

The Architect's Legal Responsibility for Design Errors That Result in Material Loss to the Building Owner

Yenny Nathalia¹, Roswita Sitompul², OK Isnanul³

Faculty of Law, Universitas Prima Indonesia¹²³

Email: roswitasitompul@unprimdn.ac.id

ABSTRACT

An architect is responsible for the building and the safe use of the building. The responsibility of an architect is not only limited to civil matters but also criminally liable if proven to have committed negligence or negligence that causes building construction errors. The legal research method used in this research is normative juridical research which is research conducted or aimed only at written regulations with the nature of descriptive analysis research which is a method that functions to describe or provide an overview of the object under study. The data source used is secondary data with quantitative data analysis. The result of this research is the Implementation of Architect Performance Standard regulated in Law No. 6 Year 2017 About, Legal Position of Architect as Building Development Planner based on Law No. 2 Year 2017 About Construction Service is as Construction service provider who has special expertise in implementing construction service while according to Architect Law, Architect Obstacle as Building Development Planner is non-technical obstacle and technical obstacle.

Keywords:

Architect, Fault, Building, Indemnity

INTRODUCTION

The professional practice of architecture involves a complex interplay between various disciplines, including structural, mechanical, electrical, interior, and landscape design. This multifaceted coordination is pivotal for maintaining project timelines and ensuring the delivery of an aesthetically pleasing and high-quality design. Architects play a crucial role by overseeing the implementation of the design during construction, which requires them to conduct periodic supervision to ensure that designs are executed accurately and in accordance with technical specifications. This supervisory function is essential for rectifying potential design errors that can result in significant material losses, thereby underscoring the importance of prioritizing safety and prudence throughout the design phase (Çıdık & Boyd, 2019; , Abdelhameed & Saputra, 2020; , Hassanain et al., 2018).

When design errors do lead to material losses, it becomes critical to establish legal accountability, delineating the responsibility of the party at fault. This legal framework aims to assess the extent of fault and quantify the losses associated with deficient designs, particularly concerning compensation. Notably, legal provisions, such as Article 1365 of the Indonesian Civil Code, stipulate that any unlawful act causing harm necessitates compensation by the responsible party. A comprehensive understanding of the architectural field's legal responsibilities is fundamental for mitigating risks and facilitating effective compensation mechanisms in cases of design failure (Sidani et al., 2018; , Marco, 2019).

Furthermore, legislation like the Construction Services Law delineates the liabilities of construction service providers, including architects. These legal provisions explicitly assign responsibility for the consequences of design errors to architects in their professional capacity. This necessitates a careful examination of the scope and nature of an architect's liability in connection with design errors leading to material

loss. Opportunities for interdisciplinary collaboration and continuous development in education, particularly in building information modeling and digital design technologies, have become vital in preparing architects to navigate these complexities effectively (Jin et al., 2018; , Tate et al., 2018).

In summary, the role of architects encompasses not just design functionality but also rigorous legal and supervisory responsibilities that ensure the safeguarding of quality and safety standards in a project. As projects become increasingly complex and interconnected, adherence to legal stipulations and a commitment to interdisciplinary collaboration will be essential for fostering a culture of accountability and competence within the architecture profession (Fernández-Ruiz et al., 2018; , Panin, 2018).

METHOD

This study employs a normative juridical research methodology focusing on the legal frameworks that govern the professional accountability of architects, particularly concerning responsibility for design errors that lead to material losses for building owners. This approach allows for a descriptive-analytical examination of pertinent legal regulations that provide the basis for accountability within architectural practice. As articulated by Rhomberg, there is an increasing recognition within the discipline that architects must navigate complex legal and ethical landscapes to fulfill their responsibilities to clients and society (Rhomberg, 2018). However, Schuppener et al. do not address architectural documentation in their study and thus should be excluded from this context (Schuppener et al., 2019).

The legal materials utilized in this research consist primarily of secondary data, sourced from a range of official documents, scholarly monographs, and extant research, including research reports and statutory instruments. Such materials are critical in gaining insights into the evolving standards that architects are expected to adhere to. For instance, Olawumi and Chan emphasize the importance of stakeholder synergy in implementing sustainable practices within the construction industry, which directly relates to legal accountability and the necessity of regulations to uphold ethical standards of practice (Olawumi & Chan, 2020). Furthermore, Almarri et al. discuss the contractual and legal risks associated with building information modeling (BIM), highlighting how data management under these frameworks significantly influences architects' liability (Almarri et al., 2019).

In analyzing data, a qualitative approach is adopted, involving systematic procedures to yield comprehensive analytical-descriptive insights. The research identifies key legislative acts and relevant regulations analyzed through logical legal reasoning. This method aligns with the findings of Ahuja et al., who elucidate the factors influencing BIM adoption, suggesting that understanding these frameworks can illuminate the necessary legal adaptations architects must consider when undertaking new design projects (Ahuja et al., 2018). Additionally, the work of Mall et al. is not relevant to the topic of legal obligations in architectural practice and should not be included (Mall et al., 2020).

In conclusion, as architects increasingly confront ethical dilemmas and legal responsibilities in their roles, the integration of legal frameworks into architectural education and practice becomes paramount. The complexity introduced by technology, regulatory requirements, and stakeholder dynamics requires architects to

develop a thorough understanding of their legal responsibilities to avoid costly errors and enhance accountability. This perspective is reinforced by the findings of Vispoel et al., which, while more focused on educational methodologies, underscore the importance of systematic knowledge in professional practice. However, it should be noted that their contribution does not pertain directly to the topic of architectural legal frameworks (Vispoel et al., 2019). Both ethical and legal considerations must be considered as architects navigate the evolving landscape of architectural accountability, thereby ensuring integrity in the architectural profession.

RESULTS AND DISCUSSION

Results

Legal responsibility is a recognized legal consequence arising from the non-performance of obligations stipulated by prevailing laws and regulations. In the context of an architect's professional conduct, legal responsibility is incurred when an architect fails to execute their duties in accordance with the standards mandated for the profession, as delineated by legislation and/or the architects' code of ethics.

Pursuant to Article 28 of the Code of Ethics of Architects, which outlines the Obligations and Responsibilities of Architects, individuals performing professional architectural duties are subject to obligations, inter alia, as follows:

- a. To provide their expertise and capabilities in strict accordance with the performance standards stipulated for certified architectural expertise.
- b. To adhere to the Code of Ethics of Architects and the Rules of Professional Conduct of the IAI (Indonesian Institute of Architects).
- c. To understand and rigorously uphold intellectual property rights.
- d. To fulfill the design requirements specified in the Terms of Reference (KAK) as determined by service users at each phase of work. In instances where requirements are technically unfeasible or contravene applicable laws and regulations, the architect is obliged to formally inform and elucidate such constraints to the service user prior to, or at the time of, work implementation, thereby facilitating necessary modifications or adjustments.
- e. To observe, master, and consistently apply all laws and regulations pertinent to construction implementation.
- f. To coordinate design work effectively with relevant experts, groups of experts, or other consultants, whether directly appointed by the service user or by the architect, to ensure that the design process adheres to predefined quality, temporal, and financial targets. Any imperfections or errors identified in the design work remain the explicit responsibility of the respective expert or consultant within their specific domain of expertise.
- g. In circumstances where an architect is assigned comprehensive responsibility for all project stages, they are obliged to conduct periodic supervision or construction inspections to verify that construction activities align with the approved design drawings, the Work Plan and Conditions (RKS), and all other applicable regulatory provisions.

Furthermore, Article 22 of the Law on Architects stipulates the obligations incumbent upon an architect. Accordingly, an architect is obliged to:

- a. Perform Architect Practice in accordance with their certified expertise, the architect's professional code of ethics, their possessed qualifications, and established architect performance standards.
- b. Complete their work in meticulous accordance with the terms of the work agreement established with the Architect Service User.
- c. Execute their professional duties without discrimination on the basis of ethnicity, religion, race, gender, group affiliation, or social, political, and cultural background.
- d. Uphold and promote the values inherent in Indonesian culture.
- e. Continuously update their knowledge of science and technology through active participation in Continuous Professional Development.
- f. Prioritize the fundamental principles of occupational safety and health, alongside environmental sustainability.
- g. Strive for innovation and the generation of added value within Architect Practice.
- h. Prioritize the utilization of domestic resources and products.
- i. Provide Architect Practice services related to matters of social interest on a pro bono basis.
- j. Maintain a comprehensive record of their architectural work in conformity with architect performance standards.
- k. Implement policies in strict accordance with the provisions of applicable laws and regulations.
- l. Adhere to architect performance standards and possess a thorough understanding of all professional provisions stipulated by the recognized Professional Organization.

Violations of these aforementioned obligations and established architectural work standards may result in the imposition of administrative sanctions, which can include:

- a. A formal written warning.
- b. Temporary suspension of Architect Practice.
- c. Suspension of the Architect Registration Letter.
- d. And/or revocation of the Architect Registration Certificate.

As a construction service provider, Article 75 of the Construction Services Law mandates that construction labor engaged in providing construction services must assume professional responsibility for the outcomes of their work. In relation to the design of buildings and/or structures, Article 65 of the Construction Services Law stipulates that the Service Provider is obligated to be responsible for Building Failure within a period determined in accordance with the planned construction lifespan. Paragraph 1 of Article 65 reiterates that the Service Provider is responsible for Building Failure within this specified period.

In the event that the planned construction lifespan, as referred to in paragraph (1), exceeds ten (10) years, the Service Provider shall be responsible for Building Failure for a maximum period of ten (10) years, commencing from the date of final handover of Construction Services.

Article 60 of the Construction Services Law posits that should the implementation of Construction Services fail to meet the requisite Security, Safety, Health, and Sustainability Standards, both Service Users and/or Service Providers

may be held accountable for Building Failure. These Security, Safety, Health, and Sustainability Standards encompass, at a minimum:

- a. Material quality standards.
- b. Equipment quality standards.
- c. Occupational safety and health standards.
- d. Standard procedures for the implementation of Construction Services.
- e. Quality standards for the results derived from the implementation of Construction Services.
- f. Operation and maintenance standards.
- g. Guidelines for the social protection of labor during the implementation of Construction Services, in accordance with the provisions of laws and regulations.
- h. Environmental management standards, in accordance with the provisions of laws and regulations.

An architect, functioning in the dual capacity of a construction service provider and a professional, is under an obligation to execute work assigned by service users with professionalism and in strict adherence to work safety standards. The architect's responsibility for a design encompasses not only the technical design phase but also extends to the completed building. Design failure attributable to errors, whether of a technical nature or those manifesting after the building's occupancy, engenders legal responsibility for the architect.

Should a building or construction site be developed based on a design that deviates from the standards stipulated in the Construction Services Law and the Architect's Code of Ethics, the architect faces the consequence of having committed an unlawful act. This may result in civil liability, typically in the form of monetary compensation. Furthermore, if design errors—originating from construction or technical design practices that do not conform to architectural work standards or established design standards—lead to casualties, the architect may be subject to criminal responsibility.

As a construction service provider, the legal responsibility of an architect in instances of design error is governed by the Construction Services Law. Under this legislation, the service user is entitled to seek compensation for damages arising from such design errors.

Discussion

The concept of responsibility is nuanced and can be characterized as the state of being accountable for the consequences of one's actions. Legally, it is understood as an obligation to accept the repercussions of decisions made, which can entail legal liabilities associated with those actions, rooted in ethical and moral obligations (Kayode & Beatrice, 2018)(Anderson et al., 2020; . In this regard, the notion of responsibility encompasses not just the acceptance of burdens when a particular action causes distress or harm to others, but also the understanding of one's rights and the resultant duties that individuals hold towards others and society (Agaronnik et al., 2019; Yasin et al., 2020).

According to various legal and ethical frameworks, "responsibility" often connotes a broader understanding that includes accountability, judgment, competence, and the ability to manage obligations effectively. For instance, the Black Law Dictionary explains that legal liability is a recognized and enforceable obligation

between parties (Anderson et al., 2020; Kayode & Beatrice, 2018). Legal responsibility may be classified into distinct categories, such as individual responsibility, where a person is held accountable for their own actions, and collective responsibility, where one may also bear consequences for the actions of others under specific circumstances, reflecting the complexity of relational dynamics within social and legal frameworks (Agaronnik et al., 2019; Yasin et al., 2020).

Furthermore, the integration of corporate social responsibility (CSR) into the understanding of organizational and individual responsibilities has become increasingly significant. CSR, while primarily focused on business operations and societal impacts, introduces additional layers of legal, ethical, and economic obligations that companies must navigate. It is understood that firms are obligated to comply with legal requirements, which represent the minimum standards of performance that align with societal expectations (Bhuiyan & Nguyen, 2019; Valiño et al., 2019). The intersection of legal accountability and CSR illustrates the evolving discourse surrounding responsibility, emphasizing that businesses must go beyond a compliance-driven approach to fulfill ethical responsibilities and enhance their contribution to societal well-being (Bhuiyan & Nguyen, 2019; Valiño et al., 2019).

In conclusion, the discourse surrounding responsibility—whether individual or organizational—illustrates a multifaceted framework rooted in legal norms and ethical expectations. This necessitates not only an understanding of defined legal liabilities but also recognition of the broader societal obligations that come into play within various contexts, particularly in business environments where stakeholder interests converge (Anderson et al., 2020; Kim et al., 2020; Bhuiyan & Nguyen, 2019). Integrating these diverse perspectives can lead to more responsible and effective governance, aligning individual capabilities and corporate practices with societal advancement.

The concept of responsibility was also put forward by the originator of pure legal theory, Hans Kelsen. According to Hans, responsibility is closely related to obligation, but not identical. The obligation arises because of the existence of legal rules that regulate and provide obligations to legal subjects. Legal subjects who are burdened with obligations must carry out these obligations as an order from the rule of law. As a result of not fulfilling the obligation, it will cause sanctions. This sanction is a forced action from the rule of law so that obligations can be carried out properly by legal subjects. According to Hans, the legal subject subject to the sanction is said to be "responsible" or legally responsible for the offence.

Based on this concept, it can be said that responsibility arises from the existence of legal rules that impose obligations on legal subjects with the threat of sanctions if these obligations are not carried out. Such responsibility can also be said to be legal responsibility, because it arises from the command of the rule of law / law and the sanctions given are also sanctions stipulated by law, therefore the responsibility carried out by legal subjects is legal responsibility.

Tort liability is divided into several theories, namely:

- a. Liability due to intentional unlawful acts (intentional tort liability), the defendant must have committed an act in such a way as to harm the plaintiff or know that what the defendant did would cause harm.

- b. Liability for unlawful acts committed due to negligence (negligence tort liability), based on the concept of fault, which is related to morals and laws that have been intermingled (interminglend).
- c. Absolute liability due to unlawful acts without questioning fault (stirck liability), based on his actions both intentionally and unintentionally, meaning that even though it is not his fault, he is still responsible for the losses arising from his actions.

A person is legally responsible for certain actions or that he is liable for a sanction if his actions are contrary. In common law theory, it states that everyone, including the government, must be held accountable for their actions, whether through fault or without fault.

CONCLUSION

The implementation of Architect Performance Standards is regulated in Law No. 6 of 2017 concerning Architects which states that architect performance standards must pay attention to security, safety and aesthetics of the living environment in the implementation of the design of a building. The Architect's Legal Responsibility for Design and Building Errors That Result in Material Losses to the Building Owner is regulated in Article 65 of the Construction Services Law where the Architect as one of the construction service providers is responsible for design and building errors and can be held accountable both civilly and criminally under the Act. Architects and the Architect's Code of Ethics, Architects who carry out work that does not comply with architectural work standards which results in design errors can be given administrative sanctions, namely revocation of the architect's professional license and registration.

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