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Online Purchase Transactions and Their Legal Protection in Indonesia

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ABSTRACT

The purpose of this study is to analyse consumer legal protection in buying and selling through online media from the perspective of consumer protection law and effective consumer dispute resolution in the current era of digital advancement in Indonesia. This type of normative juridical research approach concentrates on the principles, systematics, and synchronisation of laws and regulations to uncover problems, conditions, or events as they exist in order to uncover factual findings. The results of the study explain two options for resolving consumer disputes through court (litigation) or outside the court (non-litigation) in Indonesia in cases of electronic commerce or e-commerce for consumers in the digital era, in accordance with Law Number 8 of 1999 concerning Protection Consumer. The Supreme Court (MA) issued Supreme Court Regulation (MA) number 4 of 2019, which regulates the procedure for handling simple lawsuit cases with a simple lawsuit mechanism. The Supreme Court (MA) has implemented a web-based e-court system that makes it easier for both parties to a dispute to submit documents, make payments, and issue subpoenas online or electronically. The Online Dispute Resolution (ODR) system can be used to enhance other conflict resolution procedures, such as e-commerce dispute cases in Indonesia. Therefore, Law Number 8 of 1999 concerning Consumer Protection in Consumer Dispute Resolution needs to be updated. Procedures for resolving consumer disputes online related to trade or e-commerce in the digital era in Indonesia must be accommodated more specifically in the changes to these laws and regulations. Thus, the current legal framework and explanation of the consumer dispute resolution process can be more appropriate, compatible, and inclusive of all consumer dispute resolution processes via the internet or online.

Keywords: Consumer protection, E-commerce, Law, Legal protection, Online dispute.

I. INTRODUCTION

The pattern of people's life has been established and altered by the current development of digital technology. Today, almost all social activities may be carried out online. In commerce, which increasingly uses electronic commerce (e-commerce) as a transaction method and the

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internet as a communication tool, this pattern of life changes may be observed clearly. (Indrajit, 2001, p. 33).

The expansion of space for movement and the flow of transactions for goods and/or workers have transcended national boundaries along with advancements in technology and information. The buyer is then presented with a variety of product options. The fact that this situation might be filled with a number of possibilities has, on the one hand, made a consumer feel benefited.

On the other hand, this situation places consumers in a weak position. This is because the aim of business operations is to generate huge profits through internet commerce and online advertising promotions. Customers may suffer from this strategy because merchants can easily fool and even trick them with products that are not up to the mark.

An act in which one or more people bind themselves to one or more other people is known as an agreement in Article 1313 of the Civil Code. (Subekti & Tjitrosudibio, 2007) defines an agreement as a legal occurrence in which someone makes a commitment to do something. Legal protection, in the opinion of (Rahardjo, 2003, p. 121), is an effort to safeguard someone's interests by granting him the authority to act in accordance with those interests.

The condition of sellers and buyers who do not meet face to face during online buying and selling transactions will make it difficult for buyers to see and physically inspect the goods they are going to buy. In addition, there are some dishonest sellers out there who will trade goods where the goods they are selling and the information received by the buyer often do not match. As a result, the government must use every effort to promote fair trade competition and protect consumer interests.

Lately, it has often happened where customers get goods that are not in accordance with what the seller describes in their marketing; this results in consumer disappointment with the goods purchased and harms consumers. The above facts illustrate a serious problem in consumer protection. Yet tragically, discussions on these situations only occur when they are widely covered or discussed by the press in various media.

It can be seen that the Indonesian state has experienced an increase in transaction value and the number of consumers participating in current electronic commerce or e-commerce activities.

According to data made public by the government through the Director General of Consumer Protection and Order of Commerce (PKTN) of the Ministry of Trade, there were 4,855 consumers who made or filed complaints in the early to mid-2021. Based on the data, the potential for disputes arising through electronic commerce or e-commerce tends to increase in Indonesia so that the public as consumers in Indonesia really need a process of resolving

disputes arising from electronic commerce or e-commerce activities in a good, easy, practical, fast and affordable for the community. The government needs to protect the public as consumers by creating a legal umbrella that can accommodate and resolve disputes arising from electronic trading or e-commerce activities in a good, easy, practical, fast and affordable manner in accordance with the current needs of society and business people in Indonesia. In this situation, it is essential to have a system for resolving consumer disputes that is simple, reasonable, quick, and cost-effective by utilizing online facilities, which up until now have not been included in the dispute resolution mechanism contained in Law Number 8 of 1999 concerning Consumer protection (UU-8, 1999).

Consumer protection is a legal topic that cannot be separated or eliminated from law. Customers have the right to feel safe and comfortable when using the goods and services provided to them. Products and services must be appropriate and not harm consumers.

To avoid misleading the buyer, any product made available to consumers through online media must be accompanied by clear information. In order to keep a customer from becoming confused by the product or service being marketed to him, this information is necessary. If customers believe the product or service, they received does not match the information they provided in the online application, they must receive the appropriate compensation.

Based on the description of the background of the problems above, the main problem and this study can be formulated as follows: how is the legal protection of consumers in buying and selling through online media in the perspective of the consumer protection law and how to resolve consumer disputes effectively in the current era of digital progress in Indonesia?

(A) Materials and methods

Among the theories discussed in this study and utilized as proof for answering the aforementioned problem formulation are the following ones:

a. Covenant Theory

An act by which one person or more binds himself to another person is referred to as an agreement in Article 1313 of the Civil Code. Even if the agreement's meaning is very briefly explained in the text, it is obvious that one party binds itself to another party when entering into an agreement (Miru, 2020, p. 63). An agreement, according to (Mertokusumo, 1986, p. 103), is a relationship between two or more parties based on an agreement that has legal consequences. An agreement according to (Wirjono, 2011, p. 5), is a legal relationship involving property between two parties, where one party promises to do something, and the other party has the right to demand that the promise be kept.

Some of the definitions of an agreement listed above demonstrate that it can be an act, an occurrence, or a legal relationship.

There is a relationship between the vendor and the buyer (consumer) in trade transactions through online media, which results in a legal relationship. Due to an unintentional agreement between the parties, the legal connection was established.

b. Consumer Law Protection Theory

Fitzgerald in (Kistanto et al., 2022) employs Salmond's theory of legal protection, which maintains that the law aims to coordinate and integrate various societal interests because, in a world of conflicting interests, it is conceivable to protect one set of interests by restricting the interests of other parties.

Law has the highest authority to determine which human interests ought to be controlled and safeguarded since it has a vested interest in dealing with human rights and interests. The community agrees to regulate behaviour relations between its members and between individuals and the government, which is thought to serve the community's interests, in order to offer legal protection and all other legal restrictions (Satjipto, 2006, p. 53). People have the opportunity to defend their rights when violated by others by providing legal protection (Satjipto, 2006, p. 69).

It is clear from the experts' descriptions above that legal protection serves as an example of how the law works to achieve legal goals: fairness and advantages for all parties.

The interaction between the seller and the buyer (consumers) who conduct trade transaction activities through online media justifies the usage of consumer protection theory in this study.

c. Dispute Resolution Theory

(Amriani, 2012) defines a dispute as one that arises between the parties to an agreement as a result of a default or legal wrongdoing committed by one of the parties.

There are two approaches to resolve disputes, namely:

- Litigation as a Means of Dispute Resolution

The court system is used to resolve disputes through the litigation dispute resolution process. Settlement of legal problems occurs through court processes, where the judge has the authority to rule and make decisions. All parties to the disagreement will appear before one another in court during the dispute resolution procedure known as litigation to assert their legal rights. A judgment expressing a win-lose resolution is the outcome of a dispute being resolved through litigation.

- Resolution of Disputes Without Litigation

We are all familiar with alternative conflict resolution, often known as alternative dispute resolution (ADR), which is a method of resolving disputes without going to court that is based on the parties' consent and displaces litigation dispute resolution in court. Law No. 30 of 1999 Concerning Arbitration and Alternative Dispute Resolution regulates ADR.

The Dispute Resolution Theory is employed since there are still many potential issues with transactions made through online media, including the non-conformance of the delivered goods so that any issues with the transaction can be dealt with using the notion of dispute resolution if they arise.

Research of the normative juridical variety is used. Whereas this research approach only concentrates on the principles, systematics, and synchronization of laws and regulations, the goal of this research is to expose issues, conditions, or events as they actually are in order to uncover factual discoveries (Nawawi, 1993, p. 31). This research approach uses a statutory and conceptual approach. As well as qualitative methods with a library research.

II. DATA ANALYSIS

(A) Resolution of Consumer Disputes in accordance with the Consumer Protection Law

According to the provisions of Article 45 of Law Number 8 of 1999 Concerning Consumer Protection, there are several options available for settling consumer issues, including litigation in court or It can also be done outside of court (non-litigation) from the consumer dispute resolution process as stated in paragraph (2). This is based on the choice made by both parties, who in this case voluntarily disagreed. This does not absolve every one of their legal obligation to follow the law. According to these laws and regulations, consumer disputes in this case can be processed or settled through two methods. The first is through court (litigation), and anyone who feels wronged or who is involved in a consumer dispute can then resolve the conflict through general court institutions on Indonesian territory. The second is through the Consumer Dispute Settlement Agency (BPSK) outside of court, or non-litigation. When a customer applies directly to the institution with a complaint about how their rights have been violated, the institution has a duty to handle the complaint and be able to resolve it.

According to the Minister of Industry and Trade's Decree, RI Number 350/MPP/Kep/12/2001, there are three ways to resolve consumer disputes:

- The first is through conciliation, which is a method of settling disputes between consumers and business actors outside of court (non-litigation), and it is through

mediation by the Consumer Dispute Settlement Agency (BPSK). An alternate method of resolving consumer issues that cannot be handled in court is this conciliation (non-litigation).

- The second way through mediation is a process of resolving consumer disputes through or out of court (non-litigation). The Consumer Dispute Settlement Agency (BPSK), acting as a mediator or active liaison/intermediary, must be consulted as part of an initiative from one party or both parties to resolve a consumer dispute. The Consumer Dispute Settlement Agency (BPSK) serves as a liaison in this case only as an advisor and in resolving consumer disputes it is handed back to both parties in this dispute.
- The third option is arbitration, which entails comprehensive dispute resolution from both parties in order for the Consumer Disagreement Settlement Board (BPSK) Council to adjudicate and resolve the consumer dispute that arose.

By developing rules whose core precludes abuses of consumer rights in laws and regulations, efforts to enforce the law in settling e-commerce disputes can be carried out in a preventive manner. Regarding repressive law enforcement, Law No. 19 of 2016's Article 18 paragraph (4) (UU-19, 2016), explains that business actors and consumers can choose the forum for resolving conflicts, such as through court institutions, arbitration institutions, and other institutions with the authority to settle disputes between the parties. Parties that have suffered losses as a result of e-commerce activity are eligible to file claims.

A procedure or process for resolving disagreements or disputes handled in court, when the parties meet and deal directly by offering opinions and a clear foundation for defending their individual rights before a panel of judges in trial, is known as dispute resolution through litigation. One of the parties will either win or lose the process of resolving conflicts through this court (Amriani, 2012). In Indonesia, the process used by the courts (litigation) to settle e-commerce or electronic commerce problems is not very effective. This is evident from the many legal disputes, which frequently only involve minimal sums in comparison to the expenses incurred. Even though the actual amount of the lawsuit, which is occasionally only a small amount in dispute, is not much, the court process (litigation) frequently necessitates additional costs like administrative costs, fees for paying a lawyer, and other costs for execution that, when added up, can be more than the amount of the lawsuit that is in dispute by consumers and business actors. Therefore, it is highly challenging for Indonesian consumers to use the court-based procedure (litigation) (Nugroho, 2008).

The Supreme Court (MA) has provided and socialized the mechanism of a simple claim made

in response to this issue in the Supreme Court Regulation (MA) number 4 of 2019 concerning procedures for settling simple lawsuits, in order to be able to provide an easy, quick, and very affordable dispute resolution process for Indonesian citizens when filing civil lawsuits under IDR 500 million (MA, 2019). The Supreme Court's (MA) rules, when the case has a low nominal, can handle all e-commerce-related disputes in Indonesia. The Supreme Court (MA) currently permits the processing of simple lawsuits in matters involving domicile difficulties even where the parties to the dispute have different residences or domiciles. The person representing the party must dwell or live/domicile in the same area as the party being sued. This is true even if the client who filed the case is represented by an appointed plaintiff's attorney or agent. However, all dispute resolution procedures must still be conducted in person or face-to-face with the parties to the dispute.

Apart from this related to all aspects through the court (litigation), the consumer as the plaintiff with the core of the problem and the same interests in this case is also given the opportunity to be able to choose to file or submit a lawsuit jointly or collectively to the general court through mechanism called class action. The mechanism for class action lawsuits in Indonesia is regulated in Law Number 8 of 1999 concerning Consumer Protection. Because all aggrieved customers can designate or provide permission to one party to represent all consumers in court, the process of resolving consumer disputes is more effective and efficient. In this situation, it may have an impact on lessening the formality of the procedure and cutting back on the expense of designating consumer advocates in court. This can therefore have an impact on enhancing the position of consumers relative to those of corporate actors in addition to joint or collective activities on the part of consumers. The representatives appointed by the plaintiff must be those who have suffered losses as a result of the business actor for the success of the class action lawsuit. In this situation it can be proven through evidence in the form of documents related to trade, such as documentation of transactions or agreements that have been completed. When hiring a lawyer or agency to represent consumers this must be considered.

Another option for settling consumer disputes is through out-of-court (non-litigation) means such as conciliation, mediation, and arbitration by the Consumer Dispute Settlement Agency (BPSK), in accordance with the agreement of both parties in this particular dispute. This option is available under Law Number 8 of 1999 concerning Consumer Protection. The process for resolving consumer disputes outside of the court (non-litigation) can also result in a number of issues, much like the resolution of consumer disputes through legal channels (litigation) can. Even when an agreement has been reached, it can be difficult for both parties to understand the provisions of the regulation in this case regarding the binding force of the decision of the

Consumer Dispute Settlement Agency (BPSK). The regulation states that the decision of the Consumer Dispute Settlement Agency (BPSK) is conclusive and binding. However, there is still a chance for both parties to the issue to protest the ruling once more before the district court all the way up to the Supreme Court (MA) (Nugroho, 2008). The Supreme Court has reversed a number of decisions rendered by the Consumer Dispute Settlement Agency (BPSK) on the grounds that the BPSK was not empowered to handle the disputes that were presented in these cases. Because the Financial Services Authority (OJK) has regulated and established all lists of alternative dispute resolution organizations, the majority of rulings from the Consumer Dispute Settlement Agency (BPSK) were cancelled in cases involving financial services (MA, 2022).

In light of this, it is evident that the financial services industry also contributes to the vast amount of data related to consumer disputes that take place in the Indonesian region particularly in the digital era. The Consumer Dispute Settlement Agency (BPSK) or other court institutions occupied or domiciled by the consumer may be used to resolve disputes pertaining to electronic trade or e-commerce in Indonesia, according to Government Regulation number 80 of 2019 (UU-80, 2019) concerning trade through this electronic system. Although if Law Number 8 of 1999 Concerning Consumer Protection does not yet provide detailed and clear requirements or limitations regarding the jurisdiction of the Agency, this can provide more clarity for any electronic trade or e-commerce disputes. To be able to solve consumer problems in Indonesia, authority has been given to the Consumer Dispute Settlement Agency (BPSK). To protect customers in Indonesia's growing digital era, this can add to the current confusion.

(B) Consumer Dispute Resolution Using an Online Approach

There is a loophole in Law Number 30 of 1999 Concerning Arbitration and Alternative Dispute Resolution which allows arbitration dispute resolution online when it has been agreed during the process of exchanging letters, sending Telexes, faxes, e-mails, or others accompanied by receipts from the parties. In Law No. 19 of 2016 concerning amendments to Law No. 11 of 2008 concerning information and electronic transactions in Article 41 Paragraphs 1, 2 and 3 Paragraph 39 Paragraph (2) supports the existence of dispute resolution using the use of information technology.

Thanks to the advent of Online Dispute Resolution (ODR), the parties enjoy a great deal of convenience since they are not need to physically meet and are simply required to submit their papers on time. Sadly, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions is still insufficient or misleading in regards to dispute resolution, and Law Number 30 of 1999 concerning Arbitration and

Alternative Dispute Resolution is deemed to be out of date and incompatible with societal needs, and as such, needs to be replaced. Government Regulation Number 71 of 2019 concerning Implementation of Systems and Electronic Transactions, which needs to be updated to comply with legal developments and the needs of the community, Financial Services Authority Regulations, and Bank Indonesia Regulations, do not yet have a qualified legal framework for ODR dispute resolution in order to ensure legal certainty and a sense of justice in the community.

The e-court system is now used by the Supreme Court. By using this facility, it will make it easier for both parties to the dispute to submit documents, make payments, and make calls online. This system features improvements that are considered successful in encouraging various parties to efficiently resolve disputes or issues in court (Kemenkeu, 2020). According to data from the Supreme Court (MA) clerkship, there were 47,244 cases registered through the e-court service in 2019 and 186,987 cases filed through the service in 2020. The number of e-court cases has almost tripled in just two years. With this application system, a task can be completed faster than it should be, in contrast to the previous one which required the use of a manual mailing or administration system (NusaBali, 2022).

With regard to dispute cases from electronic trade or e-commerce, Government Regulation Number 80 of 2019 concerning trade through electronic systems states that disputes can be resolved electronically and the regulation recognizes the process of resolving consumer disputes online or online. Even though in resolving disputes through trial (litigation) you can use or apply provisions regarding the application of the e-court system, there is no specific explanation regarding this matter in the process of resolving consumer disputes through outside the court (non-litigation). So that in this case the Consumer Dispute Settlement Agency (BPSK) or other alternative institutions/agencies have not been able to use online or online processes in handling these consumer disputes. In this case the party from the consumer side is still obliged to carry out the dispute resolution process through conciliation, through mediation and through arbitration face to face or directly.

The process of resolving consumer disputes online or with the Online Dispute Resolution (ODR) system can offer many advantages in electronic trade or e-commerce dispute resolution mechanisms, including time and cost savings, both parties using access to internet facilities have great confidence in facing the judicial process compared to directly because of factors that influence psychologically and factors outside the law, which is also a benchmark implementation of the Online (Sitompul et al., 2016).

III. CONCLUSION

According to the study's findings above, there are two options for resolving consumer disputes: through the courts (litigation) or outside of the courts (non-litigation) which in Indonesia in cases involving electronic commerce or e-commerce for consumers in the digital era, in accordance with Law Number 8 of 1999 concerning Consumer Protection. In order to provide the Indonesian people with a quick, easy, and reasonably priced dispute resolution process when filing a lawsuit, the Supreme Court (MA) issued Supreme Court Regulation (MA) number 4 of 2019. This regulation outlines the procedures for handling simple lawsuits with a simple claim mechanism.

The e-court system, a web-based system, has been implemented by the Supreme Court (MA). This system offers features that make it easier for both parties to a dispute to submit documents, make payments, and issue subpoenas online or electronically. The Online Dispute Resolution (ODR) system can be used to enhance other conflict resolution procedures, such as e-commerce dispute cases in Indonesia.

Online dispute resolution (ODR) can speed up the process of resolving disputes that often arise because they are not limited by a specific location or time, are low cost and can be completed more quickly.

Recommendation

Now, Law Number 8 of 1999 on Consumer Protection in the Resolution of Consumer Disputes has to be updated. The characteristics of the online consumer dispute resolution procedure related to trade or e-commerce in the current digital era in Indonesia must be more specifically accommodated in the amendment of this legislative rule. Thus that the current legislative framework and explanation for the consumer dispute resolution process can subsequently be more precise, harmonious, and inclusive of all internet or online consumer dispute settlement processes.

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