

LEGAL RESPONSIBILITY OF CONSTRUCTION SERVICE PROVIDERS TOWARDS CONSUMERS FOR BREACH OF AGREEMENT (DECISION STUDY NUMBER: 740/PDT.G/2019/PN.MDN)

Alisya Yasmin Alka Siregar¹, Maswandi², M. Ridha Haykal Amal³

Magister Ilmu Hukum / Universitas Medan Area, Indonesia

E-mail: alisyamysin19@gmail.com

Received: 15/06/2026 | Revised : 27/06/2026 | Accepted: 23/07/2026 | Published :11/08/2026

Abstract

The legal relationship between a construction service provider and a consumer arises from an agreement that creates rights and obligations for the parties. In its implementation, default by a construction service provider can cause losses for consumers so that certainty regarding the form of legal responsibility is needed. The formulation of the problem in this study is: (1) how are the legal regulations regarding the liability of construction service providers to consumers for default in an agreement in Indonesia; (2) what are the legal consequences of default committed by construction service providers to consumers; and (3) what is the responsibility of construction service providers to consumers for default in an agreement based on the Medan District Court Decision. This study aims to analyze the legal regulations, legal consequences, and forms of liability of construction service providers to consumers for default based on the Medan District Court Decision. The research method used is normative juridical legal research with a descriptive analytical nature through a literature study of laws and regulations, doctrines, and court decisions. The research results show that the liability of construction service providers for breach of contract is regulated in the Civil Code, Law Number 2 of 2017 concerning Construction Services, Government Regulation Number 22 of 2020 as amended by Government Regulation Number 14 of 2021, and Law Number 8 of 1999 concerning Consumer Protection. Service providers proven to have committed breach of contract are required to be responsible in accordance with the contents of the agreement and the provisions of applicable laws and regulations.

Keywords: Legal Liability, Construction Service Providers, Default, Consumers, Agreements.

INTRODUCTION

Fulfilling the necessities of life within society is a top priority in living in society. The purpose of fulfilling these necessities is often to engage in buying and selling transactions, where the method of buying and selling can be seen in the increasingly rapid development of purchasing goods/products. Buying and selling transactions in commerce can arise when supply and demand meet for a desired item. One of these human needs is shelter, also known as a home. A home is a crucial component of human life, both for building a harmonious family, sheltering from hot and cold weather, and protecting humans from threatening dangers.

Building a building or house certainly requires a service provider, whether an individual or a legal entity engaged in construction who is an expert in the work. Both companies and individuals engaged in construction are essential to achieve optimal results in accordance with the customer's expectations. A project's implementation truly begins when a legally binding relationship is established between the service provider and the service user. This legal relationship between the service provider and the service user will give rise to legal consequences in the construction sector itself. The purpose of these legal consequences is to establish the rights and obligations of both parties. The momentum of these legal consequences begins with the ratification of the construction contract between the service provider and the service user.

According to Salim HS, a contract is a type of agreement or contract that comprehensively plans and discusses the construction process, which is part of the agreement itself. The purpose of a construction contract is essentially to protect subcontractors and the building owners, and to serve as the basis for the validity of the agreement. Development is an effort to create prosperity and well-being for the people. The results of this development must be enjoyed by all people, resulting in a level of social improvement, both physically and mentally, and fairly and equitably. Conversely, the success of development depends on the level of participation of all citizens. Development must be implemented equitably by all elements of society. Concrete forms of development include the construction of infrastructure projects, rehabilitation of roads, bridges, ports, irrigation, waterways, housing, and

offices. All of this requires clear technical and legal regulations, which require the development and further enhancement of implementation mechanisms. Indonesia itself is a country of law, so the ongoing development is inseparable from the existence of legal regulations related to these issues. However, in practice, many legal regulations that are interrelated with development issues are contained within several regulations, resulting in a lack of legal certainty. Construction work contracts are the basis of the legal relationship that develops between service providers and work providers in the context of construction services, according to Law Number 2 of 2017 concerning Construction Services (Construction Services Law). This relationship is under the scope of civil law, specifically agreements. The purpose of a construction work contract is to ensure fairness and provide legal certainty to the parties. It is the responsibility of service providers and consumers to achieve their tasks and objectives.

The limited land availability has led construction service providers to seek various ways to overcome this. These flats are typically built in urban areas, such as apartments. Law Number 2 of 2017 concerning Construction Services, Article 1, number 8, states that "a construction work contract is the entire document that regulates the legal relationship between the service user and the service provider in carrying out construction work." This construction work contract, carried out by the service user and service provider, occurs due to an agreement between the two parties, and is a reciprocal agreement between the user and the service provider, and therefore the agreement is usually stated in the form of a written agreement (contract). The concept of housing has shifted, not only as a basic need or as an environment that provides a sense of calm and tranquility, but housing has become a lifestyle, providing comfort and showing characteristics or individuality which is one way of self-development, as needed in a global society.

Nearly every aspect of life today is governed by legal regulations. Through this normativeization of human behavior, law permeates nearly every area of human life. The law's increasing intervention into societal life has made the issue of the effectiveness of legal enforcement increasingly important to consider. In other words, the law must be an institution that functions effectively in social life. Book III of the Civil Code (hereinafter referred to as the Civil Code) regulates various types of agreements, which are generally consensual agreements, namely agreements that arise from contracts or agreements. There is an agreement between the two parties, there is negotiation or an offer as a prelude to reaching a permanent agreement, the offer of one party is accepted by the other party, and an agreement is reached on the subject matter of the agreement. In an agreement, it has legal force, meaning it binds the parties who make it if the agreement is made legally in accordance with the conditions stipulated by the Law.

This collaboration between the government and the private sector requires a procurement agreement/contract for goods and services. "A procurement contract is legally binding if it is signed by an official with the necessary capacity." In this process, the user of goods/services is the government, represented by the budget user or their proxy, or the Commitment Making Officer ("PPK") or Procurement Officer or ULP as an individual. Therefore, the provider of goods/services is a person or legal entity. The Civil Code in general does not regulate much about work contracting, which is only contained in 14 Articles, namely starting from Article 1604 to Article 1617. There is no clarity in the Articles of the Civil Code regarding this contracting whether it is mandatory or just a regulatory law, but most provisions regarding the law of contracting are regulatory law, so generally can be set aside by the parties. The provisions contained in Book III of the Civil Code are an open system, meaning that people or parties are free to make and carry out any agreement in terms of content, purpose, and form as long as it does not conflict with the Law, public order and good morals. Someone may set aside the regulations of the contract law contained in Book III of the Civil Code, because Book III of the Civil Code only functions as a complement, only complementing the agreement made by the existing parties.

Recognizing that buildings are a vital necessity for Indonesian citizens, a growing number of entrepreneurs and their competitors are operating in the construction sector. This phenomenon has led to numerous cases related to the construction industry, particularly in practice. These cases generally occur between service users and service providers. Both parties must fulfill their obligations or fulfill their obligations, and failure to fulfill the terms of the agreement is considered a breach of contract. A breach of contract is the failure to fulfill or negligently fulfill obligations as stipulated in the agreement between the parties.

The Consumer Protection Law includes developers as part of the business actors. The definition of a business actor in Article 1 Number (3) of Law Number 8 of 1999 concerning Consumer Protection states "A business actor is any individual or business entity, whether in the form of a legal entity or not a legal entity that is established and domiciled or carries out activities within the legal territory of the Republic of Indonesia, either alone or together through an agreement to carry out business activities in various economic fields.

Default is explained in detail in civil law regulations, this is intended to obtain a detailed overview of the definition of Default. It can be said that Default is an event where the debtor is declared negligent if they do not

fulfill their obligations or are late in fulfilling their obligations or perform their obligations but not as expected. Generally, Default only occurs after a statement of default from the creditor to the debtor. This statement of default is basically intended to set a (reasonable) grace period for the debtor to fulfill their obligations with the sanction of liability for losses suffered by the debtor. Of course, in carrying out a job, there is a possibility of default by one of the parties to the agreement. In such circumstances, the provisions that must be fulfilled that arise from default apply, namely the possibility of termination of the agreement, compensation for losses, or fulfillment.

Default results in the aggrieved party having the right to sue the defaulting party for compensation, so that the law expects no party to be harmed by the default. However, it is clear that regardless of the occurrence of default, the public will suffer losses because they will not be able to enjoy the benefits. The form of default itself can be in the form of a debtor not performing at all, a debtor performing incorrectly, or a debtor performing late. Because compensation is intended to replace what should have been received by the creditor under normal circumstances, if the debtor had not defaulted, the claim for compensation would be due to the seizure of collateral.

One of the cases of default discussed in this research concerns the problem that started from the act of Default between the Construction Service Provider towards the Consumer where Opida Hasdy (Plaintiff) as a consumer of CV Ruzain Anugerah Mulia wants to buy property in the form of land and buildings on a plot of land with a length of 18m (eighteen meters), a width of 6m (six meters), an area of 108m² (one hundred and eight square meters), a house building standing on it with an area of 120m² (one hundred and twenty square meters), located on Jalan Suka Murni/STM Ujung Medan Border Road, in the Griya Ruzain 6 Housing Complex, Lot No. A8 or A9. That Muhammad Taufik Nasution, the President Director of CV Ruzain Anugerah Mulia (defendant) as the developer responsible for providing land and buildings locally known as Jalan Suka Murni/STM Ujung Medan Border Road, in the Griya Ruzain 6 Housing Complex, Lot No. A8 or A9, but after the agreement was implemented, the developer was not seen to be carrying out housing construction until it passed the agreed time period. Based on the background presented above, the author is interested in discussing the actions of default committed by construction service providers to consumers based on the judge's decision in writing this thesis. Therefore, the author conducted a study entitled "LEGAL RESPONSIBILITY OF CONSTRUCTION SERVICE PROVIDERS TOWARDS CONSUMERS FOR BREACH OF AGREEMENT (STUDY DECISION NUMBER: 740/PDT.G/2019/PN.MDN)".

LITERATURE REVIEW

Research on the legal liability of construction service providers to consumers for breach of contract has been extensively conducted from various perspectives, including contract law, consumer protection, and construction dispute resolution. These studies indicate that breach of contract in construction service contracts is a common issue that often leads to disputes between service providers and service users. However, there is still room for a more comprehensive study on the legal liability of construction service providers, analyzed in an integrated manner based on the provisions of the Civil Code, Law Number 2 of 2017 concerning Construction Services, Law Number 8 of 1999 concerning Consumer Protection, and its application in court decisions.

A study conducted by Alisya (2024) entitled *The Responsibility of Construction Service Providers Who Commit Default to Consumers* (Study of Decision Number 740/Pdt.G/2019/PN.Mdn) concluded that construction service providers who are proven to have committed default are required to be responsible for losses experienced by consumers. The study explains that the service provider's liability is based on the provisions of the Civil Code and Law Number 2 of 2017 concerning Construction Services, where the judge assesses a violation of contractual obligations that results in losses for service users. However, the study focuses more on the results of the judge's decision and has not yet explained in depth the relationship between contractual responsibility and the protection of consumer rights under the Consumer Protection Law.

Furthermore, research conducted by Martin Putri Nur Jannah and Dewi Nurul Musjtar (2019) on the resolution of default disputes due to delays in the implementation of construction agreements explains that delays in work completion are a form of default that can result in an obligation to pay compensation to service users. The study emphasizes the importance of contract implementation based on the principle of *pacta sunt servanda* and dispute resolution through litigation and non-litigation mechanisms. However, the study focuses more on dispute resolution mechanisms and does not specifically discuss the form of legal liability of service providers to consumers as the injured party. Another study conducted by Octariyani (2019) on legal liability in construction work agreements based on Supreme Court Decision Number 326 K/Pdt/2016 stated that default in a construction service contract creates a legal obligation for the service provider to provide compensation in accordance with the provisions of the Civil Code. The study focuses more on the application of the principle of contractual liability in construction disputes, but has not yet linked it to legal protection for consumers as users of construction services. Furthermore,

Mayangsari Nurul Imani (2023) in her research on resolving construction disputes due to default explains that construction disputes generally arise due to discrepancies in work execution with contract content, delays in project completion, or failure to meet building quality standards. The research outlines various dispute resolution alternatives available under Indonesian law, but does not specifically examine the legal liability of service providers to consumers based on specific court decisions.

Research conducted by Muhammad Zacky Samjaya et al. (2025) on claims for damages against breach of contract in construction work concluded that claims for damages in construction service contracts are based on the provisions of Article 1239 and Article 1243 of the Civil Code which regulate the debtor's obligation to compensate for losses due to failure to fulfill performance. The research provides an explanation of the legal basis for claims for breach of contract, but has not yet integrated the legal provisions of the agreement with consumer protection regulations and the Construction Services Law comprehensively.

Based on various previous studies, it can be seen that most studies still focus on aspects of default, dispute resolution, or general contractual responsibilities in construction service agreements. Not many studies have comprehensively examined the legal liability of construction service providers towards consumers by integrating the provisions of the Civil Code, Law Number 2 of 2017 concerning Construction Services, and Law Number 8 of 1999 concerning Consumer Protection, and analyzed based on Decision Number 740/Pdt.G/2019/PN.Mdn. Therefore, this study has novelty by providing a more in-depth analysis of the basis for the legal liability of construction service providers towards consumers who suffer losses due to default, while also examining the suitability of judges' considerations with the principles of legal certainty, justice, and expediency in resolving construction service disputes.

RESULTS AND DISCUSSION

1. Regulations on the Responsibility of Construction Service Providers to Consumers for Default in an Agreement in Indonesia

In the Indonesian legal system, the liability of construction service providers to consumers for default is based on the general provisions of contract law in the Civil Code, which is then emphasized through Law Number 2 of 2017 concerning Construction Services and its implementing regulations, contained in Government Regulation Number 22 of 2020 as amended by Government Regulation Number 14 of 2021. These provisions are also related to Law Number 8 of 1999 concerning Consumer Protection if the service user is a consumer:

a. Regulations in the Civil Code (KUHPdata).

The legal relationship between a construction service provider and a service user arises from a work contract agreement (construction contract). Based on Article 1338 paragraph (1) of the Civil Code, every legally made agreement applies as law for the parties (*pacta sunt servanda*). Therefore, if one party does not fulfill its performance as agreed, then that party is considered to have committed a breach of contract and is obliged to be responsible for the legal consequences.

According to Subekti, default is a situation where a debtor fails to fulfill what has been agreed upon, does so but not as intended, is late in fulfilling the obligation, or does something prohibited by the agreement. "Default is the negligence or omission of a debtor to fulfill the obligation as stipulated in the agreement."

b. Regulations in Law Number 2 of 2017 concerning Construction Services.

Law Number 2 of 2017 stipulates that the relationship between service users and service providers is implemented through a Construction Work Contract that contains rights, obligations, risk sharing, responsibilities, dispute resolution, and compensation in the event of a contract breach. If the service provider fails to fulfill its contractual obligations, resulting in losses for the service user, the service provider can be held accountable based on the contents of the contract and the provisions of laws and regulations.

According to Salim HS, "A construction work contract is a written agreement between the service user and the service provider which gives rise to rights and obligations for each party to carry out construction work in accordance with the agreed provisions."

c. Regulations in Government Regulation Number 22 of 2020 in conjunction with Government Regulation Number 14 of 2021.

Government Regulation No. 22 of 2020, as amended by Government Regulation No. 14 of 2021, clarifies that service providers are responsible for implementing construction work in accordance with contract specifications, quality, construction safety, and providing compensation for any breach of obligations or failures for which they are responsible. The regulation also governs dispute resolution mechanisms and the rights of service users to receive compensation.

d. Regulations in the Consumer Protection Act.

If the service user is a consumer, the construction service provider is also subject to the provisions of Law Number 8 of 1999 concerning Consumer Protection, particularly regarding the obligation of business actors to provide services in accordance with the agreement and to be responsible for losses suffered by consumers due to the services provided.

According to Ahmadi Miru, "Business actors are responsible for providing compensation for consumer losses arising from the goods and/or services traded."

Normatively, the regulations regarding the responsibility of construction service providers towards consumers for default in an agreement in Indonesia are based on:

- 1) Civil Code, especially Article 1238, Article 1243, Article 1246, Article 1266, Article 1267, and Article 1338 concerning default, compensation, cancellation of agreements, and the principle of pacta sunt servanda.
- 2) Law Number 2 of 2017 concerning Construction Services, which regulates the rights and obligations of the parties in a construction work contract.
- 3) Government Regulation Number 22 of 2020 as amended by Government Regulation Number 14 of 2021, which regulates in more detail the responsibilities of service providers, compensation, and dispute resolution.
- 4) Law Number 8 of 1999 concerning Consumer Protection, if the service user is in the position of consumer.

2. Legal Consequences of Default by Construction Service Providers on Consumers

An agreement creates a legal obligation or relationship that gives rise to rights and obligations for each party. Therefore, an agreement in the form of a contract is inherently binding. In fact, according to Article 1338 paragraph 1 of the Civil Code, this agreement has the binding force of law for the parties who make it.

An agreement is a legal relationship in which the service provider must fulfill its obligations. The Service User certainly expects the Service Provider to be accountable for carrying out its obligations as stated in the agreement. Likewise, the Service Provider certainly expects the Service User to be accountable for carrying out its obligations in accordance with the agreement, so that both parties can fulfill and exercise their rights and obligations.

Construction Services are construction work planning consultancy services, construction work implementation services and construction work supervision consultancy services. According to Article 1 paragraph (3) of Law Number 2 of 2017 concerning Construction Services, construction work is all or part of the activities that include the assessment, operation, maintenance, demolition and reconstruction of a building.

Construction work carried out by service providers is carried out based on a written agreement. According to Article 1313 of the Civil Code (hereinafter abbreviated as the Civil Code), "an agreement is an act in which one or more persons bind themselves to one or more persons."

3. Responsibility of Construction Service Providers to Consumers for Default in an Agreement Based on the Decision of the Medan District Court

Law No. 2 of 2017 concerning Construction Services stipulates that construction disputes can be resolved through a Dispute Board or Arbitration. Dispute resolution through the court process is not handled by construction experts, resulting in unfair decisions for the disputing parties. Furthermore, lengthy and complicated court procedures are considered to negatively impact the development of the construction business. Therefore, out-of-court settlement of construction disputes can be achieved through a Dispute Board.

According to Government Regulation Number 22 of 2020 concerning Implementing Regulations of Law Number 2 of 2017 concerning Construction Services, Article 93 states that:

- a. The stages of efforts to resolve construction disputes include mediation, conciliation and arbitration.
- b. Dispute resolution according to the stages referred to in paragraph (1) may be stopped if the dispute has been resolved at the previous stage.
- c. In addition to efforts to resolve disputes through Mediation and Conciliation as referred to in paragraph (1), the parties may appoint a Dispute Council.
- d. The Dispute Council as referred to in paragraph (3) has the function of preventing and resolving construction disputes.

- e. The use of the Dispute Council as referred to in paragraph (3) is carried out after the Construction Services contract is signed.

Efforts to resolve disputes between Construction Service Providers:

- a. Mediation

Integrating mediation into the court process can be an effective instrument to overcome the potential backlog of cases in court. Furthermore, institutionalizing the mediation process within the judicial system can strengthen and maximize the function of the courts in resolving disputes alongside adjudicative court proceedings. Applicable procedural law, both Article 130 of the Indonesian Law (HIR) and Article 154 of the Indonesian Law (Rbg), encourages parties to undertake a peace process that can be intensified by integrating this process. Regulations regarding dispute resolution can be found in Article 93 paragraph (1) and Article 94 paragraph (1) of Law Number 22 of 2020.

CONCLUSION

1. Based on the results of research on the regulation of the liability of construction service providers to consumers for breach of contract in an agreement in Indonesia, it can be concluded that the regulation of the liability of construction service providers has been regulated in various laws and regulations, including the Civil Code, Law Number 2 of 2017 concerning Construction Services, and its implementing regulations. The legal relationship between construction service providers and consumers arises from an agreement that binds the parties as stipulated in Article 1338 of the Civil Code, so that each party is obliged to carry out its rights and obligations in good faith. If the construction service provider does not fulfill the performance as agreed, such as being late in completing the work, carrying out the work not according to specifications, or not completing the work at all, then this action constitutes a breach of contract that gives rise to legal liability. The form of liability of the construction service provider can be in the form of fulfilling the performance, payment of compensation, cancellation of the agreement, termination of the contract, or other forms of settlement in accordance with the provisions of laws and regulations and the contents of the agreement agreed by the parties. Thus, the legal system in Indonesia has basically provided a sufficient legal basis in regulating the liability of construction service providers to consumers for breach of contract. However, the effectiveness of its implementation still depends on the clarity of the contract clauses, the parties' compliance with the contents of the agreement, and the consistency of law enforcement in resolving disputes arising from default.
2. Based on the research results, it can be concluded that default committed by a construction service provider has binding legal consequences based on the provisions of the Civil Code, Law Number 2 of 2017 concerning Construction Services, and the provisions in the agreement agreed upon by the parties. Default can be in the form of not carrying out the work at all, carrying out work not in accordance with the agreed specifications, being late in completing the work, or doing something that according to the agreement is not allowed to be done. The legal consequences arising from this default give the consumer the right to demand fulfillment of performance, demand compensation for losses suffered, request cancellation or termination of the agreement, or file a claim that combines fulfillment of performance with compensation in accordance with the provisions of Article 1243 and related provisions in the Civil Code. In addition, the construction service provider can also be subject to administrative sanctions or other responsibilities in accordance with laws and regulations in the field of construction services if the violation committed meets the elements determined by the Law. Thus, the legal consequences of default are not only aimed at recovering losses suffered by consumers, but also provide legal certainty, guarantee the implementation of the contents of the agreement, and encourage construction service providers to carry out their work professionally, responsibly, and in good faith in accordance with the agreed standards.
3. Based on the results of the study of the Medan District Court Decision, it can be concluded that the liability of construction service providers to consumers for default is based on the existence of a legal relationship arising from a valid and binding agreement between the parties as regulated in the Civil Code. In this case, the panel of judges considered that the construction service provider did not carry out its obligations in accordance with the contents of the agreement, so that its actions fulfill the elements of default. The judge's assessment was based on the evidence presented by the parties, the contents of the agreement, and the facts revealed during the trial process. As a legal consequence of this default, the construction service provider is burdened with the responsibility to fulfill the rights of consumers in accordance with the court's decision. The form of this responsibility is in principle in the form of an obligation to compensate for losses arising from the failure to fulfill the performance, as well as fulfill other obligations as determined in the decision and in accordance with

the provisions of the Civil Code. This decision reflects the application of the principles of legal certainty, justice, and good faith in the implementation of the agreement, while also confirming that every construction service provider who commits default is obliged to be legally responsible for their actions. The Medan District Court's ruling demonstrates that the legal liability of construction service providers is not only intended to provide redress for consumer losses, but also to provide legal certainty and provide legal protection for consumers in the implementation of construction service agreements. This ruling also serves as a reference for the application of the principle of contractual liability in resolving default disputes in the construction services sector.

SUGGESTION

1. Based on these conclusions, it is recommended that the government continue to improve regulations in the construction services sector, particularly those related to legal protection for consumers and accountability mechanisms for construction service providers in the event of default. These improvements are expected to provide legal certainty, justice, and benefits for all parties involved in the provision of construction services. Furthermore, construction service providers and consumers should draft clear, comprehensive, and balanced agreements that explicitly state the rights and obligations of the parties, work quality standards, implementation timeframes, dispute resolution mechanisms, and sanctions in the event of default. With a carefully formulated agreement, the potential for disputes can be minimized and legal resolution in the event of violations can be carried out more effectively in accordance with applicable legal provisions.
2. Based on these conclusions, it is recommended that construction service providers carry out all agreed obligations professionally, on time, and in accordance with the agreed work specifications, so as to avoid any potential defaults that could result in losses for consumers. The application of the principles of prudence, good faith, and compliance with construction service standards should be a priority in every work implementation. On the other hand, consumers should be more careful in drafting and agreeing to the contents of construction service agreements, especially regarding the scope of work, implementation period, quality standards, monitoring mechanisms, and sanctions in the event of default. The government also needs to continue to improve supervision and law enforcement in the construction services sector so that any violation of the agreement is resolved in a way that provides legal certainty, justice, and optimal protection for the parties.
3. Based on these conclusions, it is recommended that construction service providers carry out every contractual obligation professionally, in good faith, and in accordance with the specifications and timeframes agreed upon in the agreement. Compliance with the contents of the contract not only prevents defaults, but also increases consumer confidence and the quality of construction service delivery. For consumers, careful preparation and agreement of construction service agreements are required, particularly regarding the rights and obligations of the parties, work quality standards, implementation timeframes, dispute resolution mechanisms, and clauses regarding compensation in the event of default. In addition, law enforcement officers and judges are expected to consistently apply civil law provisions and statutory regulations in the field of construction services in resolving disputes, so that the resulting decisions are able to provide legal certainty, justice, and effective legal protection for consumers and construction service providers.

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