

## **IMPLEMENTATION OF CRIMINAL SANCTIONS FOR THE CRIMINAL ACTION OF FRAUD AGAINST CONSUMERS RELATED TO THE SALE SYSTEM BASED ON LAW NO. 8 OF 1999 CONCERNING CONSUMER PROTECTION**

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### **ABSTRACT**

This research was conducted to find out the criminal sanctions for the crime of selling sales and to find out the responsibilities of business actors and the efforts of consumers who are harmed by sale and purchase transactions that are deceptive and misleading in terms of Law no. 8 of 1999. which is associated with the Bandung District Court Decision Number 930/Pid.Sus/2021/PN.Bdg. This study uses a normative juridical research method, namely the legal research method of literature which is carried out by examining library materials or secondary materials. The results of the study show that the application of law and criminal sanctions is in accordance with the provisions of Article 62 paragraph (2) in conjunction with Article 11 letter b of Law no. 8 of 1999 concerning Consumer Protection by imposing criminal sanctions on the defendant in the form of imprisonment for 8 (eight) months. Sentence is carried out as a preventive and repressive effort that is educative, constructive and motivational so that the defendant does not commit the act again in the future. Meanwhile, the responsibility of business actors in fraud cases can be in the form of liability for criminal sanctions in the form of imprisonment or fines and can also be in the form of civil matters such as replacement of compensation.

**Keywords: Criminal, Sale Sales, Business Players, Consumers, Legal Protection Against Consumers**

### **INTRODUCTION**

The State of Indonesia as a state based on law in the management of its people, the state guarantees protection for its people with the rules and regulations in force. This is in line with the mandate of the Indonesian state contained in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that: "The State of Indonesia is a state based on law", so that from the contents of the law it is emphasized that law in Indonesia is the basis and a mandate from a country, so that all scope of community activities must have provisions and legal protection so that the

running of a country can be controlled not only limited to power, but legal provisions that apply are made in obeying the laws that apply in Indonesia.<sup>1</sup>

The criminal justice system itself, according to Mardjono Reksodipoetro quoted by Ahmad Sanusi, explained that the criminal justice system is a system that controls or controls a crime where the components of the system consist of several institutions such as the police, prosecutors, courts and prisons for convicts.<sup>2</sup> In the criminal justice system itself, several of these components work together to run the system as well as possible, because it cannot only work from just one component in enforcing the law that applies to society in order to prevent and deal with criminal acts that occur in a social interaction among the community. .

Even though Indonesia has implemented the applicable legal system in accommodating the scope of its society, this does not necessarily make this country classified as a safe country and free from cases or crimes committed by its people. This can be proven by the fact that there are still many crime cases occurring in Indonesia, based on statistical data from the Central Bureau of Statistics released for 2021 regarding data collection of cases in 2020, various cases have taken place based on their respective categories which the authors summarize as follows:



**Graph 1.1**  
**Crime Cases in 2020**  
 Source: BPS Criminal 2021

Based on the data that the author has summarized from BPS sources which are shown in graph 1.1 above, it can be concluded that there were still quite a lot of crimes during 2020 and were divided into several categories of crime cases. Most crime cases occurred in the category of crimes against non-violent property rights/goods, followed

<sup>1</sup>Muhammad Tahir Azhary, 2015, The rule of law is a study of principles in terms of Islamic law, their implementation in the Medina state and the present, Crescent Star, Jakarta, p. 3

<sup>2</sup>Mardjono Reksodipoetro. 1993. Indonesian Criminal Justice System (Looking at Crime and Law Enforcement Within the Limits of Tolerance), FH UI, Jakarta, p. 85.

by crimes related to fraud, embezzlement and corruption and the smallest cases occurred in the category of crimes against life<sup>3</sup>.

In response to the large number of these crime cases, the authors in this study focused on the second most frequent case category, namely categories related to fraud, embezzlement and corruption which were then more specific to cases of fraud/fraudulent acts which were the most frequent cases in that category, namely 21,175 case.<sup>4</sup>

The rise of business competition makes business actors often take action by justifying any means so as to create an unhealthy competitive climate. One of them is by committing acts of fraud by cheating using fraud in the sales trading system. The definition of a sales trading system itself is a system of selling products on a large scale at low prices with the intention of consuming goods, emptying warehouses, and so on.<sup>5</sup>.

From the perspective of consumers in general, this sale system shows that these business actors sell products that are cheaper compared to other people, thus creating interest from consumers to buy these products, with consumers often without knowingly not knowing the hidden conditions that apply. on the sale system, such as a limited number of products or being required to buy other products to obtain the product charged in the sale system, even worse, business actors deceive products that are sold by deceptively displaying or maintaining a good product appearance even though the quality is inside the product is damaged, like selling food products that are on sale while keeping the product packaging looking good but sometimes hiding the quality of the product, such as regarding the expiration date of the product.

Some of the fraud problems that often occur are actually because in general people are still less aware of legal knowledge and personal protection for each of the actions they take, especially in purchasing transactions as consumers for the sake of fulfilling life's needs, most of them do not pay much attention in choosing the products they buy. correctly, correctly and safely. So that with the lack of legal knowledge related to protection for themselves as consumers, it makes consumers indifferent in

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<sup>3</sup>Central Statistics Agency, 2021, Criminal Statistics 2021, Central Statistics Agency, Jakarta, p. 97.

<sup>4</sup>Ibid.

<sup>5</sup>The Development Team for the Center for Language Development and Development Dictionary, 1994, Big Indonesian Dictionary, Second Edition, Balai Pustaka, Jakarta, p. 699.

buying goods, because they are usually driven by the price they see, even though by knowing the applicable law, consumers are ensured to get good quality goods and avoid all criminal acts. fraud in the sale and purchase of goods.

So that in this case law enforcement related to the sale and purchase of goods, especially in the legal certainty of consumer rights (buyers) must pay more attention so that they are not easily deceived and harmed in the end. The losses experienced by these consumers arise as a result of the existence of legal agreements between producers and consumers or as a result of unlawful acts committed by producers or sellers of goods.<sup>6</sup>

However, even though the Indonesian state government has issued regulations to protect the welfare of its people, especially consumer protection regarding the products they buy by enacting Law no. 8 of 1999 concerning Consumer Protection as an effort in consumer protection, but still every year, similar cases are rife in society, especially related to fraud over trade fraud transactions of goods products that should not be allowed to be sold because they endanger consumer.

This happens because of the low level of consumer awareness of their rights as an element of market players to be able to obtain transparency or protection for the goods being traded. Thus, this is exploited by business actors in obtaining maximum profits with minimal capital by deceiving consumers by taking advantage of consumers' weak knowledge of the disclosure of information on goods traded, even though this directly or indirectly harms consumers.<sup>7</sup>

This is in line with accountability in matters of products sold in meeting daily needs where in this case consumers actually have rights that are in line with the interests of these consumers as stipulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection by pay attention to consumer rights as a whole for the products they buy on the basis of:

- 1) The right to the security and safety of the goods consumed, in which consumers are guaranteed the security and safety of the use of the goods they buy, so as to avoid losses both physically and psychologically if the goods purchased have been consumed.

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<sup>6</sup>Ahmad Miru, 2013, Legal Protection for Consumers in Indonesia, PT. Raja Grafindo, Jakarta, p. 1.

<sup>7</sup>M. Sadar, et al. 2012. Consumer Protection Law in Indonesia. Academy. Jakarta. Things: 1.

- 2) The right to obtain information, in which the right to obtain information on the goods purchased is very important, because the buyer tends to be inadequate in obtaining information from the product he has purchased, such as whether the product has been deformed, whether it is useful for consumers, whether it has side effects, until when is the expiry date to the identity of the producer who produced the product so that you know who will ultimately be responsible if a problem occurs with the product being sold in the future.

Several research cases show that there are still many crime cases related to consumer protection. The same thing also happened in relation to the implementation of consumer protection laws, as happened in the criminal case in Bandung Regency in case Number 930/Pid.Sus/2021/PN.Bdg. In this case, the Bandung District Court has examined and tried cases of fraudulent transactions of sale and purchase of goods in transactions through sales/auctions which are more specifically in the sale category.

In that case, where the business actor (seller) named Deni Hadian as the defendant had committed a criminal act of consumer protection in sale sales through deception or misleading consumers by stating that the goods on sale appeared as if they did not contain hidden defects which in the end detrimental to consumers because they feel they have been cheated. In fact, as stated in the protection of consumer rights, in one of the activities of buying and selling goods through sales.

For the actions he has committed because it has harmed many people, in this case the public as consumers when buying these products, the defendant has been tried and sentenced according to the third alternative indictment, namely for violating Article 62 paragraph (2) in conjunction with Article 11 letter b of the Law No. 8 of 1999 concerning Consumer Protection, by imposing criminal sanctions in the form of imprisonment for 8 (eight) months.

Based on the things mentioned above, the authors are interested in further researching crime cases involving fraudulent sale and purchase transactions of goods through sales and put it in a thesis with the title "Application of Criminal Sanctions for Fraud Against Consumers related to the Sale System based on Law No. 8 of 1999 concerning Consumer Protection (Case Study of Bandung District Court Decision Number 930/Pid.Sus/2021/PN.Bdg)".

## RESEARCH METHODS

The research method in this writing is a normative juridical research method, namely the legal research method of literature which is carried out by examining library materials or secondary materials. The research specifications are analytical descriptive in nature, by describing various legal issues that occur, along with facts and other symptoms related to criminal acts against auction goods transactions and related legal or regulatory principles, then the data or materials are analyzed systematically to obtain conclusion.

### 1. Research Phase and Research Materials

This research is divided into library research stages and field research stages.

- a. Library research (library research), namely collecting secondary data which includes:
  - 1) Primary materials, in the form of laws and regulations and court decisions, include:
    - a) the 1945 Constitution;
    - b) Criminal Code;
    - c) Code of Civil law;
    - d) Law Number 8 of 1999 concerning Consumer Protection;
    - e) Law No. 18 of 2012 concerning Food;
    - f) Government Regulation Number 58 of 2001 Concerning Guidance and Supervision of the Implementation of Consumer Protection.
    - g) Bandung District Court Decision Number 930/Pid.Sus/2021/PN Bdg.
  - 2) Secondary legal materials, namely materials that are closely related to primary legal materials and can help analyze primary legal materials, such as scientific papers and the writings of experts.
  - 3) Tertiary legal materials, namely materials that can support and explain primary legal materials and tertiary legal materials, such as dictionaries, the internet, magazines or newspapers.
- b. Field research, namely by conducting field research to collect and obtain data to support secondary data.

## 2. Data analysis

The method of analysis in this thesis uses qualitative juridical analysis, namely laws that do not conflict with one another, pay attention to legal hierarchies and seek living laws.<sup>8</sup>. Juridical application is due to departing from existing regulations as positive law. Meanwhile, qualitative analysis is used because this research is to present the results of research findings qualitatively based on information from data sources without using mathematical formulas or numbers.

## DISCUSSION

### A. Application of Criminal Sanctions Against Perpetrators of Fraudulent Sales Sales Fraud that are Deceptive or Misleading Consumers is connected with the Bandung District Court Decision Number 930/Pid.Sus/2021/PN.Bdg.

Sales of goods with hidden defects which are carried out on sale is one of the easiest ways to do this because in general, ordinary people are very interested in sale prices with large discounts, but consumers are not careful enough to examine the condition or origin of these goods. So that business actors can take advantage of these conditions to gain large profits regardless of losses or dangers that may occur to consumers.

Consumer Protection Act aims to provide legal protection to the interests of consumers. This can be seen in the Consumer Protection Act which contains various prohibitions set for business actors about harmful goods/products or endanger the health of consumers who are threatened with sanctions crime, including:

1. Article 8 paragraph (1) that business actors are prohibited from producing and/or trading goods and/or services, including:
  - a. Product/service standardization is not appropriate;
  - b. The product does not comply with the label or label of goods;
  - c. The weight in terms of size, measure, weight or quantity does not reflect the truth;
  - d. Guarantees, features and efficacy do not match what is stated on the label;
  - e. Product quality or quality does not match the label;
  - f. The reality of the product/service does not match what is advertised;
  - g. Lack of information related to the product/service in question, such as the expiry date as well as information on benefits and how to use them;
  - h. The halal label does not correspond to the reality of the product's production;

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<sup>8</sup>Sudikno Mertokusumo, 1996, *Discovery of Law (An Introduction)*, Liberty, Yogyakarta, p. 57-58.

- i. Not attaching a label or making a description of the goods containing the name of the goods, size, net or net weight/content, composition, rules for use, date of manufacture, side effects, name and address of the business actor and other information in accordance with the provisions;
  - j. Does not include information and/or instructions for using goods in Indonesian in accordance with applicable regulations.
2. Article 8 paragraph (2) that business actors are prohibited from trading damaged, defective or used, and tainted goods without providing complete and correct information on the said goods.
  3. Article 8 paragraph (3) that business actors are prohibited from trading damaged, defective or used and tainted pharmaceutical and food preparations, with or without providing complete and correct information.
  4. Article 8 paragraph (4) that business actors who violate paragraphs (1) and paragraph (2) are prohibited from trading these goods and/or services and are required to withdraw them from circulation.
  5. Article 11 which states that business actors, in terms of sales made through sales or auctions, are prohibited from deceiving/misleading consumers by:
    - a. Declare the goods and/or services as if they have met certain quality standards;
    - b. Declare the goods and/or services as if they do not contain hidden defects;
    - c. Does not intend to sell the goods offered but with the intention to sell other goods;
    - d. Not providing goods in a certain amount and/or sufficient quantity with the intention of selling other goods;
    - e. Not providing services in a certain capacity or in sufficient quantities with the intention of selling other services;
    - f. Raise the price or tariff of goods and/or services prior to a sale.

Although in a criminal case discussed in this paper whereas the actions of the perpetrators may fall within the realm of Article 8 paragraph (2) and paragraph (3) of the Consumer Protection Law regarding the prohibition of business actors trading damaged, defective or used and tainted pharmaceutical goods or preparations without providing complete and correct information on the item in question, However application in practice, it turns out that these articles were not included in the indictment against criminal acts which is conducted accused, however using the provisions of article 141 jo. Article 89 and Article 99 of Law No. 18 of 2012 concerning Food and Article 11 of the Consumer Protection Act.

In practice, the panel of judges has focused more on and considered the application of Article 11 of the Consumer Protection Act listed in the public prosecutor's indictment. This can be seen in some considerations law applied by the



judge in accordance with Bandung District Court decision Number 930/Pid.Sus/2021/PN.Bdg that:

1. The activities carried out by the defendant were not a criminal act related to the production of an item but were more focused on an activity that traded an item.
2. In accordance with the facts on the ground, the defendant carried out the act of selling goods by means of a sale/auction of the goods being sold.
3. In accordance with the statements of the witnesses presented, that the defendant had committed fraud against consumers by tricking/misleading consumers through the sale of sale goods by stating that the goods appeared to have no defects, even though the defendant himself knew and admitted that the goods -these goods were ex-flood goods and it was also proven that they had ordered their employees to sort, clean, organize and sell these goods to consumers in a misleading attempt regarding the goods being sold with a marketing or sales strategy on sale in order to attract buyers.

Based on some of these considerations, the more accused emphasized enforcement provision criminal based on Article 11 of the Consumer Protection Act. Based on the implementation of the criminal code that has been determined, the author is of the opinion that the decision that has been handed down by the judge in law enforcement efforts and the imposition of sanctions against the defendant is appropriate and correct in accordance with the criminal acts that have been committed by the defendant in committing the crime of sales fraud which was carried out by sale/auction.

Based on the analysis that has been carried out by the author, regarding the several charges that were determined against the defendant that in the case of the first alternative indictment referring to Article 141 in conjunction with Article 89 of Law No. 18 of 2012 concerning Food, namely related to the criminal act of deliberately trading food that is not in accordance with food safety and food quality listed on the food packaging label is inappropriate so that the first alternative indictment is set aside.

Because, based on the facts and evidence obtained, the defendant did not do what was stated in the provisions of that article, so that the safety of food products and the quality being traded was in fact in accordance with the provisions from the start of the production of these food products, but had only undergone changes related to the essence of safety that occurred in the product because it has been contaminated by the effects of flooding.

Likewise with the second alternative indictment based on Article 99 of Law No. 18 of 2012 concerning Food which states that everyone is prohibited from deleting, revoking, closing, changing labels, re-labelling, and/or changing the date, month and year of expiry of Food distributed which is not correct with what happened in the case under study. Because, basically the defendant only cleaned up products that were flooded and then re-sold them, even though some of the labels or information related to these products were erased or could not be seen clearly because they were damaged by the former flood. This indicates that the defendant did not take deliberate action to destroy information related to this product, so the second alternative indictment has also been ruled out.

Another thing that has justified setting aside the second alternative indictment, because in this case the defendant did not only sell food goods, because the products sold by ex-Alfamart were mixed and not focused on just one type of food product, as there are products detergents, pampers, sanitary napkins, to pharmaceutical preparations. So the right thing to rule out the second alternative indictment is in accordance with the facts in the field related to general products, and not just specifically. Therefore, if you only use the Food Law, the concentration of the indictment will be limited to food products, while from the results of the evidence, the defendant sold a variety of ex-flood products from Alfamart with a wide variety of products being sold.

Based on this, it can be justified that the imposition of criminal sanctions is focused on criminal acts Article 62 paragraph (2) jo article 11 letter b of the Law No. 8 1999 concerning Consumer Protection, because it was in accordance with the criminal act that had been committed by the defendant, namely by selling products on sale to consumers with fraudulent acts, namely misleading consumers by selling products that had product defects but were not informed honestly to consumer. Moreover, the products sold are a variety of products and are not focused on just one type of product. Thus, the stipulation of the article on the actions taken by the defendant as a business actor is appropriate.

Business actors in article 1 number 3 of the Law Consumer protection is defined as every individual or business entity, whether in the form of a law or not a legal entity

that is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through agreements to carry out business activities in various economic fields. So based on the elements of the business actor, in this case the defendant deserves to be subject to criminal sanctions in accordance with Article 61 of the Consumer Protection Act, namely criminal prosecution can be carried out against business actors and/or their management. Through the provisions of article 61 of the Consumer Protection Act that business entities (legal entities or not legal entities, private or public companies, cooperatives, and so on) can be filed as defendants in criminal cases,

Thus it can be seen that the perpetrators of criminal acts based on Article 61 of the Consumer Protection Act can be accounted for (which designates the subject of the crime) are "business actors". This is in accordance with Article 1 point 3 of the Consumer Protection Act which was previously mentioned which states that a business actor is any individual or business entity that is in the form of a legal entity or not. Even though the law does not contain provisions regarding when or in terms of how a business entity/legal entity is said to have committed a crime, the provisions still exist that criminal prosecution can be carried out against business actors or their management.

The imposition of criminal sanctions in this case is imprisonment for 8 (eight) months which does not exceed the formulation of Article 62 paragraph (2) of the Consumer Protection Act. Based on the results of the court case, the defendant was determined to be subject to criminal sanctions in accordance with the mistakes he had made, namely those related to the criminal sanctions of Article 62 paragraph (2) in conjunction with Article 11 letter b, the Consumer Protection Act which states that every business actor who violates the provisions referred to in Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 16, and Article 17 paragraph (1) letter d and letter f shall be punished with imprisonment for a maximum of 2 (two) years or a maximum penalty of Rp. 500,000. 000.00 (five hundred million rupiah).

According to the author, the criminal threat in Article 62 of the Consumer Protection Act applies to all business actors, both individuals and business entities/legal entities. However, by looking at the contents of Article 62 of the Consumer Protection

Law, if it can be used as a policy concern for the distinction of fines between individual (private) business actors and business actors/legal entities, because there is a high probability of the impact of victims. (consumer losses) from the actions of business entities/legal entities are greater than those of individual business actors.

The sentence in this case has considered mitigating and aggravating factors for the defendant. There is an activity by the defendant that violates the provisions of the law and is detrimental to the community, then in accordance with the applicable law and adapted to the examination process in the trial of the case as well as the mitigating and aggravating evidence for the defendant, the defendant has been sentenced to imprisonment for 8 (eight) months because he has proven guilty of committing a criminal act of Consumer Protection, namely by selling through a sale or auction by deceiving or misleading consumers by stating that the goods and/or services do not contain hidden defects.

The punishment handed down to the defendant was not solely aimed at retaliation, but with the consideration that the criminal sentence was carried out as a preventive and repressive effort that was educational, constructive and motivational so that the defendant would not commit the said act again in the future and the punitive measure was applied as a preventive measure for society. others as stated in the decision of the Bandung District Court Number 930/Pid.Sus/2021/PN.Bdg.

## **B. Responsibilities of Business Actors and Efforts of Consumers Who Are Disadvantaged in Sales and Purchases that are Deceptive or Misleading in the View of Law No. 8 of 1999**

### **1. Responsibilities of Business Actors in Sale and Purchase Transactions that are Deceptive or Misleading Consumers**

According to the Big Indonesian Dictionary (KBBI) responsibility is the obligation to bear everything if anything happens one can be prosecuted, blamed and sued, whereas in the legal dictionary, responsibility is a must for someone to carry out what has been made obligatory to him.<sup>9</sup> Furthermore, according to the Quarterly Point, accountability must have a basis, namely things that give rise to legal

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<sup>9</sup>Andi Hamzah, 2005, Legal Dictionary, Ghalia Indonesia, Bogor, p. 26.

rights for someone to sue other people as well as things that give birth to legal obligations for other people to give accountability.<sup>10</sup>

In relation to the sale of goods, Article 19 of the Consumer Protection Act stipulates the responsibilities of business actors, which state that:

- (1) Business actors are responsible for providing compensation for consumer damage, pollution and/or loss;
- (2) Compensation can be in the form of a refund or replacement of goods of the same or equivalent value, or health care and/or compensation in accordance with applicable regulations;
- (3) Compensation is made within 7 (seven) days after the transaction date; And
- (4) responsibility and compensation do not eliminate the possibility of a criminal charge based on further evidence regarding the existence of an element of guilt; And
- (5) responsibility and compensation do not apply if the business actor can prove that the mistake was the fault of the consumer.

Business actors in this case who act as sellers in sale transactions in accordance with the provisions of Article 11 of the Consumer Protection Act have the obligation that it is prohibited to deceive/mislead consumers by stating that the goods and/or services appear to meet certain quality standards, as if - as if it does not contain hidden defects, there is an intention to sell other goods by offering different goods, there is a hidden intention to sell other goods by not providing sufficient stock of goods, even to the point of increasing the price of goods prior to carrying out sales transactions.

In cases of harming things to consumers, business actors are required to be held responsible if it has been legally proven in the eyes of the law to have taken various actions that harm consumers. As was the case in this sale case, the defendant had violated the provisions as a business actor on the basis of having sold goods that had hidden defects but the business actor hid this information from consumers so this would certainly be detrimental to consumers.

Pursuant to the provisions of Article 19 paragraphs (1) and (2) of the Consumer Protection Act, business actors who sell goods on sale which cause loss or damage may be liable to provide compensation for damage, pollution and/or consumer losses. as a

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<sup>10</sup>Quarter Point and Shinta Febrian, 2010, Legal Protection for Patients, Library Achievements, Jakarta, p. 48.

result of consuming traded goods. So this form of responsibility can be in the form of civil liability by providing compensation to consumers who have suffered losses.

In addition to civil liability, business actors can also be subject to criminal liability. This is by referring to Article 19 paragraph (4) of the Consumer Protection Act where the award of compensation does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error. In practice, the criminal responsibility of business actors due to selling goods that deceive/mislead consumers is as in the case at the Bandung District Court Number 930/Pid.Sus/2021/PN.Bdg which has been discussed above.

In the provisions of Article 28 of the Consumer Protection Act where proving the elements of wrongdoing in the compensation claim referred to in Article 19, Article 22 and Article 23 of the Consumer Protection Act becomes a burden and responsibility of business actors. As is the case under investigation that the defendant had been proven to have made a mistake in the sale sales system which was detrimental to consumers, one of which was related to deceiving consumers that the goods sold in sales were stated as if they did not contain hidden defects. Even though based on the facts of the investigators in the field and the confessions of the accused and the witnesses presented,

The categories of defective goods in the Consumer Protection Act are divided into several categories, namely hidden defects as regulated in Article 9 paragraph (1) letter f and Article 11 (b), or defects that are categorized as used goods as regulated in Article 8 paragraph (2) and paragraph (3) of the Consumer Protection Act.

Business actors are burdened with obligations after being found guilty of committing acts that harm consumers related to these hidden defects, so business actors are responsible for providing compensation for damage, pollution and/or consumer losses as a result of consuming the traded product in accordance with the provisions of article 19 paragraph (1) Consumer Protection Act.

## **2. Efforts That Can Be Made by Consumers Who Are Aggrieved In Sale Purchase Transactions That Are Deceptive Or Misleading In View Of Law No. 8 Year 1999**

The Consumer Protection Law has provided guarantees for consumer protection, if consumers feel they have been harmed by business actors and a dispute

occurs, then according to Article 45 of the Consumer Protection Law there are several efforts that can be taken, namely:

- (1) Every consumer who is harmed can sue business actors through an institution tasked with resolving disputes between consumers and business actors or through a court within the general court environment.
- (2) Settlement of consumer disputes can be reached through court or out of court based on the voluntary choice of the parties to the dispute.
- (3) The settlement of disputes outside the court as referred to in paragraph (2) does not eliminate criminal responsibility as stipulated in the law.
- (4) If an out-of-court consumer dispute settlement effort has been chosen, a lawsuit through a court can only be pursued if the said attempt is declared unsuccessful by one of the parties or by the parties to the dispute.

Based on the provisions mentioned above, in the event that the sale and purchase of consumer goods is harmed by business actors, this can be done settlement of disputes in the litigation channel through general courts, as emphasized in Article 48 of the Consumer Protection Act that settlement of consumer disputes through courts refers to the provisions concerning general courts that apply by taking into account the provisions in Article 45, or non-litigation dispute resolution outside the court through the Consumer Dispute Settlement Agency (BPSK). This is in accordance with BPSK's duties and authorities as stated in Article 52 of the Consumer Protection Law which includes:

1. Carry out the handling and settlement of consumer disputes by way of mediation and arbitration or conciliation;
2. Providing consumer protection consulting;
3. Supervise the inclusion of standard clauses;
4. Report to the general investigator if there is a violation of the provisions of this law;
5. Receiving complaints, both written and unwritten, from consumers regarding violations of consumer protection;
6. Conduct research and examination of consumer protection disputes;
7. Summon business actors who are suspected of having violated consumer protection;
8. Summon and present witnesses, expert witnesses and/or everyone who is deemed to know of violations of that Law;
9. Requesting assistance from investigators to bring business actors, witnesses, expert witnesses, or any person referred to in letters g and h, who are not willing to comply with the subpoena of the consumer dispute settlement agency;
10. Obtain, examine and/or evaluate letters, documents or other evidence for investigation and/or examination;
11. Decide and determine whether or not there is a loss on the part of the consumer;

12. Notify the decision to business actors who have violated consumer protection;
13. Imposing administrative sanctions on business actors who violate the provisions of this Law.

In the implementation of law enforcement related to consumer protection, both in terms of overcoming material consumer losses and in terms of endangering their health, a state tool is needed to carry it out. As is the case in Article 59 of the Consumer Protection Act which regulates investigations which are divided into four paragraphs as follows:

- (1) In addition to the Police Officers of the Republic of Indonesia, certain Civil Servant Officers within government agencies whose scope of duties and responsibilities are in the field of consumer protection are also given special authority as investigators as referred to in the applicable Law on Criminal Procedure.
- (2) Civil Servant Investigators as referred to in paragraph (1) have the authority to:
  - a. Examine the correctness of reports or information regarding criminal acts in the field of consumer protection;
  - b. Conduct examinations of individuals or legal entities suspected of committing criminal acts in the field of consumer protection;
  - c. Requesting information and evidence from individuals or legal entities in connection with criminal acts in the field of consumer protection;
  - d. Examine books, records and other documents relating to criminal acts in the field of consumer protection;
  - e. Carry out inspections at certain places where evidence is suspected and confiscate goods resulting from infringements that can be used as evidence in criminal cases in the field of consumer protection;
  - f. Ask for expert assistance in carrying out the duties of investigating criminal acts in the field of consumer protection.
- (3) Civil Servant Investigators as referred to in paragraph (1) notify the commencement of the investigation and the results of the investigation to the Investigators of the State Police of the Republic of Indonesia.
- (4) Civil Servant Investigators as referred to in paragraph (1) convey the results of investigations to the Public Prosecutor through Investigators from the Indonesian National Police.

The government in an effort to protect its people continues to take active actions, one of which is in an effort to protect consumers through the realization of guidance and supervision. As stated in Article 29 paragraph (1) of the Consumer Protection Act which states that "the government is responsible for fostering the implementation of



consumer protection which ensures that the rights of consumers and business actors are obtained and the obligations of consumers and business actors are carried out."

In carrying out these consumer protection efforts, the government makes broad classifications related to consumer protection which consists of the right to prevent consumers from harm, both personal loss and property loss. The right to obtain goods at a fair price and the right to obtain proper dispute resolution of the problems at hand.

To address this, the government has also implemented consumer protection by developing a non-governmental consumer protection agency (LPKSM) as stated in Article 6 of Government Regulation Number 58 of 2001 concerning Guidance and Supervision of the Implementation of Consumer Protection.

The role of the Non-Governmental Consumer Protection Agency (LPKSM) through its activities in protecting consumers is to carry out its functions as stipulated in Article 44 paragraph (3) of the Consumer Protection Act that the duties of non-governmental consumer protection institutions include activities:

1. Disseminating information in order to increase awareness of the rights and obligations and prudence of consumers in consuming goods and/or services;
2. Provide advice to consumers who need it;
3. Cooperate with related agencies in an effort to realize consumer protection;
4. Assist consumers in fighting for their rights, including receiving consumer complaints or complaints;
5. Carry out joint supervision of the government and the public on the implementation of consumer protection.

Consumer protection is not only limited to protecting material losses, but the government also provides legal protection in the form of law enforcement regarding products that speak health benefits. This is due to the interaction of humans as consumers with products that allow them to be eaten every day, used every day which can be unknowingly harmful to health.

In addition to conducting guidance and supervision of the circulation of consumer goods, the government has also issued laws, government regulations, and issued goods quality standards. Another effort to protect consumers is the duties and roles of the Food and Drug Supervisory Agency (BPOM), which continues to take preventive steps to ensure and protect the safety and security of consumers. Control mechanisms regulated by existing regulations should be enforced for the protection of consumers.

The BPOM's duties and roles in this case carry out inspections and tests for the quality of drugs, food and beverages, cosmetics and medical devices, traditional medicines, narcotics and dangerous medicinal substances in accordance with applicable laws and regulations. So that the products circulating among the public will be safer.

Through the existence of legal protection carried out by the state, it is fitting that people who act as consumers when making purchases of goods must be aware and literate of the law regarding buying and selling transactions and the laws that represent aspects of buying and selling. This is very necessary because even though the government has implemented various laws related to consumer legal protection, if consumers are not literate about the law, then in general consumers tend not to always be careful in making purchase transactions.

This is a balance between the preventive and repressive efforts that have been carried out by the government with consumer activities in addressing the market. Through the existence of preventive efforts from the government by exercising market control over traded products and the existence of repressive authority through BPOM in carrying out inspections of drug and food products circulating in the community.

## **CLOSING**

### **A. Conclusion**

Based on the results of the research and discussion, the researcher can provide the following conclusions:

1. Application of criminal sanctions and actions against business actors who commit criminal acts on sale sales that are deceptive or misleading consumers in the Bandung District Court decision Number 930/Pid.Sus/2021/PN.Bdg:
  - a. The application of law and criminal sanctions is in accordance with the provisions of Article 62 paragraph (2) in conjunction with Article 11 letter b of Law no. 8 of 1999 concerning Consumer Protection, by imposing criminal sanctions on the defendant in the form of imprisonment for 8 (eight) months;
  - b. The sentence in this case has considered mitigating and aggravating factors for the defendant. In addition, the punishment handed down to the defendant was not solely aimed at retaliation, where the sentencing was carried out as a preventive and repressive effort that was educational, constructive and motivational so that the defendant would not commit the said act again in the future and the punitive measure was applied as a preventive measure for other societies.

2. The responsibility of business actors in terms of harming consumers for sales transactions that mislead consumers can be in the form of criminal responsibility, with the imposition of criminal sanctions in prison or fines, and besides that civilly responsible, namely providing compensation for damage, pollution, and/or consumer losses as a result of consuming the traded product in accordance with the provisions of Article 19 paragraph (1) with compensation as stated in Article 19 paragraph (2) of the Law -Consumer Protection Act, which can be in the form of compensation for refunds, replacement of goods, health care or compensation in accordance with applicable laws and regulations. While efforts that can be made by consumers who have been harmed by the actions of business actors, they can make demands related to cases that have been harmed through litigation through public courts or non-litigation dispute resolution outside the court through the Consumer Dispute Settlement Agency (BPSK).

#### **B. Suggestion**

The suggestions that the author can give in connection with this thesis research are as follows:

1. It is hoped that business actors will always be honest in conducting transactions selling their goods, because all actions that are still in the realm of law will certainly be tried as fairly as possible if the business process is detrimental, very harmful to consumers and disturbing many people. In this case, the role of the consumer must be careful and be careful in buying products, even though these products are sold on sale with the lure of sloping prices, you still have to cross-check whether the goods are really useful or will harm and/or endanger your health/life.
2. It is hoped that the Non-Governmental Consumer Protection Agency (LPKSM) and the Food and Drug Supervisory Agency (BPOM) according to their duties and authorities will be more proactive and increase their supervisory activities by taking preventive steps to ensure and protect the safety and security of consumers.

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