



Legal Actions Initiated By Business Entities Due To Losses Caused By Fictitious Orders

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Abstract: *The purpose of this study leads to legal action that can be taken by business actors related to losses caused by fictitious orders and legal protection against business actors in online buying and selling transactions Cash on Delivery (COD) payment methods. This type of research is a juridical normative research that leads to legal norms, legal principles and uses the statute approach (legislation) and supported by the fact approach (the Fact Approach) and conceptual approach (concept approach). The results of the study that the form of legal protection against business actors who are harmed by consumers is in the form of compensation and/or sanctions against consumers when consumers still do not replace the losses as intended. Although Chapter 13 of the UUPK does not specify criminal sanctions against consumers in particular, this does not mean that consumers can avoid criminal sanctions. Criminal sanctions can be imposed against consumers if the consumer's actions have met the criminal elements. The legal actions of business actors against consumers who make fictitious orders can then implement the principle of strict liability, business actors who feel aggrieved over the actions of consumers who are not responsible for the goods that have been ordered can demand compensation or compensation without having to dispute the presence or absence of elements of error on the part of consumers. The threat of punishment obtained against consumers who are proven to have committed fraud will be subject to imprisonment for a maximum of four years in accordance with Article 378 of the Criminal Code .. Therefore, it should pay more attention to legal certainty regarding legal protection not only to consumers but also to business actors. Because basically losses can not only be experienced by consumers but can also be experienced by business actors.*

Keywords: *Legal Protection, Business Actors, Fictitious Orders.*

1. INTRODUCTION

The Indonesian government issued Law Number 8 of 1999 concerning Consumer Protection or UUPK to protect consumers who are often harmed. Considering the weak position of consumers in general compared to the position of business actors which is stronger in many ways. In this case, consumers as parties who need the goods and/or services offered by business actors are required to follow the rules that have been determined unilaterally by business actors.

However, the fact is that in online transactions, losses can not only be experienced by consumers. Currently, business actors often experience losses caused by their consumers. Losses experienced by business actors are caused by failure to fulfill the achievements that should be made by consumers. Even though both parties have not yet achieved their achievements, the business actor has processed goods ordered by consumers using his personal money.

When an order is in the hands of a business actor and the consumer does not make payment, the order will cause losses because the business actor who should get a profit from the order does not get it. There are several consumer actions that cause losses to business actors, including hitting and running (potential buyers who have confirmed to buy a product,

but do not make payment when the order has been processed by the business actor), falsifying proof of payment, canceling orders automatically, unilaterally, blocking access that business actors can contact, and so on.

This is clearly felt to be very detrimental for business actors, considering that there are various types of business actors, such as business actors who act as resellers or business actors. The definition of a business actor is outlined in article 1 point (5) of the Law Number 5 of 1999, a business actor is any individual or business entity, whether in the form of a legal entity or non-legal entity, established and domiciled or carrying out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through an agreement, organizing various businesses in the economic field.

Business actors complain about the losses they experience, but business actors are also confused about where to report if they are harmed because there is no institution and strong legal force to protect them, currently there is only an institution that oversees consumer protection, in Law No. 9 of 1999 concerning Protection. Consumers (UUPK) mentions three types of consumer institutions, namely the National Consumer Protection Agency (BPKN).

Non-Governmental Consumer Protection Agency (LPKSM) and Consumer Dispute Resolution Agency (BPSK). Meanwhile, there is no institution that provides protection for business actors. It is important to have an institution that provides protection for business actors and a legal umbrella that can protect business actors, so that consumers who have bad intentions feel deterred, so they are more careful in buying and selling.

Based on the descriptions discussed and the events or cases that were hotly discussed above, the author is interested in conducting research with the title "*Legal Actions Taken by Business Actors Regarding Losses Resulting from Fictitious Orders*".

2. RESEARCH METHODS

Regarding the research in writing this proposal, it is categorized as normative juridical research, namely "*Legal Actions Taken by Business Actors Regarding Losses Resulting from Fictitious Orders*". Researchers use research in a juridical-normative manner, namely aiming at legal norms and legal principles.

The analytical technique used to process legal materials is legal hermeneutics. Legal hermeneutics is also known as a way of embodying the legal material itself as a form of effort to obtain clarity about something being addressed. The sequence of analysis of legal materials begins with sorting and collecting all legal materials, both primary and secondary, which are

categorized as Primary legal materials, namely all forms of regulations, both laws and legal products recognized by the state. Secondary legal materials include all forms of legal materials. form of legal literacy results that are disseminated and are credible. These two materials are then studied and analyzed in order to arrive at an argument and pattern related to the research itself .

3. RESULTS AND DISCUSSION

1. Legal Action by Business Actors Regarding Losses Resulting from Fictitious Orders.

Regardless of whether the criminal act of fraud committed by the consumer is a minor crime of fraud or not. Still, an action that causes harm to another person cannot be justified in carrying out a buying and selling transaction. Every person who commits a detrimental act against another person needs to be punished in order to have a deterrent effect so that they do not commit a similar act again in the future.

Steps that can be taken by business actors to get their rights back can be started in a family way . However, if the consumer does not pay attention or cannot even be contacted to resolve the problem amicably due to an element of not having good faith, then the consumer can be sued civilly and/or reported to the police for criminal proceedings.

For business actors who experience losses caused by the actions of consumers who do not carry out their obligations. So, by implementing the principle of *strict liability* , business actors who feel disadvantaged by the actions of consumers who are not responsible for the goods they have ordered can demand compensation or compensation without having to question whether or not there is an element of fault on the part of the consumer.

By having an agreement at the beginning of the transaction, it means that the consumer has agreed to the rules for carrying out transactions on the Lazada *online shop application* and is willing to carry out his obligations as a consumer. If this is proven not to be the case then the consumer must be responsible for his actions. Consumers who cause losses through elements of data falsification may be subject to criminal penalties as regulated in Article 45A paragraph (1) of the ITE Law, namely:

"Any person who deliberately and without right spreads false and misleading news which results in consumer losses in Electronic Transactions as intended in Article 28 paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of IDR 1,000. 000,000.00 (one billion rupiah)".

2. Legal Protection for Business Actors in Online Buying and Selling Transactions with *Cash On Delivery (COD) Payment Method*

"Indonesia as a legal state guarantees recognition and protection of fundamental rights for all its people, including when carrying out transactions both conventionally and *online* ." The Indonesian government issued Law Number 8 of 1999 concerning Consumer Protection or UUPK to protect consumers who are often harmed. Considering the weak position of consumers in general compared to the position of business actors which is stronger in many ways. In this case, consumers as parties who need the goods and/or services offered by business actors are required to follow the rules that have been determined unilaterally by business actors.

online transactions , losses can not only be experienced by consumers. Currently, business actors often experience losses caused by their consumers. Losses in law can be separated into two classifications, namely:

1. Material losses are losses that can be calculated based on nominal amounts. These losses usually occur in cases of default
2. Immaterial losses are losses that cannot be calculated based on nominal amounts. These losses usually occur in PMH cases.

Then there is only one choice of payment method where payment is made when the consumer has received the goods, namely the *Cash On Delivery (COD)* payment method. In this payment method, business actors are weak because they hand over the goods first before receiving payment, but business actors still receive protection in the form of providing insurance by the application party for goods traded via the *Cash On Delivery (COD)* payment method, insurance can only be provided when the goods traded are lost.

"Trade transactions using *e-commerce technology* are actually a contract model that is the same as conventional sales and purchase contracts. The main difference is only in the media used, in *e-commerce transactions* the media used is electronic media or the internet, so contracts are created *online* ." An *online* buying and selling contract via the *Lazada online application* occurs when you click on the order symbols in the application which is interpreted as an agreement to make an *online sale and purchase* . The contract takes effect immediately after an agreement is reached between the parties which is indicated by clicking on the symbols to make an order in the application.

online buying and selling , where the business actor and consumer are at an undetermined distance, and the goods being bought and sold can only be seen through photos and information provided by the business actor, consumer protection is an

important thing that must be considered. So consumer protection is more regulated than protection of business actors. "According to Ahmadi Miru & Sutarman Yodo in their book entitled Consumer Protection Law, even though it is called the Consumer Protection Law (UUPK), this does not mean that the interests of business actors are not taken into consideration, especially because the existence of the national economy is largely determined by business actors."

online buying and selling using the *Cash On Delivery (COD)* payment method , which is often done by consumers, namely not receiving goods that have been ordered for various reasons, whether intentional or unintentional, This results in business actors failing to get payment according to the agreement when buying and selling occurs.

Cash On Delivery (COD) payment method was due to slow delivery of goods, delivery which was said to be inappropriate and many reasons given by consumers to business actors who had sent the goods they had ordered. These reasons show that the implementation of *online buying and selling using the Cash On Delivery (COD)* payment method via the *online shop application* is still experiencing several problems and obstacles. So new policies are needed to overcome these obstacles and barriers.

Currently, the policy that has been provided by the *online shop application* , namely Lazada, to protect business actors is in the form of blocking consumer accounts if they have canceled orders twice within 60 days, however the account will be reactivated after 60 days from the date it was deactivated.

"According to the provisions of Article 1338 of the Civil Code, an agreement made legally that meets the requirements stated in Article 1320 of the Civil Code, applies as law to anyone who makes it, cannot be withdrawn without the consent of both parties, if one If a party wishes to cancel the agreement, it must obtain consent from the other party, or there is sufficient reason according to law." Therefore, in this case, business actors and consumers must both be based on good faith when buying and selling, especially when buying and selling *online* . If one of the parties does not comply with the agreement, then he is considered to have violated the law which has certain legal consequences, namely legal sanctions.

"According to Article 46 PP PSTE, the implementation of electronic transactions carried out by parties must pay attention to several things, namely good faith, the principle of prudence, transparency, accountability and fairness." *Online* buying and selling through the Laazada *online shop application* is carried out transparently because the ordering process, packaging, to delivery can be monitored by consumers. Apart from that,

consumers can also communicate with business actors first about the goods they want to buy."

online buying and selling through the Lazda *online shop application* is also put forward, with the realization that consumers can return goods if there is a defect or damage to the goods purchased, but of course through several processes, this makes it better for consumers to receive goods rather than having to process returns.

With various payment methods offered, one of which is the *Cash On Delivery* (COD) payment method, where the goods being traded can be sold over long distances, and the goods will be sent first to the consumer's address, after which the consumer can make payment when the goods have arrived. However, if the consumer does not pay or for various reasons he is not at home so he cannot receive the goods, he has clearly violated the agreement made by the business actor and the consumer, because buying and selling, according to the definition, is an agreement, meaning the agreement referred to in Article 1313 Civil Code.

"The consensual nature of buying and selling is stated in Article 1458 of the Civil Code which states that buying and selling is considered to have occurred between the two parties immediately afterwards an agreement is reached between the two parties regarding the object and its price, even though the object has not been handed over, nor the price has been paid." Apart from that, consumers also violate the consumer obligations stated in Article 5 of the Consumer Protection Law, namely to have good faith in carrying out transactions and pay according to the agreed exchange rate.

This can be detrimental to business actors because apart from the goods not being sold, the goods can also be damaged or lost due to shipping over long distances, which business actors most often complain about is loss of time. "It is important to have legal protection for business actors. Legal protection is an action that protects and/or provides assistance to sufferers whose rights have been taken away or harmed."

Business actors always prioritize consumer rights, namely selling goods and/or services that are quality and safe when used, consumer satisfaction is also measured by the responsibility of business actors. Law Number 8 of 1999 is said to not only regulate consumers but also regulate business actors, but sanctions against consumers who violate them have not been regulated and are not explained in Law Number 8 of 1999 concerning Consumer Protection.

The author's opinion is that most business actors have experienced consumers who do not meet their achievements at all in *online* buying and selling transactions , in this case

including a form of broken promises. A common loss must be felt by business actors, namely loss of time because the goods have been sent but the consumer does not pay so the goods are returned to the business actor, of course this takes a long time because it goes through the delivery process at the delivery service.

Apart from loss of time, several business actors have also experienced losses in their goods, because when the goods are returned they are not in their original condition or can be said to be damaged due to long shipping and the merchandise cannot last long. Business actors who experienced this incident really regretted the existence of the *Cash On Delivery (COD)* payment method because they felt they had been disadvantaged by the actions of consumers who did not have good intentions.

In civil terms, consumers can be sued on the pretext that a breach of contract has occurred. The legal consequences if there is a default or breach of contract, namely the cancellation of the agreement according to Article 1266 of the Civil Code which states that the condition of being void is deemed to always be included in a reciprocal agreement, if one of the parties does not fulfill its obligations, in that case the agreement is not null and void, but the cancellation must be requested from Court.

Then, when buying and selling online using *the Cash On Delivery (COD)* payment method via the *Lazada online shop application*, the consumer does not fulfill his obligations or breaks a promise, often the legal protection obtained by the business actor in the form of the sale and purchase is immediately canceled and the goods are sent back to the business actor. , under the pretext that business actors can get their goods back. However, this still leaves several problems, namely that business actors suffer losses because their goods are not sold, even though business actors have carried out their obligations and provided consumer rights in accordance with Article 5 of the UUPK, and this policy also has not had a deterrent effect on consumers.

Another legal consequence is that paying compensation according to Article 1243 of the Civil Code which states that compensation for costs, losses and interest due to non-fulfillment of an obligation begins to be mandatory, if the debtor, even though he has been declared negligent, fails to fulfill the obligation, or if something must be given. or it can only be given or done within a time that exceeds the specified time.

online buying and selling via the *Lazada application* using the *Cash On Delivery (COD)* payment method, compensation will be given to the business actor if the goods are lost or damaged, because the goods have been registered for insurance by *Lazada*, so

Lazada will compensate the losses. However, many of these business actors have never experienced reimbursement when their merchandise is damaged or lost.

online buying and selling , especially the *Cash On Delivery (COD)* payment method via Lazada, the legal protection for business actors that often occurs is in the form of canceling the agreement when the consumer cannot be found. By looking at conditions like this, it would be good for us as business actors or consumers to be more selective in carrying out online buying and selling transactions and always prioritize good faith when selling or buying goods.

4. CONCLUSION

1. The form of legal protection for business actors who are harmed by consumers is in the form of compensation and/or sanctions against consumers if consumers still do not compensate for losses as intended. Even though CHAPTER 13 UUPK does not specify criminal sanctions against consumers in particular, this does not mean that consumers can avoid criminal sanctions. Criminal sanctions can be imposed on consumers if the consumer's actions fulfill the criminal elements. In connection with the problems that occurred in Singaraja City, in this case consumers can be charged with multiple articles based on the provisions of Article 378 of the Criminal Code which is the *lex generalis* of the criminal provisions contained in CHAPTER 13 UUPK and/or criminal sanctions in Article 45A paragraph (1) of the ITE Law .
2. Legal action by business actors against consumers who place fictitious orders. Therefore, the principle of *strict liability is implemented* , business actors who feel disadvantaged by the actions of consumers who are not responsible for the goods they have ordered can demand compensation or compensation without having to question whether or not there is an element of fault on the part of the party. consumer. The threat of punishment for consumers who are proven to have committed fraud will be imprisonment for a maximum of four years in accordance with Article 378 of the Criminal Code.

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