

## Juridical Analysis Of The Practice Of Renting Back Shophouses To Other Parties Without Permission From The Shophouse Owner (Case Study Of Decision Number 6/Pdt.G.S/2024/Pn Sit)

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### Abstract

*This study aims to examine civil law views related to the practice of renting back shophouses to other parties without permission from the owner, as well as to examine legal remedies that can be taken by shophouse owners to recover losses suffered due to the decision Number 6/Pdt.G.S/2024/PN Sit. This study applies the normati method by examining positive legal provisions through a statutory approach (Statute Approach) and exploring its application through the analysis of court decisions (Case Approach). The results of the study show that in the view of civil law, the practice of renting back a shophouse without permission from the owner is an action that is contrary to the principle of good faith and violates the provisions of the lease agreement, especially as stipulated in Article 1559 of the Civil Code, so that the act can be categorized as a default. To recover their losses due to the tenant's actions and as a result of the decision Number 6/Pdt.G.S/2024/PN Sit, shophouse owners can take advantage of various legal mechanisms, ranging from ordinary legal remedies such as appeals and cassations to extraordinary legal remedies such as review (PK).*

**Keywords:** Rent Rent, Lease Back, Default

### A. Introduction

The development of businesses in Indonesia increases the need for business space, including shophouses. Shophouses are buildings that generally consist of two to five floors, which function as residences as well as commercial activities.<sup>1</sup> The high demand and limited capital of some business actors make renting a shophouse an alternative solution, on the other hand many shophouse owners prefer to rent out their shophouses as a form of investment

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<sup>1</sup> Sitakara Ayu Hita, "Legal Responsibility of Lease Agreement for Renting Shophouses (Shop House)" (University of Muhammadiyah Surakarta, 2018). Page. 2

rather than using them as their own business premises.<sup>2</sup> This condition gives birth to a legal relationship in the form of a lease agreement to meet the needs of each party.

In general, lease agreements are not allowed to last indefinitely, so their execution must be limited by a certain period of time in accordance with the agreement. The lease agreement will terminate automatically after the agreed term expires, unless the parties agree to extend it. If one of the parties fails to comply with the provisions stipulated in the agreement, it may result in default. An act is said to be a default when one of the parties to the agreement relationship defaults or fails to fulfill the obligations that have been agreed upon in the agreement. Therefore, a party is only considered a default if there is a valid agreement between the parties.<sup>3</sup>

Rent has been specifically regulated in Book III Chapter VII of the Civil Code, although in practice various legal problems are still often found. One of the problems that often arise is the act of tenants who rent out the rental object back to other parties without permission from the owner. This problem is important because it is not only contrary to the applicable principles and regulations, but also shows that the parties still have a low understanding of their rights and obligations in the agreement. This ignorance has the potential to cause conflicts or legal disputes in the future, which can ultimately harm all parties involved.<sup>4</sup>

In the case listed in Decision Number 6/Pdt.G.S/2024/PN Sit, the dispute between Muhammad Komandipa as the owner of the shophouse and Ahmad Effendy as the tenant started from a shophouse rental agreement worth Rp. 130,000,000,- (one hundred and thirty million rupiah) with a down payment as a sign of Rp. 100,000,000,- (one hundred million rupiah), while the remaining payment was Rp. 30,000,000,- (thirty million rupiah) is planned to be repaid on October 10, 2023. However, the implementation of the lease agreement did not go according to the agreement, because until the deadline of October 10, 2023 and/or until the shophouse owner filed a lawsuit with the Situbondo District Court, the tenant has not fulfilled his obligation to pay off the remaining payment of the shophouse rent. In addition, the tenant also damaged the floor of the shophouse and rented it back to another party without permission, even though this was not regulated in the agreement, this action caused a loss of Rp. 180,000,000 (one hundred and eighty million rupiah) for the shophouse owner.

Despite this, the court rejected the lawsuit for damages, so the owner did not get compensation for the losses he suffered. This decision caused dissatisfaction for shophouse owners, considering that the losses they experienced were not only material, but also had an impact on the structure of the building and potentially caused business losses in the future.

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<sup>2</sup> Latifa Hasna Khofifah, "Legal Responsibility for Defaults in Shop House Rental Lease Agreements" (University of Muhammadiyah Surakarta, 2021), <https://doi.org/10.22225/jkh.2.1.2976.97-101>.

<sup>3</sup> Russel Butarbutar and Robert, *Civil Law in Indonesia* (Bekasi: Gramata Publishing, 2021).

<sup>4</sup> Claudia Suryaningsih Bogar, Dientje Rumimpunu, and Karel Yossi Umboh, "Comparative Law Review of Lease-Lease Agreements According to Law Number 8 of 1999 concerning Consumer Protection," *Lex Administratum* 10, no. 5 (2022).

Therefore, the shophouse owner has the right to pursue further legal remedies to demand recovery for the losses he suffered as a result of the decision. Thus, this research is important to add insights, as well as ensure legal certainty and fair protection for shophouse owners who are harmed by the actions of tenants.

## B. Research Methods

This research uses the normative juridical method, which is a legal research based on literature studies because its main focus is to study laws and regulations and other written regulations.<sup>56</sup> This research uses two approaches, namely the *Statute Approach* which focuses on the study of laws and regulations that are relevant to the legal issues to be studied.<sup>7</sup> As well as the *Case Approach* which focuses on the analysis of legal cases as a reference in solving the legal problems being studied. In this study, data was collected using a literature study which included an examination of primary, secondary, and tertiary legal sources according to the research topic. Furthermore, data analysis is carried out in a qualitative descriptive manner, namely by presenting data and information systematically and drawing conclusions as a result of the analysis.

## C. Results and Discussion

### a. Civil Law Views Regarding the Practice of Re-Renting Shophouses to Other Parties Without Permission from the Owner

Lease agreements are specifically regulated in the Civil Code (KUHPerCiv), precisely in Book III chapter VII, which regulates the rights and obligations of related parties. The provisions of this agreement are listed in detail ranging from Article 1548 to Article 1600, which outlines various legal aspects ranging from definitions, validity periods, rights, obligations, and dispute resolution mechanisms in the lease agreement. The main purpose of this arrangement is to protect the rights of the parties as well as safeguard their interests.<sup>8</sup>

Rent refers to the legal relationship between a landlord and a tenant, where the landlord gives the tenant the right to enjoy an item for a certain period of time in exchange for paying rent.<sup>9</sup> The goods that are the object of rental must be in the form of goods that are legally allowed, and do not violate public order or moral norms. In this case, the

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<sup>56</sup> Irwansyah Irwansyah, *Legal Research: Choice of Methods and Practices for Writing Articles*, 5th ed. (Yogyakarta: Mirra Buana Media, 2022).

<sup>6</sup> Soerjono Soekanto and Sri Mamudji, *Normative Legal Research A Brief Review* (Jakarta: PT Raja Grafindo Persada, 2004).

<sup>7</sup> Jonny Ibrahim, *Normative Law Research Theory & Methodology* (Malang: Bayumedia Publishing, 2007).

<sup>8</sup> Tivonli Kirtan, "Juridical Analysis of the Inclusion of Force Majeure Clauses in Lease Agreements and Property Rights Management of Flats to Affirm Legal Certainty (Research Study in Batam City)," *UNES Law Review* 6, no. 1 (2023): 3536–47, <https://doi.org/10.31933/unesrev.v6i1>.

<sup>9</sup> Indonesia, "Code of Civil Laws" (n.d.).

handover of the rental object is only limited to granting the right of use, without obtaining ownership rights over it.<sup>10</sup>

A shop house rental agreement (shophouse) is classified as a type of rental agreement that is often found. This agreement is intended to grant the right of use of the shophouse for a certain period of time, in exchange for rent payment. Through this agreement, a legal relationship is formed between the shophouse owner as a tenant and the tenant as a beneficiary, each of which aims to meet his interests and needs. As a form of agreement, the lease must also meet the conditions of the validity of the agreement in accordance with the provisions of Article 1320 of the Civil Code<sup>11</sup>. Based on these provisions, the lease agreement is considered valid and has legal force if there is agreement between the parties, the ability to make an agreement, a certain thing, and a halal cause.<sup>12</sup> In addition, the implementation of the agreement must be based on the basic principles in treaty law, one of which is good faith.

A shophouse rental lease agreement establishes a reciprocal relationship where each party has rights and obligations that are mutually binding and binding. The obligations of shophouse owners or lessors are regulated in Article 1550 of the Civil Code, while the obligations of tenants are regulated in Article 1560 of the Civil Code. These provisions are the legal basis that must be complied with by the parties during the lease agreement.<sup>13</sup>

However, in practice there are often violations of the content of the agreement, one of the violations that is often found is the act of tenants who re-rent the shophouse to other parties without permission from the owner.<sup>14</sup> This practice of leasing means that the tenant rents out the rental object on its own behalf to another party, even if this is not stated in the agreement.<sup>15</sup> In the view of civil law, this kind of action can have adverse legal consequences, because it violates Article 1559 of the Civil Code. The article has expressly prohibited tenants from reletting out their rented goods or transferring their leases to another party without the owner's written permission or without a pre-arranged agreement in the agreement.<sup>16</sup>

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<sup>10</sup> I Ketut Oka Setiawan, *The Law of the Alliance* (Jakarta: Sinar Grafika, 2018).

<sup>11</sup> Dwi Aryanti Ramadhani, Wien Sukarmini, and Yuliana Yuli, "Training on Making Rental Agreements for Rented Houses in Tugu Village, Depok City, West Java," *Sabdamas Journal* 1, no. 1 (2019): 244–49.

<sup>12</sup> Indonesia, Civil Code.

<sup>13</sup> Nadia Rizky, "Legal Consequences of Lease Agreements Renting Shop Houses to Other Parties Without the Knowledge of the Owner Based on the Principle of Pacta Sunt Servanda" (University of Muhammadiyah North Sumatra, 2024).

<sup>14</sup> Supiyanto, and Alfin Dwi Novemyanto. "Lease-Lease Agreement as Plaintiff's Evidence and Remedy in Default Cases (Study of Decision No. 875/Pdt.G/2022/PN Jkt.Sel.)." *Journal of Law and Human Rights Wara Sains* 2, no. 4 (2023): 304–312. <https://doi.org/10.58812/jhhws.v2i04.295>.

<sup>15</sup> M. Yahya Harahap, *Aspects of Treaty Law* (Bandung: Alumni, 1986).

<sup>16</sup> Alzamzami, Jefri, and Leli Joko Suryono. "Implementation of Flats Lease-Lease Agreement and Its Legal Consequences in the Event of Default." *Media of Law and Sharia* 2, no. 3 (2021): 238–253. <https://doi.org/10.18196/mls.v2i3.12075>.

Basically, renting back a shophouse without a permit is an act that violates the principle of good faith and is contrary to the basic concept of the lease agreement, which limits the tenant's rights to the use of the rental object for his personal interests only.<sup>17</sup> In fact, several laws and regulations, such as Government Regulation Number 44 of 1994 concerning Residential Houses by Non-Owners, expressly prohibit tenants from re-renting or transferring residential rights to other parties without written permission from the owner.<sup>18</sup> If the owner continues to do so, his actions may be considered an unlawful extension of rights and fall under the category of default or breach of agreement that gives rise to legal consequences.<sup>19</sup>

In addition to harming the owner by losing control of his property, re-letting without a permit also creates uncertainty regarding legal liability, especially in terms of rent payments, building maintenance, and conflict resolution that may arise.<sup>20</sup> In this case, the shophouse owner has the right to unilaterally cancel the agreement, demanding payment of damages, interest, and other costs that arise as a result of such violations.<sup>21</sup> In addition, the lease agreement between the tenant and a third party is null and void because it is not based on valid legal provisions.<sup>22</sup>

The consequences of the law are applied because the tenant is considered to have committed a default, which results in the application of legal consequences.<sup>23</sup> Therefore, the parties to the lease agreement must thoroughly understand the content of the agreement and the applicable legal limitations. Lack of understanding or negligence in implementing the content of the agreement may lead to disputes of default or breach of promise, which can be detrimental to both parties.<sup>24</sup> Thus, within the framework of civil

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<sup>17</sup> Purba, Nanda Divabuena, Jelita Safitri Ananda, and Gesang Khalis I. "Reviewing Oral Lease-Lease Agreements Based on Default Law in Engagement (Case Study of Supreme Court Decision Number 1093 K/Pdt/2016)." *Innovative: Journal of Social Science Research* (2023).

<sup>18</sup> Indonesia, "Government Regulation No. 44 of 1994 concerning Residential Houses by Non-Owners," Pub. L. No. 44 (n.d.).

<sup>19</sup> Sudharma, Kadek Januarsa Adi. "Settlement of Default of Car Lease-Lease Agreement (Case Study of PT. Bali Radiance)." *Journal of Legal Analysis* 1, no. 2 (2020): 223–239. <https://doi.org/10.38043/jah.v1i2.413>.

<sup>20</sup> Andriansyah, Abdul, and Achmad Busro. "Renter's Liability in the Event of Default on the Car Rental Agreement in Yogya Sembada Rent Car Bekasi." *Notary* 16, no. 1 (2023).

<sup>21</sup> Indonesia, Civil Code.

<sup>22</sup> Bogar, Rumimpunu, and Umboh, "Comparative Law Review of Lease-Lease Agreements According to Law Number 8 of 1999 concerning Consumer Protection."

<sup>23</sup> Rizky, "The Legal Consequences of Lease Agreements Renting Shop Houses to Other Parties Without the Knowledge of the Owner Based on the Principle of Pacta Sunt Servanda."

<sup>24</sup> Samaratul Ismi, Hayatul Ismi, and Hengki Firmanda S, "Settlement of Default of Lease Agreement for Renting Shophouses in Batu Bersurat Village, District XIII Koto Kampar," *Scientific Journal of Wahana Pendidikan* 10, no. 7 (2024): 972–80, <https://doi.org/10.5281/zenodo.11282963>.



law, the practice of renting back a shophouse to another party without the consent of the owner is seen as an illegal act and has serious legal implications.<sup>25</sup>

**b. Legal Remedies That Can Be Taken by Shophouse Owners to Recover Losses Suffered by Them Due to Decision Number 6/Pdt.G.S/2024/PN Sit**

In the case of Decision Number 6/Pdt.G.S/2024/PN Sit, the tenant was legally declared to have committed a default due to his negligence in fulfilling the obligations agreed in the agreement. These violations include non-compliance in paying the remaining rent of Rp. 30,000,000 (thirty million rupiah), destroying the structure of the shophouse building by making holes in the floor, and renting back the shophouse to other parties without permission from the owner. These actions not only violate the content of the agreement, but have also caused real losses to shophouse owners, both materially and legally. This shows a violation of the principle of good faith that should be upheld in the implementation of the agreement.

In Decision Number 6/Pdt.G.S/2024/PN Sit, the panel of judges determined the following verdict:

1. Granting the Plaintiff's lawsuit in part with a contradiction.
2. Declaring that the Defendant committed a default.
3. Declaring the lease agreement to rent a shophouse, dated April 10, 2023, null and void.
4. Sentenced the Defendant to pay the case fee of Rp. 204,000 (two hundred four thousand rupiah).
5. Dismiss the Plaintiff's lawsuit for the rest.

Basically, the decision is in line with the applicable legal rules. However, the Plaintiff's application for damages was not granted by the Panel of Judges. The refusal is based on the fact that the shophouse owner is unable to explain the details of the losses he has suffered. In addition, the nullity of the lease agreement for the sake of law made it considered invalid from the beginning.<sup>26</sup> With the cancellation of the agreement, the goal of the parties to create a legal relationship is not achieved, so that the rights and obligations born from the agreement are also lost. Although the default has been proven and the lease agreement is null and void, the denial of the claim for damages indicates that there are limitations in the overall restoration of rights for the aggrieved shophouse owner.<sup>27</sup>

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<sup>25</sup> harmayuda, Made Satria, Anak Agung Sagung Laksmi Dewi, and I Gusti Agung Ayu Gita Pritayanti Dinar. "Settlement of Default of Wedding Organizer Service Agreement Due to Force Majeure." *Journal of Legal Analogy* 4, no. 2 (2022): 130-135. <https://doi.org/10.22225/ah.4.2.2022.130-135>.

<sup>26</sup> M. Yahya Harahap, *Discussion, Problems and Implementation of the Criminal Code: Examination of Court Hearings, Appeals, Cassation, and Review*, 2nd ed. (Jakarta: Sinar Grafika, 2013).

<sup>27</sup> Itqiyah, Nila, and Tamsil Rachman. "Analysis of Supreme Court Decision Number 1116K/Pdt/2023 Regarding Defaults on Ship Lease Agreements." *Novum: Journal of Law* 11, no. 3 (2024).

The judge's decision in the default case does not rule out the possibility of causing objections or dissatisfaction from one of the parties involved in the trial process.<sup>28</sup> Therefore, every judge's decision always has the opportunity to be re-examined to ensure that mistakes or mistakes that occur can be corrected for the sake of achieving justice and truth in the decision.<sup>29</sup>

Thus, shophouse owners have the right to take a number of available legal steps as a form of protection and recovery for the losses they have experienced. In civil procedure law, there are two main categories of legal remedies that can be pursued by the parties. First, legal remedies whose implementation will temporarily stop the execution of the judgment.<sup>30</sup> The form of this legal remedy includes resistance (*verzet*) to *verstek* decisions, appeals to higher courts, and cassation to the Supreme Court. Second, if all the usual legal remedies have been passed and the envoy has obtained permanent legal force (*inkracht*), the aggrieved party still has the opportunity to file an ordinary legal remedy, namely review (PK), on the condition that a *novum* (new evidence) is found or there is an error of the judge in deciding the case.<sup>31</sup>

In this case, the usual legal remedies that can be filed by the shophouse owner, include:

### 1. Banding

Appeal is one of the legal remedies that can be carried out if one of the parties feels that their rights are best in the court decision, as a form of dissatisfaction with the decision.<sup>32</sup> The legal basis for civil appeal is listed in Article 199 of the Criminal Code, Article 6 of Law Number 20 of 1947 and Article 26 paragraph (1) of Law Number 48 of 2009. In addition, Article 21 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power states that the decision of the court of first instance can be appealed to the high court by the parties concerned, unless the law stipulates otherwise.<sup>33</sup>

Appeals in civil cases must go through the Registrar at the District Court who decides the case, in this case the Situbondo District Court. The deadline for appeals is 14 (fourteen) days from the date of the decision being read if the parties are present at the hearing, or 14 days from the notification of the decision if one of the parties is not

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<sup>28</sup> Ismail, Indra Perdana Tanjung, and Rebecca Ginting, "Implementation of Online Appeal Legal Remedies in Civil Cases in District Courts Class 1 B," *Syntax Literate: Indonesian Scientific Journal* 7, no. 6 (2022): 7462–71.

<sup>29</sup> Mertokusumo S, *Indonesian Civil Procedure Law Revised Edition* (Yogyakarta: Cahaya Atma Pustaka, 2013).

<sup>30</sup> Bernadetha Aurelia Oktavira, "Note! These are 2 types of civil legal remedies," Online Law, 2023, <https://www.hukumonline.com/klinik/a/catat-ini-2-macam-upaya-hukum-perdata-lt63f6adcfd1bf/>.

<sup>31</sup> Jagat Krisno, A. A. Dalem, Ni Ketut Supasti Dharmawan, and A. A. Sagung Wiratni Darmadi. "Legal Consequences Arising from Default in Authentic Land Lease-Lease Agreement." *Kertha Semaya: Journal of Legal Studies* (2023).

<sup>32</sup> Oktavira.

<sup>33</sup> Indonesia, "Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power" (n.d.).

present.<sup>34</sup> An appeal can be filed after all case costs have been paid. After that, the Registrar will prepare a deed of appeal application containing the date and day the application was received, and signed by the Registrar and the Appellant, namely the owner of the shophouse. The application is then registered in the register of appeals of civil cases and notification to the tenant as opposed to the case must be submitted within a period of 14 days.<sup>35</sup>

If the appeal application is submitted outside the specified grace period, the application can still be accepted on the condition that the Registrar is obliged to make a certificate regarding the delay. In this case, the Registrar is still obliged to notify the application to the opposing party within 7 (seven) days after the application is received<sup>36</sup>

As the Appellant, the shophouse owner also has the right to file a memorandum of appeal as a form of explanation of objection to the District Court's decision. Although not mandatory, the appeal memory can strengthen the legal arguments in the examination process at the appellate level. Supreme Court Decision No. 39K/Sip/1973 dated September 11, 1975 also states that the legal principle of memory of appeal can be filed as long as the case has not been decided by the High Court.<sup>37</sup> In addition, the applicant still has the right to withdraw the appeal before the High Court issues a ruling.<sup>38</sup> This reflects flexibility in the legal process and provides room for the parties to resolve disputes amicably before a final decision.<sup>39</sup>

## 2. Cassation

Cassation is a type of legal remedy whose authority is in the Supreme Court to review decisions that have been determined by the judicial institution that decides cases at the appellate level.<sup>40</sup> The legal basis of cassation in civil procedure law is listed in Articles 30 to 45A of Law Number 14 of 1985 concerning the Supreme Court, which has been amended by Law Number 5 of 2004 and Law Number 3 of 2009. The cassation aims to annul the decision of the appellate court.<sup>41</sup>

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<sup>34</sup> Indonesia, "Law No. 20 of 1947 concerning Repeat Judicial Regulations in Java and Madura," Pub. L. No. 20 (n.d.).

<sup>35</sup> Mary, Farica Cheryl. "Analysis of Defaults in Vehicle Lease-Rental Agreements in Sleman Regency and Its Implications in Dispute Resolution." Thesis, Atma Jaya University Yogyakarta, 2025.

<sup>36</sup> Edwin Yuliska, "Civil Legal Remedies for Court Decisions That Have Not Satisfied the Plaintiffs," *Journal of Normative* 11, no. 2 (2023): 119–33.

<sup>37</sup> Indonesia, "Decision of the Supreme Court of the Republic of Indonesia No. 39/K/Sip/1975 dated September 11, 1975" (n.d.).

<sup>38</sup> Syahrul Sitorus, "Legal Remedies in Civil Cases (Verzet, Appeal, Cassation, Review and Derden Verzet)," *Journal of Hikmah* 15, no. 64 (2018): 63–71.

<sup>39</sup> Natalia, Linda. "Legal Consequences of Default Not Fulfilling the Force Majeure Clause in the Shop Lease-Lease Agreement (Study of Decision Number: 186/Pdt.G/2018/PN-LBP)." *Journal of Notarius* (2023).

<sup>40</sup> Indonesia, "Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court" (n.d.).

<sup>41</sup> Yudha, "Legal Remedies in Civil Procedure Law," Law, 2023, <https://www.hukum.my.id/2023/05/upaya-hukum-dalam-hukum-acara-perdata.html>.



The cassation examination no longer assesses the facts or the subject matter, but assesses the legal aspects of the decision. Therefore, the focus on the cassation level does not include the truth of an event.<sup>42</sup> In other words, at the cassation level, the Supreme Court's focus is on formal truth (application of law), not material truth (facts).<sup>43</sup>

The period for filing an appeal is 14 (fourteen) days starting from the time the parties receive notice of the decision from the High Court.<sup>44</sup> During this period, the cassation applicant is also required to submit a cassation memory containing legal arguments as the basis for filing an appeal. Without a cassation memory, the cassation application cannot be accepted by the Supreme Court. The basics that can be used in the application include:<sup>45</sup>

1. The court that issued the judgment has no authority or exceeds its authority.
2. There are errors in interpreting or applying the applicable legal rules.
3. There is negligence in complying with the applicable legal regulations that cause the decision to be null and void.

Basically, the Supreme Court conducts an examination of cases at the cassation level only based on the case file. However, if deemed necessary, the Supreme Court can hear directly the testimony of the litigants or give an order to the appellate court to do so.<sup>46</sup>

### 3. Peninjauan Kembali (PK)

Review (PK) is an extraordinary legal remedy that allows the aggrieved party to ask the court to review a decision that already has permanent legal force (inkracht). PK is the last legal remedy that can be carried out by parties who feel that their rights have not been fairly restored, even though all stages of justice have been passed and declared complete. In civil cases, the PK application does not focus on the submission of new facts in general, but is limited to specific reasons that are clearly stipulated in the applicable legal provisions, including the discovery of new evidence (novum) that was not previously submitted at the trial or there are obvious errors and errors in the judge's consideration.

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<sup>42</sup> Octavia, "Note! These are 2 types of civil legal remedies."

<sup>43</sup> Nandila Putri, Ni Made Saraswati, and I Dewa Ayu Dwi Mayasari. "The Use of Force Majeure Clauses as an Impact of the COVID-19 Pandemic in Credit Agreements." *Kertha Semaya: Journal of Legal Sciences* 11, no. 1 (2022): 85–96. <https://doi.org/10.24843/KS.2022.v11.i01.p09>.

<sup>44</sup> Indonesia, Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court.

<sup>45</sup> Indonesia, "Law No. 5 of 2004 concerning Amendments to Law No. 14 of 1985 concerning the Supreme Court" (n.d.).

<sup>46</sup> Firda Megawati Hastin, Muhammad Kamal, and Satrih Hasyim, "Civil Dispute Resolution at the Cassation Legal Relief Level and Review through Mediation," *Journal of Lex Philosophy (JLP)* 5, no. 2 (2024): 1080–99.

A review application can only be filed once and can still be dismissed as long as the Supreme Court has not issued a ruling.<sup>47</sup> However, if the application is cancelled or revoked, the application cannot be made a second time. Even though the PK application was submitted, it did not necessarily stop the execution of the decision that had permanent legal force (*inkracht*). The reasons that can be used as the basis for submitting a PK, as determined by law, include:<sup>48</sup>

1. The verdict is based on untrue facts or false evidence that only comes to light after the verdict is rendered.
2. New evidence (*novum*) was found that could not be found during the examination.
3. The decision to decide or accept matters outside the application or exceed the demand
4. Some of the demands were not decided without a clear reason.
5. There are inconsistent decisions on the same matter and parties by the same court.
6. There were mistakes or mistakes that were clearly made by the judge in the decision.

A PK in a civil case can be filed within a maximum period of 180 (one hundred and eighty) days from the discovery of the reason for the PK or since the decision has permanent legal force and has been notified to the parties to the case.<sup>49</sup> The application can be submitted orally by submitting it directly in front of the chief justice or judge who is given a special task by the chief justice to receive and process the application. Meanwhile, the form of evidence used in the PK is limited to the evidence of letters that have been available before the case is tried. The document or evidence must be submitted with an oath and must obtain endorsement from the authority or authorized official.

By considering all of these legal aspects, shophouse owners in the case of Decision Number 6/Pdt.G.S/2024/PN Sit are expected to be able to choose the most effective and strategic legal steps to obtain justice and comprehensive restoration of rights for the losses they have experienced. In this case, appeals and PK are the most relevant options, especially if a *novum* is found that can strengthen the legal position of the shophouse owner.

The use of the right to legal remedies is not only a form of objection to the outcome of the decision, but an important part of the legal mechanism in order to ensure substantive justice in the settlement of lease-tenant disputes. Therefore, it is

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<sup>47</sup> Indonesia, Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court.

<sup>48</sup> Indonesia.

<sup>49</sup> Indonesia.

very important for shophouse owners to prepare all legal evidence and arguments carefully and carefully, both in the submission of appeals and review

#### **D. Conclusions and Recommendations**

Based on the civil law view, the practice of renting back a shophouse to another party without permission from the owner is an act that is contrary to the provisions of the law, especially Article 1559 of the Civil Code and the principle of good faith, so it can be categorized as a default. In Decision Number 6 Pdt.G.S/2024/PN Sit, even though the tenant is proven to be in default, the claim for compensation is rejected. Therefore, shophouse owners can take further legal remedies such as cassation, appeal, or review to restore their rights.

The parties involved in the agreement must comprehensively understand the rights and obligations attached to the agreement, and always uphold the principle of good faith in its implementation. Shophouse owners must also be more careful in formulating agreement clauses, by including a strict prohibition on the practice of re-leasing and the provisions of its sanctions.

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