



Settlement Of Civil Disputes Regarding Incompatibility Of Objects Of Online Purchase

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Abstract

The thing to remember is that buying and selling online is on the principle is the same as the factual sale and purchase on generally. Consumer protection law related to sale transactions even buying online as we previously explained is no different with the applicable law in real buying and selling transactions. The difference is only in the use of internet facilities or means other telecommunications. The result is in buying and selling transactions online it is difficult to do execution or real action if there is a dispute or a criminal act of fraud. Deep cyber nature transactions electronically allows everyone either the seller not the buyer disguises or falsifies the identity inside every transaction or sale and purchase agreement. In the event that the business actor or seller is using an identity fake or gimmick in buying and selling online, then business actors can also be convicted based on Article 378 of the Book The Criminal Code (“KUHP”) on fraud and Article 28 paragraph (1) of the ITE Law on spreading fake news and misleading which results in consumer losses in Electronic Transactions.

Keywords: Disputes, Objects Of Online Purchase, Electronic Transactions.

Introduction

The risk of buying and selling online transactions described above, no It can be denied that the act of fraud and inappropriate goods with the specifications that have been described can occur and be experienced by buyer. Before the transaction occurs, the description of the risks above emphasizes on legal principles that apply in the real world. When in the world real, the principle of law or the rule of law that applies is no exception to the principle or unwritten legal rules in society (custom), have know the time and place of the transaction and when it occurred transactions can apply, in contrast to buying and selling online that does not exist



limitation of time and place of occurrence of transactions because in technology networks information when more sophisticated information technology is used The seller can respond to the buyer automatically through the settings arranged. So that the principles of law in the real world are contradictory with the legal principles that apply in buying and selling online, this is what into a dynamic development of people's habits of life so that it doesn't It can also be denied that there is a risk of fraud because there is no physical contact between sellers and buyers in online buying and selling events.

In this connection, it is necessary to emphasize that the case of buying and selling objects this mismatch has very little in common with the case fraud, the difference is that at the beginning of the activity, that is with agreements and agreements on which the initial basis is part of the realm of civil law. This is, in principle or The rule of civil law is commonly known as the legal agreement that occurs prior to an agreement between the two parties (seller and buyer). Responding to such issues, Teguh Arifiyadi in his writing entitled Legal Protection for Online Shopping Consumers cites an opinion R. Subekti, SH in his book Law of Agreement, explained follows : ¹

If it turns out that the item received does not match the photo on online shop advertising (as a form of offer), then it can sue the business actor (in this case is the seller) civil by the pretext of default on the sale and purchase transactions made. According to Prof. R. Subekti default is negligence or negligence which can be in the form of 4 kinds of conditions, namely:

- a. Not doing what he was supposed to do;
- b. Carry out what it promises, but not as it is promised;
- c. Did what he promised but was too late;
- d. Doing something that is according to the agreement is not allowed did.

If one of the 4 kinds of conditions occurs, it is civil can sue online sellers on the pretext of default (for example, the goods received do not match the specifications of the goods which

¹ Teguh Arifiyadi, Perlindungan Hukum Bagi Konsumen Belanja Online, <https://www.hukumonline.com/klinik/detail/ulasan/lt50bf69280b1ee/perlindungan-konsumen-dala-e-commerce>, dipublikasikan 18 Oktober 2018,

is loaded in the display home page / website). The quote above, is one of several questions Similar questions regarding non-conforming goods problems advertisements on the internet.

By law, consumers get legal certainty when buying goods that are not in accordance with the specifications of the goods advertised. Please note, that the default lawsuit is based on the provisions of the Civil Code as the legal basis for private law, especially personal law and property law.² Although in principle, the legal act of buying and selling online is different from the substance of the law which are regulated in the Civil Code, but are essentially the same,³ namely actions sale and purchase law so that the legal principles of the Civil Code can apply in the act of buying and selling online on the basis of default if one of the parties does not fulfill the agreement that has been mutually agreed.

Sub Title

Not much different between default and fraud in the legal act of buying and selling via social media, the equation is only lies in the impact experienced by the buyer, namely losses. However, It needs to be underlined that the difference is the action the law. Buying and selling online is carried out on the basis of the principle of the law of objects, that is begins with an agreement which in particular civil law regulated in the Civil Code regarding the engagement subject, so that on the basis of The agreement is then made an agreement. If one party did not keep his promise, in terms of buying and selling online one party did not keep his promise then can be sued on the basis of a lawsuit for default. By therefore, the legal act of buying and selling online enters the realm of civil law, because of the legal impact on the parties involved in the act the law is limited to those involved in the agreement. Different with criminal law, which has a public nature, if the element of fraud applied to the legal act of buying and selling online then it does not fulfill element of fraud because when viewed from the aspect of the legal action it is included in the category of civil law.

² Widjaja, Gunawan & Ahmad Yani. *Hukum tentang Perlindungan Konsumen*. Jakarta: Gramedia Pustaka Utama, 2000. Page 89

³ Yusuf Sofie. *Perlindungan Konsumen dan Instrumen-instrumen Hukumnya*. PT. Citra Aditya Bakti. Bandung. 2003. Page 13



Since 10 years ago, the development of information technology has occurred so rapidly until recently. This condition has caused changes in various human activities in various fields life that affects the new legal acts especially in the electronic transactions.⁴ Or currently it is commonly known as e-commerce (electronic commerce). On the other hand, the law of engagement (agreement) in Book III of the Civil Code not sufficiently able to reach the development of transaction practices electronics from the side of the norm to regulate it, to date. Even so, at that time Law no. 11 of 2008 on Information and Electronic Transactions (UU ITE). This issue became the subject of discussion during. It is time for the Indonesian Civil Code to be changed, especially the law engagement in order to harmonize the process of modernization of scientific progress and technology in all aspects of life, including in transactions electronic.⁵

The mainstay of the Civil Code provisions (which are still applied, red) in responding to the development of the engagement law is Article 1338 BW which contains the principle of freedom contract, *pacta sunt servanda*, good faith, and Article 1320 BW which is regulates the terms of the validity of the agreement. Amid the absence of protection, buyers are in the trade online (electronic transactions) must be observant and careful to avoid loss economically.⁶ In the future, there should be arrangements specifically in more detail in the law of engagement (Draft Civil Code, red) to protect consumers and online businesses in electronic transactions. Even though there is an ITE Law, there are special rules there is no electronic sale and purchase agreement.

Conclusion

There are 2 (two) default settings on objects that are traded online. First, regulation of property law against objects that are traded online based Article 499, 503, 504 of the Civil Code regulates the material law about the types of things. Second, the bondage of default against the object objects that are traded online are based on the provisions default Article 1243 of the Civil Code, because it is buying and selling online using an electronic agreement in the

⁴ Tahir, H. Toto. *Kemungkinan Gugatan Class Action dalam Upaya Perlindungan Hukum pada Era Perdagangan Bebas*. Penerbit Mandar Maju, Bandung, 2000.

⁵ Adam Chazawi, 2010, *Pelajaran Hukum Pidana I*, Rajagrafindo Persada, Jakarta, Cetakan ke-5

⁶ Miru, Ahmadi dan Sutarman Yodo. *Hukum Perlindungan Konsumen*. Jakarta: Rajawali Pers, 2011.

form of an electronic message based on the provisions of Article 19 of Law Number 11 Year 2008 Concerning Information and Electronic Transactions that state the agreement between the parties.

There are 2 (two) forms of consumer protection against purchases objects that are traded online. First, regarding rights and the obligations of business actors and consumers as regulated in Article 4, Article 5, Article 6, and Article 7 of Law no. 8 of 1999 About Consumer protection. Second, guarantee of protection of rights consumers, namely protecting the bargaining position of consumers against offers goods and / or services by the seller, as well as the technical provisions of Article 49 paragraph (1) Government Regulation Number 82 of 2012 concerning Implementation The Electronic Transaction System requires business actors to provide complete and correct information on the terms of the contract, manufacturers, and the products offered.

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