
Rejection of Bankruptcy/PKPU Petitions Against Apartment Developers Following Sema No. 3 Of 2023: An Analysis of Legal Protection, Substantive Justice, and Legal Certainty for Unsecured Creditors

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Abstract

Keywords

simple proof; bankruptcy; pkpu; concurrent creditors; apartments

This study aims to analyse the application of the simple evidentiary principle in bankruptcy cases and Suspension of Debt Payment Obligations (PKPU) against apartment developers after the issuance of the Supreme Court Circular Letter Number 3 of 2023, as well as examine legal protection for concurrent creditors due to the rejection of bankruptcy applications or PKPU. The research method used is normative legal research with a legislative, conceptual, and case approach through the analysis of Decision Number 10/Pdt.Sus-PKPU/2022/PN Niaga Smg, Decision Number 320/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst, and Supreme Court Decision Number 1349 K/Pdt.Sus-Pailit/2023. The novelty of this research lies in the analysis of the shift in the meaning of the simple evidentiary principle for apartment developers reviewed from the perspective of substantive justice and legal certainty and its implications for the protection of concurrent creditors. The results of the study show that before the enactment of Supreme Court Circular Letter Number 3 of 2023, the application of the simple proof principle focused on the fulfilment of the elements of the existence of more than one creditor and debts that have matured and can be collected as stipulated in Law Number 37 of 2004. However, after the enactment of Supreme Court Circular Letter Number 3 of 2023, the complexity of the legal relationship between developers and apartment buyers has become the main consideration, so that bankruptcy applications or PKPU tend to be considered as not meeting the simple evidentiary requirements.

INTRODUCTION

The user prompt is empty, so I cannot provide a summary. Please provide the user prompt so I can determine the appropriate language and create a summary (MacNeil et al., 2023). The need for a place to live is one of the basic needs that cannot be separated from human life. The existence of decent housing not only serves as a means of protection from various environmental conditions, but also a place for individuals and families to carry out social life, build family relationships, and improve the quality of life as a whole. Thus, the fulfilment of housing needs is closely related to the realisation of community welfare (Santoso & Budi, 2025).

In the Indonesian legal system, the right to decent residence is recognised and protected by the constitution. This is reflected in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which provides guarantees to every citizen to enjoy a prosperous life, including the right to live and obtain a good and healthy environment. Based on these provisions, the state has the responsibility to create conditions that support the fulfilment of people's housing needs through various housing development policies and programmes that

involve the role of the government and business actors in the property sector (Prayoga et al., 2023).

In recent years, the property industry in Indonesia has experienced quite rapid development, influenced by population growth, increasing urbanisation flows, economic development, and increasing public needs for housing and relatively stable investment instruments. In addition to meeting housing needs, the property sector also plays an important role in the national economy because of its relationship with the construction sector, banking institutions, and the building material industry (Santoso & Budi, 2025).

The increasing need for housing has encouraged the birth of various housing and apartment development projects carried out by business actors in the property sector. Property developers have a central role as a party that plans, develops, and markets property products to consumers. The value of property assets, which tends to increase over time, makes this sector attractive to investors and the general public, so that the level of competition between developers is increasingly competitive, especially in urban areas (Santoso & Budi, 2025).

In the practice of property transactions, the legal relationship between the developer and the consumer generally begins with the creation of a *Perjanjian Pembelian Jual Bersyarat* (PPJB, Binding Sale and Purchase Agreement) before the signing of the *Akta Jual Beli* (AJB, Deed of Sale and Purchase) in front of the authorised official (Pompana, 2025). PPJB functions as a legal instrument that regulates the agreement of the parties during the construction process or before the fulfilment of the requirements for the definitive implementation of the sale, thus giving rise to an engagement relationship that gives rise to rights and obligations for each party (Rahmat, 2022).

In this legal relationship, the developer has an obligation to realise the construction and hand over the residential unit to the buyer according to the specifications, building quality, and completion period that has been agreed. On the other hand, consumers are obliged to fulfil the payment of the purchase price based on the agreed mechanism, either directly or through banking financing facilities such as *Kredit Pemilikan Rumah* (KPR, Home Ownership Loans) (Widyaningsih & Endang, 2025).

The business activities of a property developer basically involve not only the relationship between the developer and the consumer, but also include various other parties such as contractors, suppliers, financing institutions, and banks. The complexity of these relationships can give rise to various legal problems, especially when the developer experiences financial difficulties so that he is unable to meet payment obligations to his creditors (Rachman et al., 2025).

The developer's inability to carry out its financial obligations often leads to default, which then causes disputes between debtors and creditors. Therefore, a settlement mechanism is needed that is able to provide legal protection whilst ensuring the balance of interests of the parties. Bankruptcy law exists as a legal tool designed to resolve debt-receivables problems in a structured, transparent manner, and under the supervision of the court.

Bankruptcy juridically can be interpreted as a form of general confiscation of all assets of the debtor declared bankrupt, where the management and settlement process is carried out by the curator under the supervision of the supervisory judge. Meanwhile, the Suspension of Debt Payment Obligations (*Penundaan Kewajiban Pembayaran Utang*, PKPU) is designed to

open up space for debtors and creditors to seek solutions to debt problems faced through a peace plan (Nugraha, 2025).

In the Indonesian bankruptcy legal system, the principle of simple proof is one of the main principles used by judges in examining bankruptcy applications, as stipulated in Article 8 paragraph (4) of Law No. 37 of 2004, which requires simple proof that the debtor has at least two creditors and has not paid one debt that is due and can be collected (Rahmah, 2023).

These problems often arise in cases involving property developers. The characteristics of the property business involving many parties with different legal statuses—such as segregated, preferential, and concurrent creditors—cause the application of the simple evidentiary principle to not always be straightforward. Among the three groups, concurrent creditors are in the most vulnerable position because they do not have special security rights and only obtain repayment of the debtor's remaining assets after the other creditors' rights have been fulfilled (Farma & Ismelina, 2025).

Prior to the issuance of *Surat Edaran Mahkamah Agung* (SEMA) No. 3 of 2023, bankruptcy cases involving apartment developers were generally still being examined based on the principle of simple proof as stipulated in Article 8 paragraph (4) of Law No. 37 of 2004. However, the Supreme Court then issued SEMA No. 3 of 2023, which provides guidelines that bankruptcy or PKPU applications against apartment and/or apartment developers generally do not meet simple evidentiary criteria because they involve complex legal relationships with many parties (Ibrahim et al., 2024). This guideline is then reflected in the Commercial Court Decision Number 1349 K/Pdt.Sus-Pailit/2023 (Adiwinarto & Sulistio, 2025).

The difference in approach before and after the issuance of SEMA No. 3 of 2023 shows a significant change in the application of the simple proof principle to apartment developers. On the one hand, the policy is intended to protect the interests of consumers and maintain the sustainability of development projects. However, on the other hand, it has the potential to limit the access of concurrent creditors to obtain settlements through the bankruptcy mechanism or PKPU.

Relevant previous research was conducted by Bryan Ricardo Lemuel Tambunan (2024), which examined the implications of the implementation of SEMA No. 3 of 2023 on the legal certainty of apartment buyer consumers in filing bankruptcy or PKPU applications against developers (Tambunan, 2024). Another study by Dwi Haryadi discusses legal protection for apartment buyers who have paid off their obligations but are still in a position as concurrent creditors because the status of land rights has not changed (Haryadi, 2025). Furthermore, Maya Iswandi examines the application of the simple evidentiary principle in bankruptcy and PKPU cases against apartment developers after the enactment of SEMA No. 3 of 2023 (Iswandi, 2025).

The novelty of this research lies in four main aspects. First, this study examines the shift in the meaning of the simple evidentiary principle not only from a normative perspective but also from the perspective of legal philosophy, using John Rawls' theory of justice (justice as fairness) and Gustav Radbruch's theory of legal certainty. Second, this research identifies three categories of legal protection for unsecured creditors after rejection of bankruptcy/PKPU: internal/contractual protection (PPJB), external protection through default/unlawful act lawsuits, and external protection through consumer protection law, each with its own limitations. Third, this study provides a critical analysis of three court decisions reflecting the

application of SEMA before and after issuance, enabling a comparative understanding of the shift in judges' legal considerations. Fourth, this research offers concrete recommendations regarding the parameters of simple proof that need to be affirmed to balance legal certainty and substantive justice.

Based on this description, this research is focused on two legal problems, namely: (1) How is the principle of simple proof applied in the rejection of bankruptcy applications or PKPU against apartment developers based on Law No. 37 of 2004?; and (2) What is the form of legal protection for concurrent creditors due to the rejection of bankruptcy applications or PKPU against apartment developers, reviewed based on the principles of substantive justice and legal certainty?

METHOD

This study uses a type of normative legal research with a normative approach that is used to examine law as norms or rules contained in laws and regulations, court decisions, doctrines, and relevant legal principles. The case approach is used so that this study is able to describe how these legal norms are applied in commercial justice practice. These approaches allow for a more comprehensive analysis between normative aspects and their factual application.

The data used in this study is secondary data consisting of three categories of legal materials. First, primary legal materials, including: Civil Code (Civil Code); Law of the Republic of Indonesia Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations; Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power; Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations; three court decisions that are the object of study, namely Commercial Court Decision Number 10/Pdt.Sus-PKPU/2022/PN Niaga Smg, Decision Number 320/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst, and Supreme Court Decision Number 1349 K/Pdt.Sus-Pailit/2023; and Supreme Court Circular Letter Number 3 of 2023.

Second, secondary legal materials, which include legal literature, scientific articles, and the views of academics that discuss legal protection theory, substantive justice theory, legal certainty theory, the concept of engagement, the concept of bankruptcy, the principle of simple proof in bankruptcy and PKPU cases, the concept of debt, default, and legal remedies. Third, tertiary legal materials, such as legal dictionaries and legal encyclopedias, are used to clarify the meaning of technical terms and legal concepts used in research.

Data collection is carried out through library research by searching, reading, and systematically reviewing various legal documents, laws and regulations, and court decisions. The main focus is directed at 3 (three) court decisions that are analyzed in depth to understand the practice of applying the simple evidentiary principle in bankruptcy cases.

The data that has been collected is analyzed qualitatively, by interpreting legal materials systematically and in a structured manner to obtain logical and argumentative conclusions. The reasoning method used is deductive, that is, drawing conclusions from general legal rules towards their application in concrete cases.

RESULTS AND DISCUSSION

Application of the Simple Evidentiary Principle in the Rejection of Bankruptcy Applications or PKPU against Apartment Developers

Proof is one of the fundamental aspects in civil procedure law because it is an instrument used by judges to assess the truth of the facts and evidence submitted by the parties in the trial. In the Indonesian civil law system, proof is guided by the principle of *actori incumbit probatio*, which means that every party who asserts a legal right or event is obliged to prove the evidence presented by him as affirmed in Article 1865 of the Civil Code (Septiani, 2026).

The concept of simple proof is basically born from the general principle of civil proof. However, there are fundamental differences in the scope of the examination. If the evidence in civil cases is generally carried out comprehensively on all aspects of the dispute, simple evidence is only focused on certain elements that are expressly determined by law, so that the judge is not required to examine the entire substance of the dispute in depth (Ferdinand & Sutrisno, 2025).

From a historical perspective, the application of simple proof has been known since the enactment of the *Faillissements-Verordening* (Staatsblad 1905 No. 217) which regulates the settlement of bankruptcy cases. The arrangement is based on the need for a fast and effective debt settlement mechanism to maintain transaction certainty and stability of economic activities (Hutagaol, 2026). Simple proof can be understood as a form of adjustment of civil procedure law to the dynamics and needs of business transactions that demand certainty and speed of dispute resolution, with the aim of: (1) realizing faster and more efficient resolution of debt disputes; (2) preventing the reduction in the value and condition of the debtor's assets due to prolonged legal proceedings; and (3) ensuring the protection of creditors' rights and interests more effectively through legal mechanisms that provide certainty (Pratiwi & Budi, n.d.).

Although the main regulation regarding simple proof is contained in Article 8 paragraph (4) of Law Number 37 of 2004, the concept can also be understood through a number of regulations and other legal instruments, including HIR and RBg regarding the civil proof system, the Criminal Code, Law Number 48 of 2009, Supreme Court Regulation Number 2 of 2015 and Number 4 of 2019 concerning Simple Lawsuits, and SEMA Number 2 of 2016 which was then updated through SEMA Number 3 of 2023.

The understanding of simple proof is also reflected in the Supreme Court Circular Letter (SEMA) Number 2 of 2016 which in principle maintains a normative approach. In the formulation of the special civil chamber, it is emphasized that a bankruptcy application or PKPU can be granted if it is simply proven that there are at least two creditors and there are debts that have matured and can be collected. On the other hand, if the existence or amount of debt is still an object of dispute that requires in-depth examination, then the case is considered not to meet the criteria of simple proof.

The Supreme Court Circular Letter (SEMA) is an administrative instrument issued by the Supreme Court as a means to provide direction, guidelines, and explanations to judicial bodies under its authority. Unlike the law, SEMA is not included in the hierarchy of laws and regulations that have binding power in general (Ansorullah & Ulandari, 2025). However, its existence has a significant role in judicial practice because it is often used as a reference by judges in examining and deciding cases (Fasil et al., 2023).

Table 1. Comparison of Simple Proof in Apartment Developers between SEMA No. 2/2016 and SEMA No. 3/2023

Aspects	SEMA No. 2/2016	SEMA No. 3/2023
View of the debt of apartment developers	Developer's debt can be the basis for a bankruptcy application or PKPU if it is due and can be collected	The existence of debt does not automatically meet the requirements of simple proof because the complexity of the legal relationship must be seen
Focus on proof	Prove the existence of debts and creditors as required by Law No. 37/2004	Proving the existence of debt while assessing the complexity of the legal relationship behind it
Complexity of apartment projects	It is not the main factor in determining whether or not the proof is simple	Being the main factor in determining whether or not simple proof is fulfilled
The position of the buyer as a creditor	The buyer is recognized as a concurrent creditor if he has a bill that can be assessed with money	A permanent buyer can be considered a concurrent creditor, but his application may be rejected because the dispute is considered complex
Opportunities for developers to go bankrupt or PKPU	Relatively more open as long as the debt element can be proven	Becoming more limited because the developer's case is considered not to meet simple proof
Judge's examination	Oriented to proving the debt element and the number of creditors	Oriented towards proving the elements of debt and the overall complexity of the legal relationship of the apartment project
A settlement mechanism that is considered accurate	Bankruptcy or PKPU can still be used if the formal conditions are met	Disputes tend to be directed at ordinary civil lawsuits
Impact on consumers	Have bankruptcy instruments as a means of collective collection against developers	The opportunity to use bankruptcy instruments becomes more limited
Legal paradigm	Focusing on the existence of debt	Focusing on the existence of debt and the complexity of the legal relationship of apartment developers

Source: Author Analysis, 2025

Based on this description, there has been a change in orientation in interpreting the principle of simple proof after the enactment of SEMA Number 3 of 2023. Before the provision is issued, the assessment of whether or not simple proof is fulfilled generally focuses on formal aspects, namely the existence of debts that have matured and can be collected, and the existence of at least two creditors. However, after the enactment of SEMA Number 3 of 2023, the judge's assessment no longer solely relies on the existence of the debt element, but also considers the character and complexity of the legal relationship on which the obligation arises.

Analysis of Court Decisions in the Application of the Simple Evidentiary Principle

Table 2. Comparison of the Application of the Simple Evidentiary Principle in Three Court Decisions

Aspects	Decision No. 10/Pdt.Sus-PKPU/2022/PN Niaga Smg	Decision No. 320/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst	Decision No. 1349 K/Pdt.Sus-Pailit/2023 (MA)
Debtor/Respondent	PT Surya Argon Jaya (Jogja Apartment)	PT Sekar Artha Sentosa (Nifarro Park Apartment)	PT Sekar Artha Sentosa (Cassation)
SEMA Validity Period	Before SEMA No. 3/2023	Before SEMA No. 3/2023	Post SEMA No. 3/2023
Basis of legal relations	PPJB between developers and buyers	PPJB between developers and buyers	PPJB between developers and buyers
Proofing approach	Formal – focuses on the debt and creditor elements	Formal – focuses on the debt and creditor elements	Substantive – considering the complexity of legal relationships
Results of the verdict	PKPU granted, then declared bankrupt	PKPU granted, then declared bankrupt	Bankruptcy verdict annulled, application rejected
Key considerations	The element of debt and creditors is proven to be simple through PPJB and proof of payment	Debtor recognition of obligations and clear legal documents	The dispute between PPJB and unit ownership status is considered complex, not meeting simple proof

Source: Analysis of Court Decisions, 2025

The application of the simple evidentiary principle in the PKPU case against apartment developers can be seen in Decision Number 10/Pdt.Sus-PKPU/2022/PN Niaga Smg. This case involves PT Surya Argon Jaya as the developer of the Jogja Apartment project as the PKPU respondent, while Sri Uni and Charlie Himawan acted as applicants because they felt aggrieved due to the developer's obligation to build and hand over the apartment units that had been agreed.

The legal relationship of the parties was born from the Binding Sale and Purchase Agreement (PPJB) which gives rise to reciprocal rights and obligations as stipulated in Article 1233 and Article 1234 of the Criminal Code. The buyers have fulfilled their obligations by making payments according to the agreement, while PT Surya Argon Jaya is obliged to complete the construction and hand over the apartment units to the buyer. Before applying for PKPU, the buyers had submitted several summonses to the developer to fulfill their obligations, but the summons did not receive a response so PT Surya Argon Jaya was considered to have committed default.

In the a quo case, the Panel of Judges considered that the requirements of PKPU had been met and could be proven simply. The element of having more than one creditor is evident from the existence of the applicants and other creditors who have bills against PT Surya Argon Jaya. Meanwhile, the elements of debt that have matured and can be collected are proven through

PPJB, proof of payment, summons, and non-fulfillment of the obligation to hand over the apartment unit by the debtor. All of these facts can be proven through written evidence without requiring complex examination. Based on these considerations, the Panel of Judges stated that the requirements for proof are simple as stipulated in Article 8 paragraph (4) jo. Article 222 of Law Number 37 of 2004 has been fulfilled so that the PKPU application was granted. However, after the peace plan did not obtain the approval of creditors, PT Surya Argon Jaya was finally declared bankrupt on February 17, 2023.

The application of the principle of simple proof can also be found in Decision Number 320/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst involving PT Sekar Artha Sentosa. The company is an apartment developer that is experiencing financial difficulties so that it is unable to fulfill all its obligations to creditors. This condition encourages debtors to apply for PKPU based on Article 222 paragraph (1) of Law Number 37 of 2004 as an effort to restructure debt and save businesses. The application of the simple evidentiary principle in this case is reflected in the judge's assessment which bases his consideration on the existence of a clear legal relationship between the debtor and the creditor, the debtor's acknowledgment of his payment obligations, and the existence of bills that can be proven through documents submitted in the trial. After peace efforts failed, PT Sekar Artha Sentosa was declared bankrupt by the Commercial Court.

However, the direction of interpretation of the simple evidentiary principle has developed in Decision Number 1349 K/Pdt.Sus-Parilit/2023. In this decision, the Supreme Court not only assesses the fulfillment of formal elements in the form of creditors and debts, but also examines the character of the legal relationship that is the source of the dispute. The Supreme Court held that disputes related to the implementation of PPJB, the ownership status of apartment units, the obligation to hand over units, and various rights and obligations of the parties contain complex legal aspects and require more in-depth examination. These legal considerations show a shift in meaning to the principle of simple proof, where the existence of debts that have matured and can be collected is no longer the only measure to determine whether or not a bankruptcy application or PKPU can be granted.

Legal Protection for Concurrent Creditors Reviewed from Substantive Justice and Legal Certainty

The rejection of bankruptcy applications and PKPU against apartment developers essentially has significant legal repercussions for concurrent creditors, especially apartment buyers who have fulfilled payment obligations but have not received the promised units or rights. In the construction of bankruptcy law, apartment buyers are generally classified as concurrent creditors because they do not have material guarantees like segregated creditors nor the right to precedence like preferred creditors (Gomes & Danial, 2021). Such rejection results in concurrent creditors losing access to the collective debt settlement mechanisms provided by the bankruptcy and PKPU regimes (Farma & Ismelina, 2025).

According to M. Isnaeni, internal legal protection is a form of protection that comes from legal relations that are consciously built and agreed upon by the parties through an agreement (Suwardi, 2026). In the context of apartment developer disputes, internal legal protection has basically been established since the parties bind themselves in PPJB or other forms of agreements. Through the agreement, the buyer obtains the right to receive the apartment unit according to the agreed terms, while the developer is obliged to carry out the construction and hand over the unit according to the agreed time, specifications, and conditions.

Even if the PKPU or bankruptcy application is rejected by the court, the legal relationship arising from the agreement remains valid and does not end. The refusal decision only closes access to the bankruptcy mechanism or PKPU, but does not remove the rights and obligations of the parties that have been established by the contractual relationship. However, the legal protection derived from the agreement has a number of limitations in its implementation, especially the absence of a mechanism for collective settlement and execution, as well as dependence on the ability and good faith of the debtor.

In contrast to internal legal protection, external legal protection comes from state intervention through laws and regulations, judicial institutions, and various legal instruments designed to guarantee and protect the rights of the parties in a legal relationship (Kurniasari, 2024). In the context of the rejection of the PKPU application or bankruptcy against the apartment developer, concurrent creditors still have the opportunity to claim their rights through available civil legal instruments, including: (1) filing a default lawsuit based on the provisions of the Indonesian Criminal Code if the developer does not carry out its obligations; and (2) if the developer's actions contain elements of unlawful acts, creditors can file a lawsuit based on Article 1365 of the Indonesian Criminal Code to obtain accountability and compensation.

According to Satjipto Rahardjo's thought, legal protection is basically a means used to maintain and protect the interests of society by giving authority to every legal subject to defend and fight for their rights (Waspada, 2024). In his view, legal protection is not enough to be realised through the existence of formal norms or regulations alone, but must also be able to present substantive justice and provide real benefits to the parties who need such protection.

Based on this perspective, the effectiveness of legal protection for concurrent creditors cannot be measured solely from the availability of various legal remedies after the PKPU or bankruptcy application is rejected. A more important assessment lies in the ability of the legal instrument to provide real restoration of rights, ensure access to justice, and enable creditors to obtain effective protection for the losses they have suffered. The condition of the creditor remains in a disadvantageous position because there is no certainty regarding the refund of the funds that have been paid or the handover of the apartment unit.

In the perspective of John Rawls's theory of justice, law should ensure a fair distribution of rights, benefits, and protection for all members of society, especially those who are in disadvantaged positions. Through the concept of *justice as fairness*, Rawls emphasised that it is not enough to realise justice through the formal application of rules alone, but must also consider the real consequences that are caused to those who are most in need of legal protection (Hanifah et al., 2025).

If this approach is applied to disputes between developers and apartment buyers, then the buyer can be seen as a party in a more vulnerable position both economically and legally. Judging from John Rawls' theory of justice, the rejection of bankruptcy applications or PKPU can raise questions of justice if it causes creditors to lose access to collective mechanisms that are basically established to protect their interests. In conditions where the application is rejected due to the complexity of legal relationships outside the debt aspect, the group that feels the most impact is generally the concurrent creditors.

Table 3. Forms of Legal Protection for Concurrent Creditors After Bankruptcy Rejection/PKPU

Types of Protection	Legal Basis	Form of Legal Remedies	Limitations
Internal Protection (Contractual)	PPJB, Articles 1233–1234 of the Criminal Code	Performance fulfillment demands based on agreements	Relying on the debtor's good faith and ability; Non-collective
External Protection – Default Lawsuit	Articles 1243–1244 of the Criminal Code	Indemnity lawsuit of performance agreement	Long process and high cost; Individual
External Protection – PMH	Article 1365 of the Criminal Code	Lawsuit for damages for losses due to unlawful acts	Proving the elements of PMH is more complex
External Protection – Consumer Protection	Law No. 8 of 1999 (UUPK)	Complaints to BPSK, lawsuits through consumer courts	Dispute value and limited jurisdiction

Source: Author Analysis, 2025

Meanwhile, Satjipto Rahardjo is of the view that the law is basically present to serve human interests. In a progressive legal framework, the quality of a decision is measured not only by its conformity with normative and procedural provisions, but also by its ability to provide solutions to concrete problems and bring justice to the affected parties (Waspada, 2024). When examined in the context of disputes between developers and apartment buyers, the existence of various administrative problems that accompany an apartment construction project should not necessarily be a reason to close the possibility of using the bankruptcy mechanism or PKPU, as long as there are obligations that can be assessed with money, are due, and can be collected.

On the other hand, Gustav Radbruch placed legal certainty as one of the basic values that must be realized in every application of law. Legal certainty requires clear standards so that the public can understand the legal consequences of every action taken (Zulfa, 2026). In the bankruptcy and PKPU regimes, these standards have been expressly formulated in Law Number 37 of 2004 through the requirement that there is more than one creditor and the existence of debts that are due and collectible.

In the context of apartment developer cases, the existence of SEMA No. 3/2023 is often used as a reference by judges to assess that cases involving the complexity of the apartment developer's legal relationship are not appropriately resolved through the bankruptcy mechanism or PKPU. However, theoretically, it should be understood that SEMA is not a law and regulation as referred to in Article 7 of Law Number 12 of 2011. SEMA is essentially an internal administrative instrument that functions to provide guidelines for the judicial environment, so its use should not shift or reduce the applicability of norms that have been explicitly stipulated in Law Number 37 of 2004.

In Gustav Radbruch's theory, law must be able to provide certainty through the application of consistent and predictable norms. If the conditions that have been expressly formulated in the law develop through different interpretations in practice, then the function of

law as a guarantor has the potential to be weakened. The parties no longer have clear guidelines for estimating how a case will be judged by the courts. Therefore, a balance is needed between the need to assess the complexity of a case and the obligation to maintain legal certainty for the parties. Legal interpretation should remain oriented to the main purpose of the formation of bankruptcy law, which is to provide fair protection for creditors while ensuring certainty regarding legal means that can be used to obtain the fulfillment of their rights.

CONCLUSION

Based on the results of the discussion, it can be concluded that the application of the simple evidentiary principle in bankruptcy cases or PKPU against apartment developers has changed significantly after the issuance of SEMA Number 3 of 2023. Before SEMA takes effect, simple proof focuses on the fulfilment of the elements of the existence of more than one creditor and debts that have matured and can be collected as stipulated in Law Number 37 of 2004. Consequently, applications against the apartment developer can still be granted if these elements are proven, as reflected in Decision Number 10/Pdt.Sus-PKPU/2022/PN Niaga Smg and Decision Number 320/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst. However, after SEMA Number 3 of 2023, judges also considered the complexity of the legal relationship between the developer and the buyer. As a result, disputes stemming from PPJB, unit handover, and the implementation of apartment projects are generally considered not to meet the simple evidentiary criteria, so they are more appropriately resolved through ordinary civil lawsuits, as reflected in Decision Number 1349 K/Pdt.Sus-Pailit/2023. The rejection of a bankruptcy application or PKPU against an apartment developer does not eliminate the rights of concurrent creditors, but shifts their legal protection from a collective bankruptcy mechanism to civil remedies such as lawsuits for default and unlawful acts. Although normatively creditors still receive protection through available agreements and legal instruments, from a substantive justice perspective, such protection is not fully effective because creditors still face difficulties in obtaining swift and definitive restoration of rights. Additionally, the reliance on the complexity of legal relationships as a basis for rejection also has the potential to create legal uncertainty regarding the boundary between debt disputes and ordinary civil disputes. Therefore, legal protection for concurrent creditors after bankruptcy rejection or PKPU is still not optimal and requires strengthening through the affirmation of simple evidentiary parameters and regulatory reforms that are able to provide a more proportionate balance of protection for all parties in order to realise better justice and legal certainty.

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