

The Legal Protection on Consumers of E-Commerce Transactions in Indonesia

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Abstract. *As time progresses, people's lives are starting to be influenced by developments in information technology, including in the field of trade, where buying and selling transactions that can be carried out using the internet are known as electronic commerce or e-commerce for short. However, in its implementation it is necessary to pay attention to consumer protection. The method that will be used in this research is an empirical normative legal approach. The results of this research show that the form of legal protection for consumers in e-commerce transactions has been regulated based on the provisions of statutory regulations which have been contained in Law No. 8 of 1999 concerning Consumer Protection (UUPK), then in purchasing and selling transactions, although carried out online, based on the ITE Law and PP PSTE, it is still recognized as an electronic transaction that can be accounted for through an electronic contract. Legal protection for consumers due to default in electronic transactions is by providing compensation, compensation, and/or services received or utilized that are not in accordance with the agreement. Based on regulations regarding the responsibility of business actors, the actions of business actors must refer to the principles of responsibility in law.*

Keywords: *Consumers; E-Commerce; Legal; Protection.*

1. Introduction

1.1. Background

As time progresses, people's lives are starting to be influenced by developments in information technology, including in the field of trade. The use of the internet in the form of good use has dimensions not only limited to the local or national environment but also internationally, so that activities carried out via the internet are activities without borders. One of the technological developments that is currently most influential is in buying and selling transactions. Buying and selling

transactions that can be carried out using the internet are known as electronic commerce or e-commerce for short. The definition of e-commerce is any form of trade or commerce transaction for goods or services using electronic media or the internet.¹

According to Kalalota and Winston, e-commerce is a modern business methodology that seeks to meet the needs of trading organizations and consumers to reduce costs, improve the quality of goods and/or services, and increase the speed of goods delivery services.² The development of information technology causes the world to become borderless and causes significant social changes to occur very quickly. The parties only have mutual trust to carry out buying and selling transactions, it is very possible for violations to occur which can be committed by consumers and business actors, both have the same opportunities, so this requires a legal umbrella to protect consumers and business actors.³

With the increasing development of e-commerce in Indonesia, it also raises several things that should be a matter of doubt, especially regarding problematic disputes in the implementation of its business. Dispute is a condition that arises due to differences of opinion, quarrels, disagreements, fights or disputes between individuals or groups in a relationship, because the rights of one of them are violated.⁴

When a dispute occurs, the disputing parties can take legal action either through litigation or non-litigation efforts. Litigation legal action is an effort to resolve disputes through court, while non-litigation legal action is dispute resolution outside of court. Dispute resolution in e-commerce must be specifically regulated because the nature of this transaction is certainly different from transactions in general. This is because e-commerce transactions are closely related to the use of technology.

The presence of e-commerce provides extraordinary pampering to consumers, because consumers do not need to leave the house to shop, besides the choice of goods or services is varied at relatively cheaper prices. This is a positive and

¹ Evi Retnowulan & Regina Hernani, (2010). *"Tinjauan Hukum Jual Beli"*, Jurnal Hukum, Vol. XIX No. 19, p. 18.

² Gunawan Widjaja, Viony Kresna Sumantri, Shella Felicia & Raissa Arlyn Manikam, (2019), *"Wanprestasi, Kegagalan Transaksi & Pelindungan Konsumen Dalam Transaksi Elektronik"*, *Jurnal Cross-border*, Vol. 2 No. 1, p. 194.

³ I Gede Vera Yudana, I Nyoman Putu Budiarta, Desak Gde Dwi Arini, *"Perlindungan Hukum Terhadap Pelaku Usaha Melalui Sistem Cash On Delivery Pada Marketplace"*, *Jurnal Interpretasi Hukum*, Vol. 3 No.3, p. 380.

⁴ Joanne Banker Hames & Yvonne Ekem, (2021). *Pengantar Hukum Perspektif Amerika Serikat*, Bandung: Nuansa Cendekia

negative challenge at the same time. It is said to be positive because this condition can provide benefits for consumers to freely choose the goods or services they want. Consumers have the freedom to determine the type and quality of goods or services according to their needs. It is said to be negative because this condition causes the position of consumers to be weaker than the position of business actors, which can result in disappointment and loss. So seeing this makes consumers need protection in implementing e-commerce.

Consumer protection is any effort that ensures legal certainty to provide protection to consumers, with a broader scope including from the stage of obtaining goods or services to the consequences of using the goods or services. This coverage can be differentiated into 2 aspects, namely:

- 1) Protection against the possibility that the goods handed over to consumers are not in accordance with what has been agreed.
- 2) Protection against the imposition of unfair conditions on consumers.⁵

The consumer protection law aims to provide protection for consumers in Indonesia. According to Article 1 point (1) of Law No. 8 of 1999 concerning Consumer Protection, consumer protection is any effort that ensures legal certainty to provide protection to consumers.⁶

In buying and selling via the internet, fraud often occurs. These frauds can occur involving the existence of business actors, the goods purchased, the price of goods and payments by consumers. Consumer ignorance factors, unclear information regarding goods or services provided by business actors, consumers' lack of understanding of transaction mechanisms are factors that cause the weak position of consumers. Therefore, to create a healthy business climate for consumers in carrying out trade transactions via e-commerce, efforts are being made to create a new and adequate form of legal regulation that is capable of regulating all their activities.

So the existence of an electronic agreement in electronic trading will give rise to rights and obligations between the two parties, the rights between the parties cannot be violated and there are obligations that must be carried out. The obligations referred to are in the form of achievements that must be carried out between business actors and consumers according to existing agreements.⁷

⁵ Suharnoko, (2004). *Hukum Perjanjian: Teori & Analisa Kasus*, Jakarta: Kencana

⁶ Law No. 8 of 1999 concerning Consumer Protection, Article 1 number (1).

⁷ Rosmawati, (2018). *Pokok-Pokok Perlindungan Konsumen*, Jakarta: Kencana, p. 23.

If the business actor cannot fulfill his achievements as agreed, the business actor will commit a breach of contract. Default is the failure to fulfill an agreement that occurs intentionally or unintentionally.⁸One of the reasons for default in electronic commerce is that consumers and business actors do not meet in person to see the goods ordered by consumers, which has the potential to cause problems that are detrimental to consumers.⁹

Problems that occur will cause disputes between business actors and consumers. Consumers as the injured party are obliged to obtain their rights. Provisions regarding consumer rights are regulated in Article 4 of Law No. 8 of 1999 concerning Consumer Protection.

Judging from this description, researchers are interested in examining legal protection for consumers with the title "The Legal Protection on Consumers of E-Commerce Transactions in Indonesia".

Based on this review, the main problems in this writing are: what is the legal protection for consumers in e-commerce transactions and what is the responsibility of business actors in the event of default in e-commerce transactions.

2. Previous Research

Previous research conducted by Eko Budi Cahyono in 2023 with the title "Perlindungan Hukum Terhadap Konsumen Pada Transaksi *E-Commerce* Melalui Pembayaran *Cash On Delivery*", which discusses on protection on e-commerce for consumers from the perspective of laws and regulations in Indonesia and how to complete the legal protection mechanism for e-commerce consumers who make COD payments. This research has similarities, namely that they both discuss the legal protection of consumers in e-commerce transactions and have differences in this research which discusses the legal protection of consumers in e-commerce transactions through cash on delivery (COD) payments.

Research conducted by Yudha Sri Wulandari in 2018 with the title "Legal Protection for Consumers Regarding E-Commerce Buying and Selling Transactions." Discusses the legal relationship between parties in buying and selling goods via e-commerce and how distributors are held accountable in the event of default. This research has similarities in that it both discusses online buying and selling transactions via e-commerce from a juridical perspective and

⁸Ahmadi Miru, (2020). *Hukum Kontrak & Perancangan Kontrak*, Depok: Raja Grafindo, p. 68.

⁹Yudha Sri Wulandari, "Perlindungan Hukum Bagi Konsumen Terhadap Transaksi Jual Beli E-Commerce", *Ajudikasi: Jurnal Ilmu Hukum*, Vol. 2 No. 2, 2018, p. 209.

has differences in the discussion, namely several forms of default that have arisen as a result of e-commerce buying and selling agreements.

2. Research Methods

This research uses a juridical-normative method, with a qualitative approach. Normative legal research methods are a library law research is carried out by examining library materials or secondary data. Normative juridical research methods regarding the implications of normative legal regulations (laws) which apply to all certain legal phenomena that come to the public community.¹⁰

Bryman, A and Bell¹¹ said that in normative juridical legal research, normative juridical research is research carried out by examining library materials or secondary data only, this research is also called library legal research.

Meanwhile, the analysis technique used is analysis using grammatical interpretation and systematic interpretation. Apart from that, this study is based on the author's references obtained from other research sources, supporting books, scientific articles, internet material, and all sources of knowledge that are relevant and appropriate to the material to be conveyed.¹²

3. Results and Discussion

The Republic of Indonesia is also called a legal state. A rule of law is a state that is based on democratic laws and is based on the 1945 Constitution and not based on arbitrariness of power. Law itself is interpreted as something that has the character of authority or authority that can direct and straighten out the philosophy of society as a whole in order to obtain justice.¹³

Panjaitan¹⁴ believes that law is one of the structures of the social system's working apparatus. The function of a social system is to connect the needs of a community of people, thereby creating conducive conditions. Of course, this makes the task of law to achieve justice, namely harmony between the values of legal interests (*rechtszekerheid*). So it can be said that the intent of the law is in

¹⁰ John W. Creswell, (2016). *Research Design : Pendekatan Metode Kualitatif, Kuantitatif & Campuran.*, Keempat, C. Yogyakarta: Pustaka Belajar

¹¹ E. Bryman, A. & Bell, (2011). *Metode Penelitian Bisnis Edisi Ketiga*, Oxford: Oxford University Press

¹² Sarwono Jonathan, (2006). *Metode Penelitian Kuantitatif & Kualitatif*, Yogyakarta: Graha Ilmu

¹³ Moho Hasaziduhu, (2019), "*Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan, & Kemanfaatan*", *Journal Universitas Darmawangsa*, Vol. 13 No. 1, p. 138–149.

¹⁴ Lydia Natasia Purba, (2019). "*Analisis Yuridis Tentang Pertanggungjawaban Pidana Pelaku Pengiriman Tenaga Kerja Indonesia Secara Ilegal Ke Luar Negeri (Studi Putusan Pengadilan Negeri No.84/Pid/Sus/2016/Pn.Kbm)*,"

accordance with Satjipto Rahardjo's opinion¹⁵ namely creating or triggering a conducive situation in the social environment.

Indonesian law is based on Continental or Roman law, which was introduced by Dutch traders in 1602 and established by the Dutch government in 1856. When Indonesia declared its independence, Dutch law was still used to fill the absence of laws in the new country. Therefore, basically Indonesian law is similar to Dutch law which is based on Roman law. There are two main categories of Indonesian law. One is known as private law, and the other is criminal law. These two categories have differences in scope and procedures.¹⁶

1) Private law

This means laws that regulate personal relationships such as laws relating to business, contracts, marriage and divorce. Private law is also known as Civil Law which concerns disputes between citizens within a country. For legal purposes, the population of the Indonesian archipelago has been divided into three "population groups". Namely the European Group, the Indigenous Group and the Foreign Oriental Group.

The civil and commercial law applicable to the European Group shall be the same as the private law applicable in the Netherlands. This principle is known as the principle of concordance. Civil and commercial regulations for the Indigenous Group must be based on Customary Law, namely regarding the customs and religion of indigenous peoples, and the private law of the Foreign Oriental Group is basically the same as the European Group except for the customary law brought by Foreign Orientals from their respective places. original. Private law procedures are different from criminal law. The party who files the private action is called the plaintiff and the party suspected of committing a wrongful act is called the defendant.¹⁷

2) Criminal law

Means the law that regulates the relationship between citizens and the state. A crime can be considered an act that is considered wrong by the state and is punishable by the state. Contrary to private law, uniformity was achieved in this case through the 1918 Criminal Code. One of the important principles in Indonesian Criminal Law is "nullum delictum noella poena sine privilege

¹⁵ Satjipto Rahardjo, (2000). *Ilmu Hukum*, Bandung: PT. Cahaya Aditya Bakti

¹⁶ Rismaenar Triyani & Dwi Desi Yayi Tarina, (2021). "Perlindungan Hukum Terhadap Hak Cuti Pekerja Perempuan Hamil (Studi Pada Perusahaan Es Krim Di Bekasi)", *Jurnal Esensi Hukum UPNVJ*, Vol. 4 No. 1

¹⁷ Suharnoko, Op.Cit.

poenale”, which means no punishment for criminals without any regulations. from what he had done before. The most important thing that differentiates between private law and criminal law is the procedure for enforcing these two types of law. In private law, the party who sues in court is called the plaintiff, namely the person who suffered the loss, while the person who committed the crime is called the prosecutor who is a public servant. Once the prosecution proves that the defendant is guilty, he or she will be sent to prison.¹⁸

E-Commerce buying and selling transactions are based on the provisions of statutory regulations which are contained in Law No. 8 of 1999 concerning Consumer Protection (UUPK).¹⁹ Article 4 UUPK states that consumer rights include; the right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and conditions and guarantees promised; the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services; the right to receive compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be; etc.²⁰

On the other hand, obligations for business actors in accordance with Article 7 UUPK include; provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as providing explanations of use, repair and maintenance; provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement, etc.²¹

Even more firmly, Article 8 UUPK prohibits business actors from trading goods/services that do not comply with the promises stated in labels, labels, information, advertisements or sales promotions for said goods and/or services. Based on this article, a discrepancy between the specifications of the goods you receive and the goods stated in the advertisement/photo offering the goods is a form of violation/prohibition for business actors in trading goods.

So consumers, according to Article 4 letter h UUPK, have the right to receive compensation, compensation and/or replacement if the goods and/or services received do not comply with the agreement or are not as they should be. Meanwhile, the business actor himself, in accordance with Article 7 letter g of the

¹⁸ Fajar Abdhul Mukti, (2018). *Negara Hukum & Perkembangan Teori Hukum : Sejarah & Pergeseran Paradigma*, Malang: Intrans Publishing

¹⁹ Evi Retnowulan & Regina Hernani, Op.Cit

²⁰ W. Sasongko, (2007). *Ketentuan-Ketentuan Pokok Hukum Perlindungan Konsumen*, (Bandar Lampung: Universitas Lampung

²¹ *Ibid.*

PK Law, is obliged to provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement. If the business actor does not carry out his obligations, the business actor can be punished based on Article 62 UUPK, which reads:²²

"Business actors who violate the provisions as intended in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letters a, letter b, letter c, letter e, paragraph (2) and Article 18 is punishable by a maximum imprisonment of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah)."

Buying and selling transactions, even though they are carried out online, are still recognized as electronic transactions that can be accounted for under the ITE Law and PP PSTE. According to Article 48 paragraph (3) of PP PSTE, the Electronic Contract itself must at least contain the following matters; identity data of the parties; objects and specifications; Electronic Transaction requirements; prices and costs; procedures in the event of cancellation by the parties; provisions that give the injured party the right to return the goods and/or request a product replacement if there are hidden defects; and legal options for electronic transaction settlement. Thus, electronic transactions that occur in cases can use the instruments of the ITE Law and/or PP PSTE as the legal basis for resolving the problem.

Regarding consumer protection, Article 49 paragraph (1) PP PSTE emphasizes that Business Actors offering products through Electronic Systems are obliged to provide complete and correct information regarding the terms of the contract, manufacturer and products offered. In the next paragraph it is further emphasized that Business Actors are obliged to provide clear information regarding contract offers or advertisements.

Then, if the goods for the consumer do not comply with what was agreed, based on Article 49 paragraph (3) PP PSTE specifically regulates this matter, namely that Business Actors are obliged to give consumers a time limit to return the goods sent if they do not comply with the agreement or there are hidden defects. . Apart from the two provisions mentioned above, if it turns out that the goods received do not match the photo in the online shop advertisement (as a form of offer), we can also sue the Business Actor (in this case the seller) in a civil manner on the pretext that there was a default on the sale and purchase transaction. what you do with the seller.

²² Law No. 8 of 1999 concerning Consumer Protection, Article 62.

According to Prof. R. Subekti, SH²³ in his book on "Contract Law", breach of contract is negligence or negligence which can take the form of 4 types of conditions, namely:

- a. Not doing what he said he would do;
- b. Carrying out what he promised, but not as promised;
- c. Did what he promised, but was too late;
- d. Doing something that according to the agreement you are not allowed to do.

If one of these 4 types of conditions occurs, then you can civilly sue the online seller on the pretext of a breach of contract (for example, the goods you received do not match the goods specifications contained in the homepage of an online page).

Apart from that, implementation and enforcement of the law must also fulfill a sense of justice for everyone. Legal provisions are not interpreted as justice. Then there is law enforcement from the sociological current which is referred to by Roscoe Pound who sees law as a social reality, law as an instrument of social control or can be called As a Tool of Social Engineering. The point of law enforcement lies in relationship harmony activities starting from an assessment that defines guidelines for creating, maintaining and paying attention to peace in life relationships. In law enforcement efforts, these assessments must be integrated.

Legal theory should not be indifferent to social influences and not immune to social consequences but be an intermediary between the formal legalistic normative view and the responsive view, obeying the law has signs and basic morality that can differentiate between right and wrong, between good and bad. Good. In the current state framework, the duties of law enforcement officers are carried out by the judiciary and carried out in the bureaucracy, so it can be known as the law enforcement bureaucracy. The executive and his bureaucracy are components in a structure of chain ties to create plans that are contained in applicable regulations or laws.

The responsibility of business actors in the event of default on electronic transactions is carried out based on the principles of responsibility in law, namely:

²³ M. Ali, (2014), "Analisis Optimalisasi Pelayanan Konsumen Berdasarkan Teori Antrian Pada Kaltimgps.Com Di Samarinda", Jurnal Hukum Humaniter, Vol. 2 No.3, p. 346–357.

1. Liability based on fault

The principle of liability based on fault is a fairly general principle that applies in criminal and civil law. This principle states that a person can only be held legally responsible if there is an element of error that they have committed.²⁴

2. Presumption of always being responsible (presumption of liability)

This principle states that the defendant is always considered responsible until he can prove his innocence. Therefore, the burden of proof lies on the defendant.

3. The presumption of always being irresponsible (presumption of nonliability)

The scope of consumer transactions under this principle is very limited, and such restrictions are usually justified in common sense.

4. Absolute responsibility (strict liability)

This principle stipulates that error is not a determining factor. However, there are exceptions that make it possible to be exempt from this principle, for example force majeure. This force majeure is a situation that occurs beyond the control of the parties concerned, such as a natural disaster. In general, the principle of absolute responsibility in consumer protection law is used to "trap" business actors (producers) who market their products to the detriment of consumers.

5. Limitation of liability

This principle is highly favored by manufacturers to be included as an exclusion clause in the standard agreements they make. This principle of responsibility is very detrimental to consumers if it is determined unilaterally by business actors.

The UUPK itself regulates the responsibility of business actors in general in Article 19, namely:

- a. Provide compensation for damage
- b. Provide compensation for pollution
- c. Providing compensation for consumer losses resulting from consuming the goods or services produced

²⁴ A.A.Bintang Evitayuni Purnama Putri, (2011), "Perlindungan Hukum Terhadap Konsumen Dalam Melakukan Transaksi Elektronik Di Indonesia", *Jurnal Fakultas Hukum Universitas Udayana Denpasar*, Vol. 2 No.19, p. 4.

The period for compensation for losses is no later than 7 (seven) days after the transaction date. In electronic transaction defaults, the principle of absolute responsibility (strict liability) plays a very important and applicable role because in this principle business actors must be responsible for consumer losses without having to prove whether there is any fault on their part. Article 21 paragraph (2) letter a of the ITE Law regulates that if done alone, all legal consequences in carrying out electronic transactions are the responsibility of the parties to the transaction.

Provisions regarding compensation are regulated in Articles 1243 and 1246 of the Civil Code, while Article 24 of the UUPK states that business actors who sell goods or services to other business actors are responsible for claims for compensation or consumer lawsuits if other business actors do not make changes to the goods, the business actor, and Article 24 paragraph (2) states that the business actor can be free from responsibility if another business actor makes changes to the business actor's goods.

4. Conclusion

The form of legal protection for consumers in e-commerce transactions has been regulated based on the provisions of statutory regulations which have been contained in Law No. 8 of 1999 concerning Consumer Protection (UUPK), then in buying and selling transactions, even though they are carried out online, based on the Law ITE and PP PSTE are still recognized as electronic transactions that can be accounted for through electronic contracts. Regarding consumer protection, Article 49 paragraph (1) PP PSTE emphasizes that Business Actors offering products through Electronic Systems are obliged to provide complete and correct information regarding the terms of the contract, manufacturer and products offered. In the next paragraph it is further emphasized that Business Actors are obliged to provide clear information regarding contract offers or advertisements. Legal protection for consumers due to default in electronic transactions is by providing compensation, compensation, and/or services received or utilized that are not in accordance with the agreement. Based on regulations regarding the responsibility of business actors, the actions of business actors must refer to the principles of responsibility in law.

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W. Sasongko, (2007). *Ketentuan-Ketentuan Pokok Hukum Perlindungan Konsumen*, (Bandar Lampung: Universitas Lampung,

Yudha Sri Wulandari, "Perlindungan Hukum Bagi Konsumen Terhadap Transaksi Jual Beli E-Commerce", *Ajudikasi: Jurnal Ilmu Hukum*, Vol. 2 No. 2, 2018, p. 209