



## Assessing the Legal Force of the Preliminary Sale and Purchase Agreement and Consumer Protection in Developer Default Cases

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### Abstract

*The Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB) is a commonly used legal instrument in apartment transactions in Indonesia, particularly during the pre-construction or development phase. Although PPJB is intended to provide legal certainty for both developers and consumers, its practical implementation often reveals significant legal vulnerabilities when developers default. Such defaults frequently manifest in delays in unit handover, unfinished construction, unilateral termination of essential facilities such as water and electricity, and imbalanced management-tenant relationships that disadvantage apartment consumers. These recurring issues indicate a gap between the normative legal force of PPJB and its actual enforcement in protecting consumers. This study aims to assess the binding legal force of PPJB in apartment transactions and to examine the extent to which consumer protection principles are effectively applied in cases of developer default. Employing a normative legal research method with statutory and conceptual approaches, this study analyzes the Indonesian Civil Code, Law No. 8 of 1999 on Consumer Protection, housing and apartment regulations, as well as relevant legal doctrines on contract law and breach of contract (wanprestasi). The findings reveal that PPJB remains legally valid and binding as long as it fulfills the contractual requirements under Article 1320 of the Civil Code. However, in apartment transactions, PPJB often places consumers in a weaker bargaining position due to standard clauses drafted unilaterally by developers. Developer defaults are most commonly indicated by delays in handover, failure to provide promised facilities, and coercive management practices, including service disconnections. This study contributes by reaffirming the legal force of PPJB while critically highlighting its structural weaknesses in apartment transactions and emphasizing the need for stronger consumer-oriented interpretation and enforcement. The study concludes that PPJB must be repositioned not merely as a preliminary contractual instrument, but as an effective legal tool to ensure substantive consumer protection in developer default cases.*

**Keywords:** Preliminary Sale and Purchase Agreement (PPJB); Developer Default; Apartment Transactions; Contract Enforcement; Consumer Protection Law

### A. Introduction

The rapid growth of vertical housing developments, particularly apartment projects in major urban areas such as Surabaya, has significantly increased the use of the Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB) as a preliminary contractual instrument between developers and consumers. PPJB is commonly employed during the construction phase, when legal ownership has not yet been transferred through a Deed of Sale and Purchase (AJB). In this context, PPJB is expected to provide legal certainty, regulate the rights and obligations of the parties, and function as a preventive mechanism to protect consumers from potential developer misconduct.<sup>1</sup>

In practice, however, apartment transactions governed by PPJB frequently give rise to disputes arising from developer default (wanprestasi). Such defaults include delays in unit handover, failure to deliver promised facilities, unfinished construction, and the imposition

<sup>1</sup> Alfiano Yusuf Setyawan, et.al., *Kepastian Hukum Atas Perjanjian Pengikatan Jual Beli Yang Dibuat Dihadapan Notaris Dalam Perkara Di Pengadilan Negeri Akibat Adanya Wanprestasi*, *Jurnal Hukum dan HAM Waru Sains*, Vol. 02, No. 09, September 2023, p. 770~785.



of unilateral policies that adversely affect consumers.<sup>2</sup> One manifestation of these defaults can be observed in disputes involving apartment management practices, including the unilateral disconnection of essential utilities such as electricity and water. Although such actions are often carried out by management entities, they originate from the contractual imbalance created at the PPJB stage, where developers retain dominant control over contractual terms and post-handover arrangements.<sup>3</sup>

The case of the Puncak Permai Apartment in Surabaya illustrates this problem. Residents experienced unilateral utility disconnections allegedly imposed as a sanction for disputes over maintenance and operational fees. While utility disconnection is not directly regulated by PPJB clauses, this phenomenon reflects a broader legal issue: the limited effectiveness of PPJB as a consumer protection instrument when developers or their appointed management fail to comply with contractual and statutory obligations. This situation raises fundamental questions regarding the legal force of PPJB in safeguarding consumer rights once a developer defaults and the extent to which consumers can rely on PPJB to challenge arbitrary actions.

Normatively, Indonesian law recognizes PPJB as a valid preliminary agreement that creates binding obligations between the parties, provided it fulfills the legal requirements of a contract.<sup>4</sup> However, PPJB does not transfer ownership rights and often contains standard clauses drafted unilaterally by developers. This contractual structure places consumers in a weaker bargaining position and creates legal uncertainty when defaults occur, particularly in apartment transactions involving complex relationships between developers, management entities, and residents. Existing regulations on housing, consumer protection, and utilities provide general safeguards, yet they do not clearly address the enforceability of PPJB in situations where developer default indirectly results in consumer losses.<sup>5</sup>

Previous legal studies have predominantly examined PPJB from the perspective of contract validity or ownership transfer, without sufficiently analyzing its effectiveness as a consumer protection mechanism in cases of developer default within apartment developments. There remains a research gap concerning how PPJB functions in practice

<sup>2</sup> Adam Ramadhan, et.al., *Asas Keadilan Putusan Pengadilan Dalam Gugatan Wanprestasi Perjanjian Pengikatan Jual Beli Apartemen*, *Indonesian Journal of Law and Justice Volume*, 1, Number 4, Juni 2024, p. 1-15.

<sup>3</sup> Siti Nurul Intan Sari Dalimunthe, *Penyalahgunaan Keadaan Dalam Perjanjian Pengikatan Jual Beli Apartemen Sebagai Pembatas Pemenuhan Azas Keseimbangan*, *Jurnal Yuridis* Vol. 8 No. 2, Desember 2021, p. 298-311.

<sup>4</sup> Tsuroyyaa Maitsaa' Jaudah, et.al., *The Position of Notarial Sale and Purchase Agreements in The Transfer of Land Rights*, *Journal Of Private And Commercial Law*, Vol. 2 No. 2, Desember 2025, p. 183-202.

<sup>5</sup> Maria Pranatia and Anne Gunadi Martono Widjojo, *The Making Of Multiple Sale And Purchase Binding Agreements (PPJB) By Negligent Landowners Or Developers Before Notary*, *Notary Journal* Vol. 4, No. 2, October 2024, p. 99-118.



when developers fail to perform their obligations and how far Indonesian law provides remedies for consumers affected by such defaults.<sup>6</sup>

Therefore, this study aims to assess the binding legal force of PPJB in apartment transactions when developers default and to analyze the extent of consumer protection available under Indonesian law. By examining PPJB not merely as a formal contractual document but as a practical legal instrument, this research seeks to contribute to a more consumer-oriented interpretation of PPJB and to strengthen legal certainty in apartment sale and purchase transactions.

## **B. Research Method**

This study employs **normative legal research** (doctrinal legal research), which focuses on the analysis of legal norms, principles, and doctrines governing the Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB) in apartment transactions, particularly in cases of developer default. This method is chosen because PPJB constitutes a civil law instrument whose validity, binding force, and legal consequences must be examined through normative legal reasoning rather than empirical measurement.<sup>7</sup>

The research applies three approaches. First, the **statutory approach** is used to examine and analyze laws and regulations relevant to apartment transactions and consumer protection, including the Indonesian Civil Code, Law No. 8 of 1999 on Consumer Protection, Law No. 20 of 2011 on Apartments, and related implementing regulations. This approach aims to identify the normative framework governing PPJB, the obligations of developers, and the legal remedies available to consumers in the event of default. Second, the **conceptual approach** is employed to analyze legal doctrines and theoretical concepts related to preliminary agreements, freedom of contract, good faith, breach of contract (*wanprestasi*), and consumer protection principles. This approach enables a deeper understanding of the legal position of PPJB within Indonesian contract law. Third, a **case approach** is applied in a limited manner to examine apartment-related disputes, including cases involving unilateral actions by developers or management, insofar as they illustrate the practical implications of developer default and the effectiveness of PPJB as a consumer protection instrument.<sup>8</sup>

<sup>6</sup> Ardhiwinda Kusumaputra and Endang Retnowati, *Penguatan Legalitas Crowdfunding Sebagai Alternatif Pembiayaan Pembangunan Kawasan Perdesaan Guna Menumbuhkan Ekonomi Nasional*, *Jurnal Legislasi Indonesia*, Vol. 17 No. 3, July 2020, p. 355-365.

<sup>7</sup> Peter Mahmud Marzuki, 2008, *Penelitian Hukum*, Kencana: Jakarta, p. 44.

<sup>8</sup> Jonaedi Efendi and Johnny Ibrahim, 2018, *Metode Penelitian Hukum Normatif dan Empiris*, Prenada Media: Depok, p. 33-35.



The sources of legal materials in this research are systematically categorized into three types. **Primary legal materials** consist of binding legal instruments, including the Indonesian Civil Code, Law No. 8 of 1999 on Consumer Protection, Law No. 20 of 2011 on Apartments, Supreme Court Circular Letter No. 4 of 2016, and relevant ministerial regulations related to apartment management and public utilities. **Secondary legal materials** include legal doctrines, textbooks, scholarly journal articles, and previous research discussing PPJB, developer liability, contract enforcement, and consumer protection in property transactions. **Tertiary legal materials** comprise legal dictionaries, encyclopedias, and reference materials used to clarify legal terminology and concepts.

Legal materials are collected through a **literature study**, involving systematic tracing, classification, and review of statutory provisions, legal doctrines, and academic writings relevant to the research topic. The analysis of legal materials is conducted using **qualitative legal analysis**, employing interpretative methods such as grammatical interpretation, systematic interpretation, and conceptual analysis. These techniques are used to assess the validity and binding force of PPJB, examine the legal consequences of developer default, and evaluate the extent of consumer protection under Indonesian law.

This research is limited to the **civil law aspects** of PPJB and developer default in apartment transactions, with a particular focus on contract law and consumer protection. It does not examine criminal liability, administrative sanctions outside the scope of apartment regulation, or economic and financial analysis of property contracts. By defining these limitations, the study maintains a clear normative focus and analytical depth in assessing the legal force of PPJB and the protection of consumers in cases of developer default.

### C. Results and Discussion

#### 1. The Position and Characteristics of the Preliminary Sale and Purchase Agreement (PPJB) for Apartments

In apartment sale and purchase transactions, the legal relationship between developers and consumers is primarily established through the Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB). As a preliminary contract, PPJB creates binding obligations for both parties prior to the execution of the Deed of Sale and Purchase (AJB).<sup>9</sup> For developers, these obligations typically include completing construction within the agreed timeframe, handing over the apartment unit in accordance with promised specifications, providing supporting facilities, and

<sup>9</sup> Fani Martiawan Kumara Putra, *Characteristics of Notary Deeds for Transactions Through Electronic Media*, *Norma*, Vol. 17 No. 3, January 2021, p. 1-14.



preparing the legal requirements for ownership transfer. Failure to fulfill these obligations constitutes developer default (*wanprestasi*) within the meaning of Indonesian contract law.<sup>10</sup>

Developer default under a PPJB generally manifests in several forms. First, developers may fail to complete construction or hand over apartment units within the period stipulated in the PPJB.<sup>11</sup> Second, developers may deliver units that do not conform to the agreed specifications, such as reduced unit size, inferior building materials, or incomplete facilities. Third, developers may delay the fulfillment of legal obligations, including the issuance of ownership documents or the establishment of proper management institutions. These forms of default directly undermine the consumer's contractual expectations and financial interests.<sup>12</sup>

Under Article 1238 of the Indonesian Civil Code, a developer is considered negligent once it has been formally declared in default through a written notice (*somasi*), unless the agreement explicitly stipulates that default arises automatically after the lapse of a specified period. In many apartment PPJBs, the delivery deadline is expressly stated, meaning that the developer may be deemed negligent by operation of law once the deadline has passed.<sup>13</sup> This provision is particularly relevant in apartment transactions, where construction delays are common and significantly affect consumers who have already paid a substantial portion, or even the full purchase price.

The legal consequences of developer default under a PPJB are governed by Articles 1243 and 1267 of the Civil Code. Article 1243 provides the basis for claiming compensation for costs, losses, and interest arising from non-performance. Article 1267 grants the injured party the right to demand fulfillment of the agreement, termination of the contract, or compensation. In the context of apartment PPJBs, these remedies allow consumers to either insist on unit handover, terminate the PPJB and recover payments made, or claim damages for losses caused by delays or defects. However, in practice, the enforcement of these rights

<sup>10</sup> Frans Haryadi dan Raden Besse, *Analisis Hukum pada Pengembang yang Ingkar Janji dalam Pelaksanaan Perjanjian Jual Beli Apartemen Puncak CBD Surabaya*, *Jurnal Ilmiah Ilmu Pendidikan*, Vol. 7 No. 11, November 2024, p. 54-68.

<sup>11</sup> Karina Shandy Putri, *Legal Protection of Apartment Buyers Whose Land is Actually Being Secured with Hak Tanggungan*, *Norma*, Vol. 18 No. 1, Marc 2021, p. 47-57.

<sup>12</sup> Faizzah Rabiatus Salam, et.al., *Consumer Legal Protection Against Developer Defaults in Binding Agreements for the Sale and Purchase of Flats*, *MAQASIDI: Jurnal Syariah dan Hukum* Vol. 4, No. 2 Desember 2024, p. 295-305.

<sup>13</sup> Seyla Missy Togito Silitonga and Abdul Salam, *Immaterial Losses in Breach of Contract Lawsuit in Indonesia*, *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, Vol. 5 No 3, August 2022, p. 21633-21643.



is often constrained by the standard-form nature of PPJBs, which are drafted unilaterally by developers.<sup>14</sup>

From an apartment regulatory perspective, developer obligations under the PPJB are reinforced by Law No. 20 of 2011 on Apartments. This law obliges developers to complete construction in accordance with permits, ensure the readiness of facilities and infrastructure, and hand over units in a habitable condition. The failure to meet these statutory obligations strengthens the characterization of developer conduct as default, not merely under contract law but also under housing regulations. Thus, developer default in apartment PPJBs cannot be viewed solely as a private contractual issue; it also implicates public regulatory responsibilities.<sup>15</sup>

The relationship between PPJB and consumer protection becomes particularly significant when examining the imbalance of bargaining power between developers and apartment buyers. PPJBs are typically standard contracts that limit consumers' ability to negotiate key clauses, including delivery timelines, penalty provisions, and dispute resolution mechanisms. As a result, PPJBs often prioritize developer interests while providing minimal safeguards for consumers. This raises critical questions regarding the effectiveness of PPJB as a consumer protection instrument in apartment transactions.<sup>16</sup>

Law No. 8 of 1999 on Consumer Protection plays a corrective role in this context. When developers default under a PPJB, consumers may invoke consumer protection principles, including the right to comfort, security, and fair treatment. Unreasonable PPJB clauses that exclude developer liability or impose disproportionate burdens on consumers may be challenged as violating consumer protection norms. Accordingly, the Consumer Protection Law complements the Civil Code by reinforcing the consumer's legal position in disputes arising from developer default.

This study argues that while PPJB remains legally valid and binding as a preliminary agreement, its effectiveness in protecting apartment buyers is limited by its structural weaknesses. Developer default often exposes the gap between the normative legal force of

<sup>14</sup> Dini Sasmitaningrum, et.al., *Consumer Protection Analysis of the Use of Underhand PPJB in Pre Project Selling of Apartments*, *IJLRES*, Vol. 9, No. 2, June 2025, p. 116-129.

<sup>15</sup> Muhammad Yamin Siregar, *Aspek Hukum Perlindungan Konsumen dalam Pelayanan Publik*, *Jurnal Ilmu Hukum*, Vol. 12 No. 2, March 2018, p. 45–60.

<sup>16</sup> M. Nailul Asror and Mardani, *Legal Protection of Land Sale and Purchase Agreements (PPJB) as the Initial Sales Process by Developers*, *Journal Of Mujaddid Nusantara*, Vol. 2 No. 3 September 2025, p. 128-144.



PPJB and its practical enforceability.<sup>17</sup> Apartment buyers frequently face difficulties in enforcing their rights due to delayed dispute resolution, asymmetrical contractual terms, and the absence of effective sanctions against developers.<sup>18</sup> These weaknesses are further exacerbated when management institutions are not properly established following unit handover, creating additional obstacles for consumers seeking redress.

Illustratively, disputes arising from delayed unit handover or incomplete facilities demonstrate how PPJB clauses on delivery schedules and penalties are often insufficient to deter developer default. In many cases, consumers are left with prolonged uncertainty while bearing financial burdens such as continued rental costs or loan installments. These patterns highlight the urgent need to reassess the role of PPJB as more than a formal preliminary agreement and to strengthen its function as an enforceable consumer protection mechanism.

In conclusion, the legal status of PPJB in the event of developer default remains that of a valid and binding contract under Indonesian law. However, its enforceability against developers in apartment transactions depends on the integration of contract law remedies, apartment regulations, and consumer protection principles. This analysis demonstrates that PPJB must be interpreted and enforced in a manner that prioritizes substantive justice and consumer protection, rather than merely formal contractual compliance, in order to effectively address developer default in apartment developments.

## 2. Legal Protection for Apartment Residents Against Management's Breach of Contract

Legal protection for apartment buyers primarily arises from the contractual relationship established through the Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB). In apartment transactions, the developer is the principal contractual party responsible for constructing the building, delivering units in accordance with agreed specifications, and preparing the legal and institutional framework for ownership transfer. Accordingly, legal protection in this context must be directed at addressing **developer default**, rather than management violations that occur after the handover stage.<sup>19</sup>

<sup>17</sup> Resfa Klarita Trasaenda dan Atik Winanti, *Legal Force Of The Preliminary Sales Agreement (Ppjb) As Evidence For The Seller Against The Buyer Who Is In Breach Of Contract (Case Study: Decision Of The Surabaya District Court No.862/Pdt.G/2021/Pn Sby)*, *Journal of Law, Politics and Humanities*, Vol. 6, No. 1, September 2025, p. 726-735.

<sup>18</sup> Perhimpunan Pemilik and Penghuni Satuan Rumah Susun (P3SRS), *Peran P3SRS dalam Menyelesaikan Konflik antara Penghuni dan Pengelola*, <https://www.p3srs.or.id>, accessed 20 Februari 2025.

<sup>19</sup> Agus Rachmadi, *Tanggung Jawab Pengelola Apartemen dalam Menyediakan Layanan Dasar bagi Penghuni*, *Jurnal Hukum Bisnis*, Vol. 6 No. 2, July 2020, p. 35–50.



Developer default under the PPJB generally takes several identifiable forms. First, developers may fail to complete construction or hand over apartment units within the timeframe stipulated in the PPJB. Second, developers may deliver units that do not conform to contractual specifications, including discrepancies in unit size, building quality, or promised facilities. Third, developers may fail to fulfill legal obligations related to apartment development, such as delays in obtaining occupancy permits, failure to establish proper management institutions, or failure to ensure the readiness of shared facilities. These forms of non-performance constitute breaches of contractual obligations that directly harm apartment buyers.

Pursuant to Article 1238 of the Indonesian Civil Code, a developer is deemed negligent once formally declared in default through a written notice (*somasi*), unless the PPJB expressly stipulates that default arises automatically after a certain period. In many apartment PPJBs, delivery deadlines are clearly defined, enabling consumers to consider the developer negligent by operation of law upon the lapse of the agreed period. This provision strengthens the consumer's legal position in enforcing contractual rights.

The legal consequences of developer default are governed by Articles 1243 and 1267 of the Civil Code. Article 1243 provides a basis for claiming compensation for costs, losses, and interest resulting from non-performance, while Article 1267 allows the injured party to choose between demanding performance, terminating the contract, or seeking compensation. In the context of apartment PPJBs, these remedies enable consumers to cancel the PPJB and recover payments made, demand unit handover, or claim damages for delays and non-conformity. However, in practice, the effectiveness of these remedies is often weakened by standard PPJB clauses drafted unilaterally by developers.

In addition to the Civil Code, developer default in apartment transactions must be assessed within the framework of Law No. 20 of 2011 on Apartments. This law imposes obligations on developers to complete construction in accordance with approved permits, ensure the availability of facilities and infrastructure, and hand over units in a habitable condition.<sup>20</sup> Failure to fulfill these statutory obligations reinforces the classification of developer conduct as default, not merely under private contract law but also under public

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<sup>20</sup> Muhammad Zaki Mubarrak and Gusti Rian Saputra, *Pre-Project Selling of Apartment Developments: Reconstructing Project Completion Guarantees as a Form of Consumer Legal Protection in Condominium Housing*, *Istinbath : Jurnal Hukum*, Volume 22, Number 2, Desember 2025, p. 650-673.



housing regulations.<sup>21</sup> Thus, apartment developers bear dual responsibility: contractual obligations under the PPJB and regulatory obligations under apartment law.

The relationship between PPJB and consumer protection becomes crucial when examining the imbalance of bargaining power between developers and apartment buyers. PPJBs are predominantly standard-form contracts that limit consumer participation in determining contractual terms, particularly regarding delivery schedules, penalty clauses, and dispute resolution mechanisms. As a result, PPJBs often provide insufficient safeguards for consumers in the event of developer default. This study argues that while PPJB is legally valid and binding, it is not inherently effective as a consumer protection instrument unless interpreted in conjunction with consumer protection principles.

Law No. 8 of 1999 on Consumer Protection plays a corrective role in strengthening consumer rights under a PPJB. When developers default, apartment buyers may invoke the right to comfort, security, and fair treatment, as well as the prohibition against unfair standard clauses that exclude or limit developer liability. In this regard, the Consumer Protection Law supplements the Civil Code by enabling consumers to challenge abusive PPJB clauses and seek remedies beyond purely contractual claims. Consequently, consumers are legally entitled to cancel the PPJB, demand refunds, or claim compensation when developer default results in tangible losses.

Practically, developer default in apartment projects often follows recurring patterns, such as prolonged construction delays due to permit issues, incomplete building infrastructure at the time of handover, or failure to establish functional management institutions. These defaults not only cause financial losses to consumers but also undermine the effectiveness of the PPJB as a legal instrument intended to provide certainty and protection. Judicial practice in Indonesia has increasingly recognized that developers cannot rely on contractual freedom to justify non-performance or impose unfair contractual terms on consumers.<sup>22</sup>

In conclusion, the legal status of the PPJB in the event of developer default remains that of a valid and enforceable contract under Indonesian law. However, its enforceability against developers in apartment transactions is contingent upon the integration of contract law remedies, apartment regulations, and consumer protection principles. This study concludes that the PPJB, in its current practice, has limited effectiveness as a standalone consumer

<sup>21</sup> Ronny Winarno and Endang Retnowati, *Good Governance Based Public Services*, *Notariil Jurnal Kenotariatan*, Vol. 4 No. 1, July 2019, p. 8-17.

<sup>22</sup> Fries Melia Salviana, *The Role of Public Private Partnerships in Smart City Governance Policy to Foster Economic Growth*, *Journal of Business and Social Sciences*, Vol. 2025 No. 10, November 2025, p. 1-8.



protection instrument. Therefore, a consumer-oriented interpretation of PPJB and stronger regulatory enforcement are necessary to ensure substantive justice and legal certainty for apartment buyers affected by developer default.

#### D. Conclusion

Based This study concludes that the Preliminary Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB) occupies a legally valid position as a preliminary civil contract in apartment transactions, provided that it fulfills the contractual requirements stipulated in Article 1320 of the Indonesian Civil Code. Although the PPJB does not transfer ownership rights—which must be completed through a Deed of Sale and Purchase (AJB)—it creates binding legal obligations between developers and buyers. In the event of developer default, the PPJB retains its binding force under the principle of *pacta sunt servanda* as regulated in Article 1338 of the Civil Code.

The findings demonstrate that developer default under a PPJB—such as delays in construction and handover, failure to meet agreed specifications, or non-compliance with statutory obligations—gives rise to civil liability. Buyers are legally entitled to seek remedies in the form of performance, contract termination, or compensation pursuant to Articles 1243 and 1267 of the Civil Code. However, this study also finds that, in practice, the effectiveness of PPJB as a consumer protection instrument is limited due to standard-form clauses, unequal bargaining positions, and weak enforcement mechanisms. Therefore, while the PPJB is legally enforceable, it does not automatically guarantee substantive consumer protection without support from consumer protection law and apartment regulations.

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