PALAR (Pakuan Law Review) Volume 11, Number 03, July-September 2025, Pages 47-64
https://journal.unpak.ac.id/index.php/palar
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

Breach Of Contract In Focus: Legal Analysis Of Debt Transfer, Property Rights, And Contractual Obligations

Anneke Catlynne Gunawan[1]; Chaterine Grace Gunadi[2]; Jason Indrakusuma[3]; Theodore Francisco Emmanuel Sutanto[4]; Velliana Tanaya[5]

Law Study Program, Faculty of Law, Pelita Harapan University
Jalan M.H. Thamrin Boulevard No.1100, Klp. Dua, Kec. Klp. Dua, Tangerang Regency, Banten 15811
Email : chatgracegun@gmail.com, 01051230001@student.uph.edu, 01051230007@student.uph.edu, 01051230018@student.uph.edu, 01051230024@student.uph.edu.
Manuscripts received : 31/03/2025, Revision and Review : 19/06/2025, Approved 26/09/2025.

Abstrak

This article explores the legal framework surrounding breach of contract in Indonesian civil law, with particular focus on debt transfer, property rights, and the enforcement of contractual obligations. By analyzing two recent court decisions—a Supreme Court ruling and a High Court judgment from Surabaya—the study examines how Indonesian judges interpret and apply the principles of contract law in practice. The first case highlights the legal implications of unfulfilled obligations and delayed property settlement, while the second illustrates the procedural and substantive challenges in resolving disputes involving transferred debts and overlapping property claims. The discussion reveals how courts evaluate evidence, assess good faith, and determine liability. The article argues for clearer standards in interpreting contract breaches and a more consistent application of the rules governing debt transfer and secured property rights. These findings contribute to a deeper understanding of judicial tendencies and their implications for legal certainty and contract enforcement in Indonesia.

Keywords: **Breach of contract, ebt transfer, Property rights, Contractual obligations, Indonesian civil law.**

A. Introduction

Contract law continues to play a vital role in shaping the predictability and integrity of commercial transactions, especially in jurisdictions governed by civil law such as Indonesia (Wibowo, 2025). However, when disputes arise over ambiguous clauses, undocumented agreements, or improperly executed transfers, courts are often forced to intervene in ways that test the limits of contractual freedom (Alqodsi & Arenova, 2024). This challenge is particularly visible in cases involving *cessie* (debt transfer) and rights over immovable property, where procedural formality intersects with business practicality. The need for legal clarity becomes more urgent in an era where financing transactions often

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

involve layered contractual relationships between multiple parties. Consequently, understanding how Indonesian courts interpret contractual obligations in debt transfer arrangements is essential for both legal scholars and commercial actors. Two pivotal decisions—471/PDT/2024/PT SBY and 291 K/Pdt/2025—illustrate the challenges of enforcing debt transfer and collateral-based agreements in the Indonesian civil law. In these cases, plaintiffs sought to claim rights arising from contracts they alleged involved lawful *cessie*, only to be rebuffed by the courts due to various formal and evidentiary deficiencies. These decisions not only reveal the strict evidentiary standards Indonesian courts are increasingly applying, but also highlight how even well-structured commercial arrangements may be invalidated if legal formalities are ignored. The Surabaya High Court (2024) emphasized the need for valid written notification to the debtor, while the Supreme Court (2025) further reaffirmed that without notarized documents and proper recordation, such claims lack enforceability. Together, these rulings suggest an evolving judicial preference for procedural rigidity over commercial flexibility.

In Decision 471/PDT/2024/PT SBY, the plaintiff attempted to enforce a debt transfer agreement involving a mortgage-backed obligation, but the court ruled against him due to a lack of documentary proof and the failure to notify the debtor through an authentic deed. The plaintiff relied heavily on secondary evidence and internal correspondence, which the court deemed insufficient under Indonesian evidentiary standards. Moreover, the court underlined that property rights such as *Hak Tanggungan* cannot be transferred informally, even if the underlying debt has allegedly changed hands. This indicates that the judicial system views secured transactions through a lens of legal formalism, where both substance and procedural form must align to validate a claim. The burden of proof lies squarely on the party asserting the existence and legality of a transfer. Similarly, the Supreme Court in 291 K/Pdt/2025 dismissed an appeal on similar grounds, finding that the alleged debt transfer did not meet the legal threshold for recognition because the cession was not notified or agreed upon by the original debtor. The case involved a bank loan that had purportedly been assigned to a third party without executing the necessary notification procedures outlined in the Civil Code and relevant land regulations. The court held that absent a legally binding and registered assignment, the new creditor had no standing to demand payment or to enforce the associated mortgage rights. This reflects the courts' insistence on strict compliance with legal mechanisms when dealing with third-party rights over financial obligations. These formalities are not just technical requirements but integral safeguards of legal certainty and debtor protection.

At the core of both rulings is a fundamental issue of legal certainty versus business efficiency. While courts understandably aim to uphold the integrity of contractual relations, rigid adherence to procedural requirements can occasionally lead to unjust outcomes for parties acting in good faith (Moore, 2022). Businesses may operate under the assumption that informal or tacit agreements—backed by correspondence, payments, or conduct—constitute valid legal arrangements. However, these assumptions are frequently rejected by courts, especially in cases involving *Hak Tanggungan*, which require compliance with

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

statutory registration and certification. This legal stance reveals a systemic tension between modern transactional behavior and the static architecture of Indonesian contract law. The problem becomes even more complex when these issues intersect with secured transactions involving land, where debt transfer must align with rules governed by the National Land Agency (BPN). If the mortgage holder is changed without updating the registry or without executing a proper deed of assignment, courts will often deem the transfer legally ineffective (Rizal & Nugroho, 2023). This creates considerable risk for assignees and financial institutions, particularly in secondary lending markets where debts are frequently bundled and resold. Even if the underlying loan is valid, courts require that mortgage rights be exercised only by parties whose names are formally recorded. These regulatory gaps reflect the need for systemic reform in Indonesia's approach to synchronizing contract and property laws.

The tension is further exacerbated by inconsistent interpretations across court levels. While some lower courts have previously accepted practical evidence such as payment records or internal correspondence, higher courts increasingly require notarized instruments and proper registration as indispensable conditions (Reiling, 2022). This inconsistency undermines predictability in the legal system and places commercial actors at the mercy of varying judicial interpretations. For parties involved in complex financing arrangements, this legal uncertainty can be a significant barrier to business development and financial innovation. The lack of alignment between commercial practice and legal doctrine is thus a matter of national concern. Another pressing issue is the deficiency in legal literacy among business actors who engage in these transactions without fully understanding the risks of non-compliance. Many parties assume that once a debt is acknowledged internally or within a corporate agreement, that is sufficient for enforcement purposes. However, without legal instruments such as authentic deeds, registered mortgages, and formal notifications, such arrangements are often nullified in court (Wiguna et al., 2025). This reflects a broader gap in legal infrastructure, where substantive awareness of contract enforcement mechanisms remains underdeveloped. Academic institutions and legal practitioners must therefore prioritize education on the legal implications of *cessie* and property transfers.

Existing academic discourse has also fallen short in anticipating or addressing these trends. Much of the current literature continues to focus on doctrinal analyses without integrating recent jurisprudential developments (Moore, 2022). There is a pressing need to study how Indonesian courts interpret and apply the law on debt transfers and property rights in practice. Without such research, policy recommendations and legal reforms will remain disconnected from the realities of judicial enforcement. This article seeks to fill that gap by analyzing two landmark decisions as reflections of the evolving role of contract law in the Indonesian legal system. Through doctrinal and jurisprudential analysis, this paper investigates the broader implications of judicial formalism in debt transfer cases and its interaction with property rights law. The study asks whether Indonesia's current legal framework is sufficiently adaptable to meet the demands of commercial realities while

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

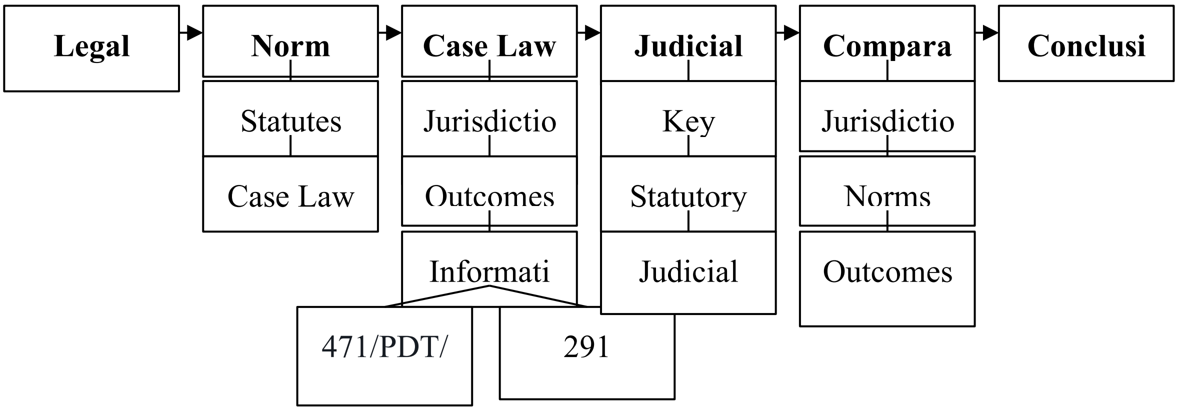
guaranteeing legal certainty for all parties. By focusing on the intersection of contract and property law, particularly regarding cessie and mortgage enforcement, the study contributes to ongoing discussions about reforming Indonesia's civil law system. It also highlights the importance of judicial consistency, legal clarity, and procedural compliance in shaping the future of contract enforcement. These insights are essential for policymakers, judges, legal practitioners, and businesses operating within the complex terrain of Indonesian contract law.

B. Research Methods

This study adopts a normative legal research method, using a statute-based and case-based approach. The main objective is to analyze the consistency of judicial decisions where similar legal norms result in different outcomes. The focus is on two Supreme Court decisions: 471/PDT/2024 and 291 K/PDT.SUS-HI/2025, both of which deal with employment law and the principle of *res judicata* (final and binding decisions). The methodology follows a chronological research design that begins with the identification of the legal problem. This includes locating legal inconsistencies and examining whether judicial discretion aligns with the principles of justice and legal certainty. Once the problem is clearly defined, relevant legal norms are extracted from statutory laws (such as the Labor Law and the Law on Judicial Power) and scholarly doctrines.

The analysis evaluates whether the same legal provisions were interpreted consistently across cases. In doing so, both ratio decidendi (reasoning of the decision) and obiter dicta (additional comments) are examined to understand the core basis of each ruling. Following this, the research maps the judicial interpretation framework used in each decision. This includes studying how judges interpret norms in light of previous precedents, the legislative purpose, and legal doctrine. This step helps to identify if judges were guided by textual, purposive, or teleological interpretation methods. The most crucial part of the methodology is the reasoning comparison. By contrasting two judgments that refer to the same legal norms but yield different outcomes, the research reveals discrepancies or judicial creativity that may challenge legal predictability. This approach also helps in uncovering latent jurisprudential trends in labor-related cases.

PALAR (Pakuan Law Review)
https://journal.unpak.ac.id/index.php/palar
Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025



This study employs a structured doctrinal methodology, which begins with the identification of central legal issues arising from contested case law. As illustrated in Figure 1, the research flow progresses from pinpointing the legal problem to the extraction of relevant norms, followed by case law analysis, judicial interpretation mapping, and ultimately comparative reasoning that informs the final conclusions. This systematic approach ensures that the analysis is grounded in established legal sources while allowing for evaluative critique based on how norms are applied in practice. In support of the doctrinal inquiry, the study integrates a range of secondary legal materials, including authoritative textbooks, peer-reviewed journal articles, and expert commentaries. These sources are used not merely for background, but as interpretive tools to frame and analyze the statutory and jurisprudential materials at hand. Tertiary references such as legal dictionaries and legal encyclopedias are also utilized to clarify terminology and to support the conceptual consistency of the study. Together, these materials reinforce the interpretive framework and help bridge the gap between textual analysis and practical legal reasoning.

The selection of cases was carried out using purposive sampling, with a focus on decisions from the Indonesian Supreme Court between 2020 and 2025. The sampling criteria emphasized legal decisions that addressed similar normative frameworks but arrived at differing judicial conclusions. This contrast serves as the basis for assessing how legal interpretation varies across cases and what factors may influence judicial discretion. Case data were collected from official court websites and cross-verified through recognized legal citation indexes to ensure both accuracy and traceability. The reliability of legal norm interpretation is evaluated through the lenses of consistency, doctrinal coherence, and alignment with foundational principles of justice. The analysis does not stop at whether courts applied the law correctly, but extends to assessing whether the interpretations reflect a balanced use of judicial authority. By focusing on interpretive quality and normative integrity, the research aims to contribute to the ongoing discourse on *res judicata* and judicial discretion, particularly within the of employment and civil disputes in Indonesian law.

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

C. Results and Discussion

1. Legal Framework And Concepts Breach Of Contract Under Indonesian Civil Law

Breach of contract, or *wanprestasi*, under Indonesian Civil Law is principally regulated by Articles 1238 to 1252 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPer). A breach occurs when one party fails to carry out a contractual obligation as promised—whether through delay, improper fulfillment, or complete non-performance (Infantino & Wang, 2024). The legal framework outlines varying consequences depending on the type and severity of the breach. The law further differentiates between negligent failure and deliberate breach. This distinction plays a crucial role in determining the applicable legal remedies. Article 1243 KUHPer specifically states that damages can be sought when the debtor fails to perform after a formal notice or *somasi* has been delivered. This requirement ensures that the debtor is aware of the alleged breach and is given a chance to rectify it before liability arises. For the aggrieved party to claim compensation, three elements must be satisfied: the occurrence of default, a causal link between the breach and the loss, and the existence of measurable damages (Lazarenko, 2024). Without establishing all three, the court may decline to award compensation. Furthermore, the law recognizes that certain breaches may be excused if they result from force majeure (*overmacht*), which must be demonstrated convincingly by the party in default.

Indonesian courts also maintain discretion to assess whether a breach should be excused due to unforeseeable and uncontrollable events. In cases involving force majeure, courts typically examine the nature and severity of the impediment, as well as the measures taken by the defaulting party to mitigate its effects. This adds a nuanced layer to the rigid rules of liability and acknowledges practical constraints in contract performance. Recent jurisprudence shows a growing tendency among judges to adopt more contextual and equitable interpretations of breach. Rather than focusing solely on textual provisions, courts now frequently consider the economic realities, business relationships, and mutual expectations of the contracting parties (Annola et al., 2022). This trend reflects a broader evolution in Indonesian contract law, aiming to reconcile legal certainty with commercial fairness. If aligned with consistent doctrine and judicial reasoning, this emerging approach may contribute to more predictable and balanced contract enforcement. However, such predictability will depend on the continued refinement of breach definitions, the standardization of remedies, and the transparent use of judicial discretion. A more unified understanding of contractual obligations across Indonesian courts could enhance both the reliability and fairness of legal outcomes.

2. Debt Transfer (Cessie) under Pasal 613 KUHPer

Debt transfer, commonly referred to as *cessie*, is a legal mechanism that permits a creditor to transfer their right to collect a receivable to another party. Under Article 613 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPer), this assignment of rights does not require the consent of the debtor. Instead, it is sufficient for the transfer to be formalized in writing and either notified to the debtor or

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

expressly accepted by them for it to be considered valid and enforceable(Sianipar, 2024). The *cessie* process is particularly beneficial in financial sectors such as banking, leasing, and factoring. It supports liquidity and allows institutions to better manage their credit exposure and financial risk. Through this mechanism, financial institutions can free up capital by transferring non-performing or long-term receivables to third parties, such as debt collectors or investment firms. This flexibility enhances financial circulation and supports broader economic activity, particularly in credit-dependent sectors. Despite its utility, practical challenges often arise during enforcement. One of the most significant issues involves failure to properly notify the debtor. Indonesian courts have emphasized that without sufficient evidence of notification or debtor acceptance, a *cessie* may be deemed unenforceable against the debtor. In such cases, the assignee may be unable to collect the debt or enforce rights originally held by the assignor, leading to legal uncertainty and financial losses (Shiffrin, 2022). This legal position reinforces the importance of procedural diligence in executing *cessie* agreements. Clear documentation, including the written deed of assignment and proof of notification, is essential to protect the interests of the assignee. For creditors and legal practitioners, ensuring compliance with Article 613 is not only a matter of formality but a critical step in safeguarding the enforceability of transferred claims. As the use of *cessie* continues to grow in commercial practice, greater awareness of its procedural requirements will be key to minimizing disputes and enhancing the integrity of debt markets in Indonesia.

3. Property Rights and Guarantees under National Laws

Property rights play a fundamental role in Indonesia's legal framework, especially as a tool to ensure the fulfillment of financial obligations. In loan agreements, property-based guarantees offer legal certainty and enforcement power for creditors. Law No. 4 of 1996 concerning *Hak Tanggungan* establishes the foundation for securing land and buildings as collateral. This law grants creditors the right to execute an auction over the property if the debtor defaults, provided that the security is properly registered. The registration system also introduces a ranking of priorities among competing claims, thereby protecting the interests of third parties and promoting efficient enforcement (Brook & Cseres, 2024). Beyond immovable assets, Indonesian law also provides mechanisms for securing claims over movable property. One of the primary instruments is the fiduciary guarantee (*jaminan fidusia*), governed by Law No. 42 of 1999. This allows the debtor to retain physical control over the secured asset while transferring the legal title to the creditor. The fiduciary arrangement must be formalized in a notarial deed and electronically registered with the Fiduciary Registration Office to be legally enforceable. Without such registration, the legal standing of the creditor may be compromised, and courts may declare the guarantee invalid (Subagiyo, 2023). Despite the clear legal requirements, in practice, many fiduciary guarantees remain unregistered due to cost, lack of awareness, or administrative inefficiencies. This non-compliance frequently leads to enforcement

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

issues, especially when disputes arise or when third parties claim rights over the same asset. As a result, creditors are left vulnerable, and the reliability of fiduciary guarantees is diminished. Addressing this gap in practice is essential to strengthening creditor protections and improving confidence in the legal infrastructure supporting financial transactions.

In addition to fiduciary guarantees, the *gadai* or pledge system remains recognized under the Indonesian Civil Code (*KUHPer*). In contrast to fiduciary arrangements, a pledge requires the creditor to take physical possession of the collateralized asset. While *gadai* is less commonly used in formal business lending, it remains prevalent in informal credit transactions, particularly for tangible and movable assets such as jewelry or vehicles. Upon default, creditors can execute the asset without requiring a court order, offering a faster route to recovery (Effyanto, 2023). Despite the availability of diverse guarantee instruments, Indonesia continues to face significant challenges in their practical application. Key issues include the absence of an integrated registry for movable and immovable property, the prevalence of overlapping claims, and a general lack of clarity in legal procedures. These issues are compounded by inconsistencies in judicial interpretation, especially in cases where customary practices intersect with formal statutory requirements. This situation undermines the predictability of legal outcomes and may deter creditors from fully relying on available security instruments. To strengthen the legal infrastructure, it is crucial to improve access to comprehensive legal databases, enhance public awareness of registration procedures, and promote the harmonization of enforcement mechanisms. A more consistent and transparent approach to judicial interpretation would also support fairer outcomes and improve the integrity of property-based guarantees. As Indonesia continues to modernize its legal system, ensuring the effective use of property rights in securing obligations will be essential for economic growth and legal certainty (Siddiq & Salam, 2025).

4. Contractual Obligations and Enforcement

The enforcement of contracts in Indonesian law is rooted in the principle of *pacta sunt servanda*, enshrined in Article 1338 of the Indonesian Civil Code (*KUHPer*), which states that legally executed agreements are binding as law upon the parties. Obligations may arise from the contract itself, applicable legal provisions, or established customs. This broad foundation allows for the enforcement of both formal and informal obligations, reinforcing the expectation that all parties act in good faith throughout the contractual relationship. Legal remedies for contractual breach vary depending on the nature and extent of non-performance. Courts may order direct execution (*eksekusi*), award damages, or allow for the termination of the agreement. The remedy chosen typically reflects an assessment of proportionality, causality, and actual loss. Under Article 1243 KUHPer, damages are only granted when the debtor is proven to be in

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

default and the loss is measurable. Furthermore, judicial discretion allows the courts to evaluate the broader context of the breach, which increasingly includes considerations of fairness and the impact on both parties (Avraham-Giller, 2022). Dispute resolution may follow litigation or alternative methods such as mediation and arbitration, depending on what is stipulated in the contract. The growing use of these alternative forums reflects a trend toward more flexible, cost-effective, and confidential means of settling disputes in commercial practice. While courts maintain authority over contract interpretation, the increasing preference for out-of-court settlements indicates a shift toward a more pragmatic enforcement culture. This development contributes to a legal environment that balances strict legal obligations with equitable outcomes, offering more predictability and confidence for commercial actors operating within Indonesia's evolving legal system.

5. **Judicial Trends and Interpretation**

Recent judicial trends in Indonesian courts reflect a move toward greater legal realism, especially in contract enforcement cases. Courts now pay closer attention to the substance over form, ensuring that justice is not obstructed by procedural rigidity (Schmidt, 2022). This is particularly evident in cases involving SMEs and consumer protection. The Surabaya High Court and Supreme Court decisions cited in this research show a more meticulous examination of evidence and contract structure. Courts increasingly demand clarity and completeness in contractual wording, especially in debt transfer and property disputes (Surabaya High Court, 2024; Supreme Court, 2025). This implies that vague or informal agreements are unlikely to succeed without strong supporting documentation. Nevertheless, there remains a tension between statutory interpretation and practical business needs. While some courts stick closely to the literal wording of KUHPer, others adopt broader principles like equity and public interest. Scholars argue that better judicial training and harmonized interpretation guidelines are necessary to improve legal certainty (Suryana, 2025).

6. **Supreme Court Decision No. 291 K/Pdt/2025**

The Supreme Court Decision No. 291 K/Pdt/2025 revolves around a dispute concerning fiduciary guarantees, where the debtor unilaterally transferred ownership of a car that had been pledged as collateral in a financing agreement. The dispute originated when the debtor sold the vehicle to a third party without the knowledge or consent of the creditor, a financing company, thereby violating the fiduciary arrangement. The financing company then sought annulment of the transfer and demanded the return of the collateral, arguing that the debtor had committed a breach of contract by failing to comply with the terms of the fiduciary security. This case raised fundamental questions about how Indonesian courts interpret unauthorized property transfers in the fiduciary arrangements and contractual obligations. The principal legal issue in this case centered on whether the debtor's unauthorized transfer of the fiduciary-bound property constituted a material breach of fiduciary contract, and to what extent such an act could invalidate the ongoing financing agreement. The Court was asked to examine not only

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

the procedural legality of the transfer but also the substantive implications on ownership rights under Indonesian fiduciary law. The creditor argued that the transfer undermined the very essence of the security agreement, which required the asset to be preserved until full repayment. Hence, the case required the Court to clarify the threshold for breach and the enforceability of creditor rights against unauthorized third-party possessors.

In its legal reasoning, the Supreme Court emphasized the foundational principles of fiduciary law as governed by Law No. 42 of 1999 concerning Fiduciary Security. It reaffirmed that in fiduciary agreements, although the debtor retains physical control of the asset, the legal ownership remains with the creditor until the debt is repaid in full. Thus, the transfer of the vehicle to a third party, without extinguishing the primary debt or seeking creditor approval, was deemed unlawful. The court highlighted that such acts violate the integrity of fiduciary security, especially when the property in question is still bound by contractual and statutory obligations. This understanding reflects the legal structure that distinguishes between possession and ownership in secured transactions. The Court further drew on Articles 1320 and 1338 of the Indonesian Civil Code (KUHPer) to establish that a valid contract must be adhered to with binding force. Article 1338, in particular, underlines that all legally made agreements have the power of law over the parties involved. Applying this to the case, the Court found that the debtor's unilateral transfer was not only in breach of fiduciary obligations but also a violation of general contract principles. This doctrinal linkage strengthens the legal continuity between private contract enforcement and public legal order, positioning the creditor's rights as superior in cases of unlawful dispossession.

The Supreme Court identified three core elements to determine breach: (1) a valid fiduciary agreement, (2) an obligation to preserve the asset until repayment, and (3) the debtor's unlawful act of transferring the asset to a third party. These elements were systematically assessed in the judgment to build the foundation for the legal conclusion. The debtor's failure to uphold the second and third components clearly indicated a breach of both contract and fiduciary responsibility. Importantly, the Court rejected any notion that possession by a third party could defeat registered security interests, thereby upholding the creditor's entitlement to repossess the car despite its physical transfer. Legal scholarship supports the Court's firm stance on enforcing fiduciary agreements. According to recent academic analysis, Indonesian courts have increasingly emphasized the sanctity of fiduciary registration systems to maintain trust in secured lending (Erwiningsih, 2023). This case demonstrates how judicial interpretation is converging with the demand for clarity and legal certainty in commercial finance. It reinforces the idea that fiduciary rights are not merely abstract legal instruments but serve vital economic functions in protecting creditors' interests from unauthorized actions by debtors or third parties.

From a practical standpoint, the Court's decision has significant implications for financial institutions and their risk management strategies. By affirming the

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

enforceability of fiduciary agreements even against third-party transferees, the ruling enhances legal predictability in lending arrangements. Creditors can be more confident in recovering assets pledged as collateral, provided they have properly registered the fiduciary relationship. This reduces the moral hazard of unauthorized disposal and contributes to a healthier credit environment. However, this also places a duty on creditors to ensure transparency and to monitor the whereabouts of pledged assets actively. Nonetheless, some legal scholars have pointed out areas where the judgment could have gone further. Specifically, it did not comprehensively address the rights of third parties who may acquire fiduciary-bound goods in good faith, particularly in open market transactions. There is a growing academic concern that Indonesian jurisprudence underrepresents the principle of good faith buyer, which may lead to harsh outcomes for unsuspecting parties who acquire goods without knowledge of fiduciary encumbrances (Anas et al., 2024). Thus, while the decision aligns with the letter of the law, it may have benefited from a more nuanced balancing of creditor protection and equitable considerations.

Despite this critique, the Supreme Court’s approach can be understood as a deliberate choice to strengthen creditor protections and to deter debtors from engaging in fraudulent transfers. The judgment makes it clear that fiduciary registration is not a mere formality but a powerful legal instrument. It also signals that courts are willing to invalidate transactions that threaten the integrity of secured lending practices. This trend suggests an evolving judicial commitment to a more rigorous enforcement of contract law, especially where property and finance intersect. The Supreme Court's ruling in Case No. 291 K/Pdt/2025 provides a robust interpretation of fiduciary obligations under Indonesian civil and commercial law. It demonstrates a consistent doctrinal application that integrates contract law, property rights, and fiduciary statutes into a coherent judicial outcome. While further refinement in addressing third-party good faith purchasers is desirable, the decision reinforces the principle that valid and registered fiduciary agreements are legally binding and shielded from unauthorized alienation. This case thus serves as a precedent-setting model for fiduciary enforcement in Indonesia's evolving legal landscape.

7. **High Court Decision No. 471/Pdt/2024/PT SBY**

This second case centers on a dispute involving the enforcement of a land sale contract, where the buyer allegedly breached the agreement by failing to pay within the agreed timeline. The seller, as the plaintiff, claimed that despite entering a valid agreement and fulfilling their obligations by transferring possession, the buyer had not completed the full payment as scheduled. Unlike the first case, this one did not involve fiduciary guarantees or secured property rights but was instead a standard bilateral sales agreement. The legal issue was whether the delayed payment constituted a material breach sufficient to nullify the contract entirely. This raised important questions on the interpretation of breach and the enforceability of penalty clauses for delayed performance. The Surabaya High Court acknowledged that the buyer had defaulted but

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

took a more lenient stance compared to the rigid approach adopted in the Supreme Court decision. The judges emphasized that contractual enforcement must also consider good faith and the debtor's intent to perform. The court chose not to terminate the agreement outright but instead allowed the defendant additional time to fulfill the remaining payment obligations. This demonstrated a pragmatic approach, aligning legal doctrine with equitable principles to prevent undue harm, particularly when performance is still reasonably achievable. It illustrates how Indonesian courts sometimes prioritize restoration over punishment in contractual relationships.

Article 1267 of the Indonesian Civil Code was a central reference in the judgment, offering the aggrieved party a choice between enforcing performance or requesting cancellation. The court leaned toward enforcement, indicating that legal remedies should not be excessively punitive when breach is minor or remediable. This stance reflects broader judicial tendencies in Indonesia to encourage dispute resolution without unnecessarily dissolving commercial arrangements. The High Court's decision also aligns with recent academic calls to interpret breach in a more contextual and proportionate manner, especially in long-term commercial transactions. A key doctrinal consideration in this case was the concept of "substantial performance." This legal principle allows a party who has mostly fulfilled contractual obligations to avoid termination due to minor lapses. The court found that the buyer had made partial payments and continued to express willingness to complete the transaction, albeit belatedly. This was taken as evidence of good faith, distinguishing the case from more egregious breaches where intentional avoidance or fraud is involved. The application of this doctrine indicates a shift in judicial emphasis—from strict legalism toward outcome-oriented justice.

The High Court's reasoning underscores a critical distinction between legal default and moral blameworthiness. In this case, although a default occurred, the buyer's intent was not to defraud but to overcome temporary financial constraints. Such reasoning opens room for more nuanced adjudication, where courts examine not only the occurrence of breach but also the surrounding economic and relational context. This trend is consistent with recent legal literature suggesting that Indonesian contract law is evolving toward a more flexible and relational approach (Sugianto et al., 2023). When contrasted with the Supreme Court decision in Case I, which involved a fiduciary breach, the High Court's approach here was markedly softer. Fiduciary arrangements, being security-driven, warrant stricter enforcement to maintain trust in secured lending. However, in a simple sale contract like this one, greater judicial discretion is often permissible. This distinction shows how the legal structure of the agreement directly influences judicial reasoning and outcome. It also illustrates the variability in legal outcomes based on the nature of breach and the type of contractual instrument involved.

The decision further reflected an underlying preference for contractual continuity and economic efficiency. Rather than invoking the harsh remedy of rescission, the court

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

opted to preserve the legal relationship between the parties. This is important in Indonesia's current legal environment, where courts are increasingly tasked with promoting legal certainty without stifling commercial flexibility. Such decisions can encourage future contracting parties to pursue renegotiation or mediated settlement over litigation and dissolution (Kusumawati, 2024). However, the judgment also exposes potential risks of inconsistency in the judicial system. While leniency may serve equity in individual cases, it could undermine legal predictability if applied unevenly across courts. Parties may struggle to anticipate judicial outcomes, especially in regions where commercial norms differ. Therefore, harmonization through clearer jurisprudence or updated statutory guidance is necessary to balance flexibility with reliability.

The High Court's ruling serves as an example of the broader transformation within Indonesia's civil litigation culture. Courts are gradually embracing pragmatic justice, favoring outcomes that support economic reality while still preserving legal integrity. This represents a departure from formalist traditions where breach often led to automatic rescission or penalties. In this case, the ruling demonstrated attentiveness to fairness without disregarding the structure of the original contract. It reaffirms the role of courts not only as arbiters of law but as facilitators of sustainable commercial relationships. Case II reveals a progressive shift in Indonesian judicial reasoning from doctrinal rigidity toward contextual equity. The emphasis on intent, good faith, and opportunity for performance underscores the evolving nature of breach adjudication in Indonesian civil law. While differences in enforcement approaches between courts remain, this case illustrates a legal culture increasingly oriented toward restorative justice. It also highlights the importance of contractual drafting clarity, particularly on payment terms, to reduce disputes and guide judicial interpretation more uniformly in the future.

8. Doctrinal Coherence, Contractual Duties, and Property Implications

The juxtaposition of the two judicial decisions—Case I by the Supreme Court and Case II by the Surabaya High Court—reveals evolving doctrinal interpretations in Indonesian contract and property law. While both cases concern breach of contract, the courts approached their resolution through distinct legal lenses: one grounded in fiduciary law and the other in general contract law. These contrasting resolutions emphasize that breach is not solely defined as failure to perform, but also as behavior that contravenes the fundamental purpose or spirit of the agreement. In Case I, the Supreme Court strictly interpreted fiduciary obligations, holding that the debtor's unauthorized transfer of collateral to a third party constituted a direct violation of ownership and trust. The breach was not merely procedural but substantive, affecting the legal title of an asset pledged as security. Here, the court took a firm stance, reinforcing the principle that fiduciary duties entail rigid compliance, and any deviation could justify contract termination and even asset recovery.

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

By contrast, Case II centered on a payment delay in a bilateral sales agreement. While still a breach, the High Court treated it as a lapse that did not automatically void the contract. Instead, the court evaluated the buyer's intentions and willingness to eventually perform. The defendant's partial payments and expressed commitment to fulfill remaining obligations persuaded the court to grant an extension. This indicates that breach in non-fiduciary is often interpreted with more flexibility, especially when there is no evidence of bad faith or fraud. These differences underscore a broader legal truth: breach is a contextual concept in Indonesian jurisprudence. In secured transactions, especially involving fiduciary arrangements, the courts demand absolute adherence to formal terms because these agreements inherently involve trust, risk allocation, and third-party interests. Conversely, in consensual agreements such as regular sales contracts, breach is assessed on a spectrum that includes timing, performance history, and good faith.

This divergence reflects Indonesia's hybrid legal tradition. Rooted in Dutch civil law yet influenced by customary and Islamic legal principles, Indonesian private law incorporates both textual rigor and equitable discretion. Scholars such as Husain et al. (2024) argue that this duality creates space for justice tailored to socio-economic realities but also contributes to doctrinal inconsistency (Husain et al., 2024). Judicial interpretations may thus vary significantly, especially across court levels and jurisdictions. From a property law perspective, the Supreme Court's ruling clarifies that fiduciary collateral constitutes conditional ownership. The title remains with the creditor until the debt is discharged. The unauthorized transfer of such an asset, even if to an innocent third party, is ineffective if the fiduciary interest is duly registered. This reinforces the power of the fiduciary registration system and elevates the creditor's legal position against competing claims.

On the other hand, the Surabaya High Court emphasized that in ordinary sales, ownership may pass despite a contractual breach. The remedy for the aggrieved seller is not recovery of property but monetary compensation or judicial enforcement. This reveals a legal separation between breach and ownership in consensual transactions—a party may hold title while still being in default, unlike in fiduciary arrangements where breach disrupts both title and possession. Despite these doctrinal insights, significant gaps remain in the current judicial approach. First, there is no uniform legal framework governing third-party good faith purchasers in cases of fiduciary breach. Whether such buyers can retain title remains uncertain. Second, courts inconsistently define what qualifies as "default" or "material breach," especially when performance is partial or delayed. This results in unpredictable rulings that complicate risk assessment for parties involved.

Third, the influence of extra-legal considerations—such as perceived fairness, economic hardship, or relational history—can sometimes overshadow strict legal interpretation. While these factors support equity, they may also lead to outcomes that deviate from statutory obligations, thereby reducing legal certainty. For lower courts especially,

PALAR (Pakuan Law Review)
https://journal.unpak.ac.id/index.php/palar
Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

clearer doctrinal guidance from the Supreme Court is necessary to reconcile legal consistency with equitable flexibility. For legal practitioners, these cases offer critical lessons. In fiduciary contracts, practitioners must ensure proper registration and oversight, as courts uphold these arrangements stringently. Any unauthorized transaction can trigger severe legal consequences, including asset seizure or contractual nullification. In standard contracts, however, lawyers must anticipate judicial assessments of intent and historical conduct. Drafting should include detailed payment terms, breach definitions, and dispute resolution clauses that can accommodate or limit judicial discretion.

Looking ahead, these rulings suggest that Indonesian courts are increasingly acknowledging the interplay between property rights and contractual performance. The courts are prepared to enforce agreements strictly where legal security is at stake but are also willing to grant equitable relief when breach arises from genuine obstacles. This duality reflects a maturing legal system that seeks to balance certainty with fairness—a key evolution in Indonesia's commercial legal landscape. The synthesis of these two cases underscores the need for more harmonized jurisprudence in Indonesian private law. While courts demonstrate commendable sensitivity to context and intent, the lack of standardized criteria for breach, default, and ownership implications can generate unpredictability. Legislative reform or jurisprudential consolidation may be required to align practice across jurisdictions, thereby strengthening both contractual sanctity and property security.

D. Conclusion

This study affirms that the enforcement of construction work contracts in Indonesia is strongly shaped by the principle of good faith and the binding nature of legal agreements, as outlined in Article 1338 of the Indonesian Civil Code. By analyzing judicial reasoning and doctrinal interpretations, it becomes clear that courts in Indonesia assess contractual breaches not only as failures to perform obligations, but also as actions that deviate from the agreed purposes and the spirit of the contract. This approach places importance on the broader intent and trust underlying contractual engagements. The findings indicate that breach of contract in the construction sector goes beyond technical violations. It encompasses conduct that jeopardizes the mutual trust required between parties in long-term projects. Courts tend to interpret these breaches by looking at whether parties acted consistently with their contractual roles and responsibilities, reflecting a normative emphasis on fairness and integrity. This broader lens of interpretation ensures that legal decisions reflect not just written terms, but also the reasonable expectations that arise during contract performance.

These insights open the door to improving contract law practices in the construction industry, particularly by emphasizing clearer standards and consistent judicial application. Legal certainty could be enhanced by encouraging parties to define performance standards more precisely and by fostering uniformity in judicial interpretations of good faith and

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

default. As construction projects often involve complex technical and financial arrangements, predictability in enforcement is crucial for reducing disputes and improving stakeholder trust. The approach used in this study also holds promise for application in other areas, such as infrastructure development, government procurement, and public-private partnerships. These sectors similarly depend on complex contracts and long-term cooperation. Applying a structured, doctrinal, and case-based framework to these areas could contribute to a more coherent legal environment and stronger safeguards for contractual rights. Ultimately, the study provides a foundation for future research and legal reform aimed at strengthening Indonesia's legal infrastructure for commercial contracting.

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

REFERENCES

[1] Alqodsi, E. M., & Arenova, L. (2024). Smart contracts in contract law as an auxiliary tool or a promising substitute for traditional contracts. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, *16*(3). https://doi.org/10.1061/JLADAH.LADR-1132

[2] Anas, K. A., Najwan, J., & Raffles, R. (2024). The urgency of dispute resolution in consumer financing agreements for bad credits through the warranty execution a fair fiduciary. *Law Journal Borobududr International*, *1*(1).

[3] Annola, V., Haapio, H., & Koskela, M. (2022, May 3). *Chapter 20: Interpreting images in contracts*. Elgar Online: The Online Content Platform for Edward Elgar Publishing. https://www.elgaronline.com/edcollchap/book/9781839102288/book-part-9781839102288-31.xml

[4] Avraham-Giller, S. (2022). The court's discretionary power to enforce valid jurisdiction clauses: Time for a change? *Journal of Private International Law*, *18*(2), 209–237. https://doi.org/10.1080/17441048.2022.2101189

[5] Brook, O., & Cseres, K. J. (2024). Priority setting as the blind spot of administrative law enforcement: A theoretical, conceptual, and empirical study of competition authorities in Europe. *The Modern Law Review*, *87*(5), 1209–1257. https://doi.org/10.1111/1468-2230.12881

[6] Effyanto, I. R. (2023, January 1). *Tinjauan yuridis kepailitan dan penundaan kewajiban pembayaran utang terhadap pelaku wanprestasi*. Unissula Repository. https://repository.unissula.ac.id/31431/

[7] Erwiningsih, W. (2023). Enhancing legal certainty in land collateral: Bridging regulatory gaps, mitigating vulnerabilities, and promoting credit access in Indonesia. *Croatian International Relations Review*, *29*(93), 26–49.

[8] Husain, S., Ayoub, N. P., & Hassmann, M. (2024). Legal pluralism in contemporary societies: Dynamics of interaction between islamic law and secular civil law. *SYARIAT: Akhwal Syaksiyah, Jinayah, Siyasah and Muamalah*, *1*(1), 1–17. https://doi.org/10.35335/cfb3wk76

[9] Infantino, M., & Wang, J. (2024, September 6). *Chapter 9: Remedies for breach of contract: Termination and specific performance*. Elgar Online: The Online Content Platform for Edward Elgar Publishing. https://www.elgaronline.com/edcollchap/book/9781035317424/book-part-9781035317424-13.xml

[10] Kenton, W. (2008, November 16). Breach of contract explained: Types and consequences. *Investopedia*. https://www.investopedia.com/terms/b/breach-of-contract.asp

[11] Lazarenko, M. (2024). *Compensation of damages for breach of contract /*. https://epublications.vu.lt/object/elaba:191366158/

[12] Moore, M. (2022). *Developments in contract law: The 2020-2021 term – appeals to fairness*. Allard Research Commons. https://commons.allard.ubc.ca/fac_pubs/713/

Volume 11, Number 03, July-September 2025, Pages 47-64
e-ISSN:2614-1485
p-ISSN:2716-0440
Doi: https://doi.org/10.33751/palar.v11i3
Sinta 3; decree No. 0173/C3/DT.0500/2025

[13] Reiling, D. (2022). *Teknologi untuk keadilan*. Penerbit Alumni.

[14] Schmidt, T. P. (2022). JUDICIAL MINIMALISM IN THE LOWER COURTS. *Virginia Law Review*, *108*(4), 829–913. https://doi.org/10.2307/27219946

[15] Shiffrin, S. V. (2022). Hidden delegations: The assignment of contractual rights and consumer debt. *The Modern Law Review*, *86*(1), 1–30. https://doi.org/10.1111/1468-2230.12776

[16] Sianipar, J. R. (2024). Legal protection for debtors when there is a transfer of debt by creditors without the debtor's consent. *International Journal of Social Sciences and Humanities*, *2*(2), 64–68.

[17] Siddiq, N., & Salam, R. (2025). Enhancing legal certainty through legal reform in Indonesia: Problems and efforts to strengthen legal institutions. *Strata Law Review*, *3*(1), 1–14. https://doi.org/10.59631/slr.v3i1.62

[18] Subagiyo, D. T. (2023). The position of creditors in consumer financing agreements due to fiducian guarantee not registered. *International Journal of Social Science and Human Research*, *06*(05). https://doi.org/10.47191/ijsshr/v6-i5-12

[19] Sugianto, F., Tanaya, V., & Michael, T. (2023). A brief comparative study between indonesian contract law under indonesian civil code and singapore contract law. *Journal of International Trade, Logistics and Law*, *9*(2), 132–143.

[20] Suryana, I. (2025). Construction of judicial interpretation in indonesia's criminal justice system regarding the implementation of the new penal code. *Indonesian Journal of Law and Justice*, *2*(4), 9–9. https://doi.org/10.47134/ijlj.v2i4.3853

[21] Wibowo, A. (2025). Hukum Dagang Internasional. *Penerbit Yayasan Prima Agus Teknik*, *5*(1).

[22] Wiguna, E., Musthofa, H. N. N., & Maskanah, U. (2025). Legal protection of creditors against auction execution of mortgage rights objects in disputes. *Golden Ratio of Data in Summary*, *5*(1), 169–178. https://doi.org/10.52970/grdis.v5i1.943