms of default, both on the part of the tenants and the shop owners.

The most common form of default committed by tenants was late payment of rent. Of the 15 tenants interviewed, 9 tenants (60%) admitted to having been late in paying rent at least once in the past year. The reasons for the delay were generally related to a decline in business turnover due to market fluctuations, especially after the COVID-19 pandemic. In addition, 4 tenants (26.6%) admitted that they had been in arrears for more than three months, which led to direct conflict with the shop owners. These findings indicate that the tenants' economic factors are the main cause of default.

Apart from late payments, another significant form of default is the use of shop houses for purposes other than those specified in the agreement. A total of 5 tenants (33.3%) were found to have converted the shop houses, for example, into family residences or warehouses, even though the written agreement stipulated that the shop houses were to be used only for commercial activities. In two cases, tenants even sublet the shop houses to third parties without the owners' permission, causing serious disputes.

From the shop owner's perspective, breach of contract is also often found in the form of neglecting building maintenance obligations. Of the 10 owners interviewed, 3 of them (30%) were reported by tenants for being reluctant to repair serious building damage, such as roof leaks or electrical installation problems. This situation not only violates the terms of the agreement but also causes economic losses for tenants because their business activities are disrupted. In addition, there are cases where shop owners unilaterally terminate the agreement. Of the 8 agreement documents analyzed, 2 (25%) showed that the owners asked the tenants to vacate the shop before the lease period ended, on the grounds that the building would be sold or converted. This action clearly violates the principle of *pacta sunt servanda* as stipulated in Article 1338 of the Civil Code, which emphasizes that agreements are binding on the parties.

Empirical Data on Shop House Lease Defaults in Samarinda

To understand the dynamics of default, researchers conducted interviews with 10 shop owners and 12 shop tenants in the Samarinda trade area. In addition, they searched civil case data at the Samarinda District Court related to lease agreement disputes.

Table 1. Data on Shop Rental Disputes in the Samarinda District Court (2021 - 2024)

Year	Number of Cases of Breach of Lease Agreements for Shop Houses	final decision	damages award	decision to vacate the shop house
2021	18	12	5	7
2022	22	18	6	10
2023	25	20	8	9
2024*	15 (hingga Juli)	9	4	3

*Source: Civil case data from the Samarinda District Court (2024).

The table above shows that disputes over shop house lease defaults are on the rise, especially in 2022-2023. The majority of disputes end with a decision to vacate the shop house, indicating that the main issues are often related to late payments and tenants' refusal to vacate the shop house after the agreement expires. In addition, interviews with several shop house managers in the Samarinda trade area show that late rent payments are generally influenced by the economic conditions of tenants, especially small and medium-sized businesses. Some tenants admit to having difficulty meeting their rent obligations due to uncertain income fluctuations, especially after the COVID-19 pandemic. This situation has led some tenants to request leniency or deferral of payments, but this often results in disputes because there are no clauses in the agreement that regulate the mechanism for deferring payments.

On the other hand, from the perspective of shop owners, default is considered a serious violation that harms their interests, both financially and legally. Some owners have even suffered repeated losses due to irresponsible tenants, forcing them to bear additional costs for repairs to shop houses left in uninhabitable conditions. This phenomenon further emphasizes that breach of contract in shop house lease agreements is not merely an administrative issue but also impacts the sustainability of businesses and the stability of legal relationships between parties in Samarinda.

The Impact of Default on the Parties

Breach of contract in shop rental agreements not only causes tension in contractual relationships, but also results in real losses for both parties. Based on interviews with 15 tenants and 10 shop owners, as well as analysis of existing agreement documents, it was found that the impact of breach of contract can be categorized into three main dimensions, namely economic, social, and legal impacts.

From an economic perspective, tenants are the most affected when landlords default by neglecting maintenance or unilaterally terminating the contract. Of the 15 tenants interviewed, 7 (46.6%) admitted to experiencing a 10-30% loss in turnover due to the damaged condition of the shop house and the lack of immediate repairs, such as leaking roofs or faulty electrical installations that disrupted business activities. Conversely, landlords also suffer losses when tenants default on payments. Of the 10 landlords, 6 (60%) stated that they lost potential rental income for months due to delays or even the inability of tenants to pay their obligations.

The social impact is also quite significant. Several tenants interviewed mentioned that disputes with owners caused tension among traders in the commercial area. From the interviews, 4 tenants (26.6%) admitted to choosing to relocate their businesses because they felt uncomfortable with the pressure from owners due to rent arrears. On the other hand, owners who experienced default from tenants also admitted to having difficulty finding new tenants because the area's reputation was considered unstable.

From a legal perspective, default creates the potential for disputes that could lead to litigation. Of the 8 agreement documents analyzed, 3 cases (37.5%) ended with a lawsuit filed in the Samarinda District Court. However, the majority of other cases were resolved through deliberation or mediation, although the results often did not provide strong legal certainty. This confirms that the legal impact of default is not only related to compensation sanctions or contract termination, but also causes additional burdens in the form of dispute resolution costs and loss of productive time for the parties.

Mechanism for Resolving Breach of Contract Disputes

Disputes arising from breach of contract in shop house lease agreements in the commercial area of Samarinda City are generally resolved through two channels, namely non-litigation (deliberation and mediation) and litigation (court). Based on interviews with 15 tenants and 10 shop owners, as well as an analysis of 8 agreement documents, it was found that the majority of parties preferred non-litigation mechanisms because they were considered faster, cheaper, and maintained good relations between the parties.

Based on field data, of the 15 cases of default identified, 9 cases (60%) were resolved through direct deliberation between the tenant and the owner. In practice, this mechanism usually takes the form of granting payment extensions to tenants or maintenance compensation from owners. However, the effectiveness of deliberation is highly dependent on the good faith of the parties. In 3 cases (20%), deliberation failed because one of the parties insisted on their demands, resulting in the conflict not being resolved properly. In addition to deliberation, mediation is also used as an alternative dispute resolution method. Of the 15 cases, 3 (20%) were resolved through mediation facilitated by village officials or local community leaders. This mechanism is generally more successful when disputes concern the use of shop houses that are not in accordance with the agreement or demands for building repairs. However, the main obstacle to mediation is the lack of executive power, so that the agreements reached are often not consistently implemented by one of the parties.

Meanwhile, litigation is the last resort when non-litigation settlements fail. Of the 8 agreement documents analyzed, 3 cases (37.5%) ended in lawsuits filed with the Samarinda District Court. Generally, these lawsuits were filed by shop owners against tenants who were more than 6 months behind in their payments. Although litigation provides legal certainty, the process is time-consuming (averaging 6-12 months) and costly, often placing a heavy burden on both tenants and owners.

Prevention of Default

This study also identifies various measures that can prevent default in shop house lease agreements in the commercial area of Samarinda City. Prevention is important because disputes not only cause economic losses to the parties involved, but also impact the business climate and local trade stability.

Based on interviews with 15 tenants and 10 shop owners, the majority of respondents agreed that a clear and detailed written contract is the main step to prevent default. Of the 25 respondents, 18 (72%) stated that a detailed contract can minimize misunderstandings in the future, even though many contracts are still made simple without adequate legal protection.

In addition to contract clarity, another important effort is to improve the legal literacy of the parties. The interview results showed that most tenants admitted that they did not fully understand the contents of the agreement when they signed it, indicating the need for socialization from the local government or merchant associations regarding the importance of understanding legal clauses.

Shop owners also have an important role in preventing default by maintaining open communication, especially regarding late payments. Of the 25 respondents, 7 tenants (46.6%) said that good communication can prevent major conflicts. In addition, strengthening regulations regarding clearer lease contract standards and a standard lease agreement format approved by local governments is also considered important by 4 out of 10 shop owners (40%).

Furthermore, increasing transparency in the lease negotiation process and providing space for internal mediation before issues develop into legal disputes are important efforts. Local governments can play a role by providing an online lease contract registration system and providing guidance on fair and balanced standard lease agreement clauses to reduce the potential for disputes.

CONCLUSION

This study reveals that breaches of contract in shop house lease agreements in the commercial district of Samarinda City often occur, with the most dominant forms being late rent payments, misuse of shop house functions, and unilateral termination of agreements. This has a negative impact on both the economy and social relations between shop owners and tenants. Although most agreements are in writing, their implementation is still prone to disputes due to weak compliance with existing clauses.

Breach of contract disputes are generally resolved through non-litigation channels, such as deliberation and mediation, which are faster and more efficient, although in certain cases litigation is still used. Therefore, greater efforts are needed to improve the quality of lease agreements, including the classification of dispute resolution clauses and increasing the legal understanding of the parties. Local governments can also play an important role by providing clearer regulations and educating the public about the importance of understanding the legal implications of lease agreements. This study suggests the need for improvements in the drafting of lease contracts and the provision of better legal understanding to reduce the potential for default and increase legal certainty in the Samarinda trade area.

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