A Study of commercial apartments governance in South Jakarta

Y Dessiani1*, L S Barus1 and J Adianto2
1 School of Strategic and Global Studies, University of Indonesia, Central Jakarta, Indonesia
2 Faculty of Engineering, University of Indonesia, Depok, West Java, Indonesia

Email: yoshidessiani@gmail.com

Abstract. The magnitude of profit turnover in commercial apartments management, frequently led to the asymmetrical relationship between real estate developers as private sector and apartments' owners as citizen. This condition was marked by administrative violations which often carried out by real estate developers. Throughout 2018, Ombudsman RI Greater Jakarta Office received various complaints related to the apartments' management and operation, including conflict of interests and transparency issues in the Apartments' Owners and Residents Association (PPPSRS). Following certain policy agenda that had been pushed by several interest groups since 2006, the government attempted to formulate a particular public policy to protect each party involved in the vertical housing operation, especially citizen. Conducted with a qualitative research method, the objective of this study is to examine the implementation of DKI Jakarta Provincial Governor Regulation Number 132 Year 2018 on Management of Owned Apartments (Pergub 132/2018) in Apartemen Taman Rasuna and Apartemen Kalibata City, South Jakarta. This study found that the handover of apartment units that were not accompanied by legal ownership documents clearly impacted the delayed in transition process towards the implementation of Pergub 132/2018.

1. Introduction
Private sector shows more effective performance than the public sector in providing housing. This is because the construction of public housing requires production costs up to two times greater than the construction of private housing. Meanwhile, the cost of producing public housing itself has taken the proportion of two thirds of the selling price of the house and considered as less profitable [1]. Therefore, the presence of the private sector in the management of high-rise housing, is expected to support the implementation of housing activities in urban areas, especially on the construction of commercially owned apartments.

Together with the presence of new units that were built completely in the first quarter of 2018, the number of commercial apartments in DKI Jakarta Province reached 201,817 units or experienced a growth of 9.5 percent. In the first quarter z 2018, 5,589 new units were built, which is also the completion of nine projects that existed in the previous year. This figure is more than double of the supply in 2017 and represents 22 percent of the total supply as projected to be completed in 2018, with a total of 25,410 units. There will be an increase in the number of commercial apartments supply by 20,234 units in 2019 and 14,324 units in 2020.
The same report also indicated that the average selling price of commercial apartments in 2018 was Rp33.8 million per square meter or had price growth of 2.5 percent from the previous year. When compared with 3.13 percent inflation, the price of commercial apartments experienced negative growth. In 2018, 25 percent of the total commercial apartments are located in West Jakarta. Meanwhile, North Jakarta and South Jakarta each shared around 19 percent of the market [2].

In the same year, the average level of occupancy of commercial apartments fell 1.4 percent to 69.8 percent. There are three main factors that influence the downward trend in occupancy of commercial apartments in Jakarta. First, the lack of people’s desire to live in commercial apartments in the long run. Second, the high number of turnover as residents with short-term rental period is easily to move in and move out as consequences of their mobility or employment. Third, the arrival downward of expatriates who generally rented commercial apartments for short-term period. On the other hand, DKI Jakarta Provincial Government received complaints about slow delivery of units, delayed in the issuing process of Deed of Sale and Purchase (AJB), and Freehold Estate for apartments (SHMSRS), as well as conflicts in the formation of PPPSRS.

We, as researchers, believed that the physical changes of cities demanded social change in society. The apartment developments in urban areas in Indonesia presented a unique concept, which consists individual ownership, shared responsibility, and participation. Among factors that influenced society, transparency and participation in joint asset management played a very important role because it is one of the most important principles in good governance. However, because apartments also indicate the existence of individual ownership in private space, government has limitation to regulate any form of authority in private space. Therefore, in the management of apartments, DKI Jakarta Government is required to experience the transition of traditional roles as controllers and regulators into coaches, facilitators, gatherers and binders.

On the other hand, commercial apartment residents are also required to carry out governance activities as part of their ownership in shared property. This governance activity reflects interests of urban groups to compensate for the physical changes of the city. This governance activity is also carried out to balance the domination of real estate developers. In some cases, real estate developers did not uphold the principles of consumer protection, transparency and participation. To support the creation of good governance, the local government needs to regulate the rights and obligations of real estate developers, owners, and residents with the establishment of a body responsible for governance in apartments management and operation, through PPPSRS.

In DKI Jakarta Province, the presence of PPPSRS was later strengthened legally through the newly implemented Pergub 132/2018, which has been enacted on 5 December 2018. The presence of this local regulation also marked the delegation of DKI Jakarta government authority to PPPSRS through public policy. Through this public policy, the local government retained authority over the planning of apartments in certain areas, but the operation, management, and administration in commercial apartments as joint property is a full responsibility of the PPPSRS. In this phase, the presence of PPPSRS carried out its role as a neighboring association, which is expected to accommodate the interests of owners and residents of apartments efficiently in day-to-day lives of urban society in Jakarta.

Therefore, this study aims to (1) identify the driving factors behind the issuance of Pergub 132/2018; (2) review the management of commercially owned apartments, with case studies in Apartemen Taman Rasuna and Apartemen Kalibata City, South Jakarta based on Pergub 132/2018; (3) analyze the problems that arise as obstacles in the implementation of Pergub 132/2018 in Apartemen Taman Rasuna and Apartments Kalibata City, South Jakarta; and later closed with conclusions related to the results of the study.

2. Literature Review
2.1. City development
The purpose of the city as a theater is when city residents run a social drama. Social drama occurs when city residents carried out activities intentionally in the fields of art, social, political, economic, educational or other fields that reflect their groups’ interests as compensation for the physical changes
of the city. Based on his statement, Mumford concluded that social conditions were the main element in urban development, while the physical organization of cities — the needs of industry, markets, communication networks, and traffic — had to adjust the social needs of urban residents. The city reflects and enlarges the spirit of human life. Therefore, social drama can create a better city that will enrich the city civilization [3].

2.2. Common property

Apartment is a unique legal entity because it has three main constituent elements: (1) individual ownership of apartment units, (2) joint ownership of common parts in apartment buildings, and (3) membership in residents' associations. Apartments buyers not only obtain individual ownership of a unit when purchase it, but also obtain ownership of the common property. In addition, they also obtain membership in the association of owners, a body that is responsible for the operational, management, and administrative subjects in the apartment [4].

2.3. Good governance and dynamic governance

In a democratic country, good governance is seen as a distinctive paradigm that needs to be enforced in public administration system. In general, governance is defined as the partnership quality between the government and the people they served and protected. In good governance, the concept of government has been shifted to governance. The concept of government refers to an organization-based management by the highest authority in state, while the concept of governance does not only involve the government, but also the role of various actors outside the government. Therefore, governance involves three primary domains. They are the state or government as the public sector, the private sector, and society that develop cooperation, according to their role and function.

In dynamic governance, the basic responsibility of the government to achieve security, economic development, and supportive social-political condition remains the main issues. However, dynamic governance illustrated that the role of government as public sector in achieving the aforementioned objectives can change over time due to the presence of other sectors with significant roles. The traditional role of the public sector as a controller and regulator has been evolved into a new role as nurturer, facilitator, convener, and aggregator. These new roles recognized that the ultimate creator of wealth in a country is private sector [5].

2.4. Public policy

Public policy is a government action framework designed to deal with issues that are of public concern and carried out to achieve public goals with three main characteristics. First, that public policy in a modern political system is designed to achieve certain goals or defined outcomes. Although this goal is not always achieved, the proposed policy can be useful, as a hypothesis that shows some actions must be taken to achieve a goal. Second, public policy consisted of patterns of action that are carried out from time to time by public officials that have an impact to other sectors. This is because a policy does not only include the decision to adopt by the law, but it should be a sustainable decision and is related to other policies. Third, public policy appeared to respond to policy demands or action claims on some public issues made by actors of citizens, legislators, interest groups, political parties or other groups [6].

3. Research Methods

This study used qualitative research methods. Several key informants who could provide detailed information in this study were interviewed with in-depth interview method and open questions. Interviews generally took place in key informants' office buildings and were started in early April 2019 until early May 2019. The key informants are: (1) Ombudsman RI Greater Jakarta Representative Office Head, Teguh; (1) Head of the Community Development, Supervision and Participation Division of DPRKP DKI Jakarta, Meli Budiastuti; (2) Member of DKI Jakarta Research Council (DRD),
Chairperson of the Indonesia Association of Apartments Owners and Occupants (APERSSI), Ibnu Tadji; (3) Member of the Governor Team for Acceleration and Development (TGUPP) and Chairperson of Association of Owners and Residents in Apartemen Taman Rasuna (PPPSRS-ATR), Naufal Firman Yursak; and (4) Secretary General of APERSSI and Supervisor of PPPSRS Apartemen Kalibata City, Bambang Setiawan.

4. Analysis
4.1. The policy process of pergub 132/2018

The pattern of dynamic governance was seen in the interaction of each stakeholder during public policy process of Pergub 132/2018. Each party has certain perceptions, assumptions, and descriptions of the implemented policy. The government, in this case was represented by DPRKP DKI Jakarta, has undergone a transition of their traditional roles as a supervisor and regulator which have been transformed into instructor, facilitator, and aggregator for various parties, including the private sector. In particular, there are actors who have direct influence on the policy action of the Pergub 132/2018. They were Ombudsman RI Greater Jakarta Representative and DPRKP DKI Jakarta who were represented the public sector, REI from the private sector, also APERSSI and PPPRSI as representations of interest groups.

Perceptions, assumptions, and descriptions of Pergub 132/2018 policy process were influenced by the limitations, opportunist nature of the stakeholders, and frequently appeared from conflicts of interests. In Pergub 132/2018, the fundamental perception to issue the policy is spirit of consumer protection, transparency, and participation in apartments management after the government received number of reports related to violations committed by real estate developers. Ombudsman RI Greater Jakarta Representative Office Head, Teguh Nugroho said his office received 15 reports related the violations in apartments management throughout 2018.

Table 1. Ombudsman RI Greater Jakarta Reports related to Apartments, 2018

| No | Reporter | Reported | Subject |
|----|----------|----------|---------|
| 1  | Public   | Central Jakarta Land Office | Alleged protracted delay related to the execution of HGB No: 2218 / Cideng from PT Duta Pertiwi Tbk to the name of the ITC Roxy Mas residential and non-Residential housing association. |
| 2  | Public   | DKI Jakarta Provincial DPRKP | Allegation of not providing services by DKI Jakarta Provincial DPRKP related to the dispute report on Rajawali Chrysant Apartment submitted by the reporter |
| 3  | Law Firm | West Jakarta Land Office | Alleged protracted delays by the West Jakarta Land Office related to the non-follow-up request for recording of extension of HGB No.1271 / Palmerah at SHMRS Slipi Apartment |
| 4  | Public   | DKI Jakarta Provincial DPRKP | Alleged incompetence of DKI Jakarta Provincial DPRKP related to management problems of Kalibata City Apartments |
| 5  | PPPRS    | DKI Jakarta Provincial DPRKP | Alleged incompetence of DKI Jakarta Provincial DPRKP related to Kalibata City PPPRS management issues |
| 6  | PPPRS    | Provincial Government of DKI Jakarta | The suspicion of protracted delays by the Provincial Government of DKI Jakarta has not yet been followed up with requests for resolution of the PPPRS-TSPA problem at the Signature Park Apartment. |
| 7  | PPPRS ITC Mango Dua Environment IA | ITC Mangga Dua PPPRS | Alleged procedure deviation by Br. xxx and Br. xxx as Chairperson and Secretary of ITC Mangga Dua |
While, assumptions stemmed from the increase apartments construction activities in DKI Jakarta, which allowed the presence of regulations loopholes which legally created opportunities for violations. This condition was an unintended consequence of the absence of a strong legal basis. The description indicated that Pergub 132/2018 was issued to fill the legal vacuum as mandated in Law 20/2011 on Condominiums (UU 20/2011 tentang Rumah Susun).

4.2. Case Study in Apartemen Kalibata City and Apartemen Taman Rasuna
In this part, we raised a case study in in two commercial apartments management in South Jakarta, Apartemen Taman Rasuna and Apartment Kalibata City. The main objective in this part is to examine how the implementation processes were carried out and how the adoption of several mandates in the Pergub 132/2018 were applied. The significance of this case study is to provide the success story and the unsuccessful one of Pergub 132/2018 implementation, which later can be considered as lesson-learned for the involving parties.

In particular, Apartemen Taman Rasuna was chosen by researchers because it represented PPSRS that has been formed and adopted Article 103 in Pergub 132/2018, which mandated adjustments to the organizational structure, Articles of Association and Bylaws (AD/ART), and the PPSRS Rules.
Figure 1. Apartemen Taman Rasuna location map, 2019.

Table 2. Apartemen Taman Rasuna Profile, 2019

| Development actors                  | PT Bakrie Swasakti Utama                      |
|-------------------------------------|------------------------------------------------|
| Association                         | Association of Owners and Residents of Taman Rasuna |
| Owners and Occupants                | Apartment Flats (PPPSRS-ATR)                   |
| Year was built                      | 1993                                           |
| Habitable year                      | 1997                                           |
| PPPRS transition year               | 2013                                           |
| Address                             | Jalan HR Rasuna Said, Menteng Atas Village, Setiabudi District, South Jakarta Administrative City |
| Land area                           | 62,000 square meters; with a floor area of 266,477 square meters |
| Number of towers                    | 13 towers                                      |
| Number of floors per tower          | 33 floors per tower                            |
| Number of units per floor           | 8 units per floor                              |
| Total residential units             | 3,069 units                                    |
| Unit is inhabited                   | 2,400 units (estimated)                        |
| The unit is inhabited by the owner  | 661 units                                      |
| Total Occupants                     | 10,000 inhabitants (estimated)                 |
| IPL rates                           | IDR 11,500 per square meter                    |
| Cost of depreciation                | Rp2,500 per square meter                       |

Source: Interview with PPPRS-ATR, 2019

On the other hand, Apartemen Kalibata City was chosen to represent the apartments management which was still carried out by real estate developer as Temporary Manager, as mandated by Article 104 in Pergub 132/2018. The article also stipulated that formation of PPPRS is needed, as well as the establishment and appointment of PPPRS committees no later than one year after the enactment of Pergub 132/2018.
Table 3. Apartemen Kalibata City Profile, 2019

| Apartemen Kalibata City |        |
|------------------------|--------|
| Real estate developers | PT Pradani Sukses Abadi |
| Association            | Not yet approved. PPPSRS activities are carried out by |
| Owners and Occupants   | development actors as temporary managers |
| Year was built         | 2009   |
| Habitable year         | 2011   |
| PPPSRS transition year | Not implemented yet |
| Address                | Jalan Kalibata Raya Number 1, Kelurahan Rawajati, Kecamatan Pancoran, Kota Jakarta Selatan |
| Land area              | 120,000 square meters |
| Number of towers       | 18 towers |
| Number of floors per tower | 21 floors per tower |
| Number of units per floor | 40-50 units per floor |
| Total residential units| 13,565 units |
| Unit is inhabited      | 8,000 units (estimated 70 percent of the total units) |
| The unit is inhabited by the owner | 1,200 units |
| Total Occupants        | 20,000 inhabitants (estimated) |
| IPL rates              | Rp13,885 per square meter for Kalibata Residence; IDR 16,000-IDR 17,000 per square meter for Kalibata Regency and Green Palace |
| Cost of depreciation   | Rp500 per square meter for Kalibata Residence; Rp1,000 per square meter for Kalibata Regency and Green Palace |

Source: From various source, 2019

In this analysis, we only focus on articles that were often highlighted and were in line with some concepts applied to this study. These concepts include: (1) the presence of neighborhood association in urban high-rise residential areas, through the law that regulates legal owners to become PPPSRS administrators and supervisors; (2) the concept of joint ownership and participation reflected in the voting rights of residential interests that use ‘one name one vote’ mechanism; and (3) the principle of transparency through financial management with online publication system.
Table 4. Pergub 132/2018 Implementation Matrix, 2019

| Concepts in Research | Implementation Status | Implementation Status |
|----------------------|-----------------------|-----------------------|
|                      | Fill Article in Governor Regulation 132/2018 | Apartment Taman Rasuna | Kalibata City Apartments |
| Neighboring associations, high-rise housing in urban areas | Article 45, regarding legal requirements to become a manager and supervisor of PPPSRS; | Implemented | Not implemented |
| Joint ownership, participation | Article 50 Paragraph (5), concerning voting rights for occupancy interests using the 'one name one vote' mechanism. | Implemented | Not implemented |
| Transparency | Article 79 Paragraphs (4) and (5), concerning Financial Management using an online system. | Implemented | Not implemented |

Based on the analysis, we found that articles related to governance in Pergub 132/2018, namely Article 45, Article 50 Paragraph (5), and Article 79 Paragraph (4) and (5) have been implemented in Apartemen Taman Rasuna. On the other hand, the articles above in Pergub 132/2018, have not been implemented in Apartemen Kalibata City. Until now, the functions of PPPSRS are still carried out by temporary manager, although Pergub 132/2018 has mandated the establishment of PPPSRS in Apartemen Kalibata City.

Based on the case in Apartemen Kalibata City, we assessed that the main problem that has been the obstacle of Pergub 132/2018 implementation was the handover of apartment units that were not accompanied by legal ownership documents, especially SHMSRS and AJB. This was allegedly carried out by the real estate developers to delay legal requirements as the legal basis of SHMSRS, which strengthened the owners' status with SHMSRS as proof of ownership. This condition, which was also believed to be taken intentionally, clearly impacted the delayed in transition process towards the implementation of Pergub 132/2018, so that the PPPSRS can be fully managed by administrators who were from the apartment owners and residents.

5. Conclusion
The findings in this study reflected that the performance of government-run supervision in the process land administration requires evaluation. The problems that occurred in the implementation of Pergub 132/2018 actually did not lie in the complexity of the regulations, but rather in the implementation of regulations that open opportunities for violations. Therefore, the regulatory certainty and law enforcement are the two main aspects that need to be implemented by the government in an effort to provide security for apartment owners and residents.

On the other hand, the government needs to create the ease of doing business for the private sector with the presence of regulatory certainty. Only in that way, real estate developers as the private sector can reduce transaction costs spent on land administration processes for their commercial apartments. This one includes efforts to provide high-rise housing in urban areas in the short and medium term, therefore it will have a significant impact on improving the welfare of urban communities in the long term. If this is realized, the government is considered to have succeeded in implementing a dynamic governance function as an aggregator of the private sector.

Therefore, the role of the private sector as a partner of government and society in governance in urban areas is very important. To realize the role as a binder, the government needs to design legal
instruments in a steady pattern of cooperation in anticipation future conflicts of interest. The government will have greater authority to demand support from the private sector at implementation stage, because this stage relies heavily on the compliance with public policy goals, especially by the private sector and society.

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