



## Restraint of Overseas Personal Shopper as a Form of Legal Protection for Authorized Stores in Indonesia

**Suweni Efrin Cresia Purba**

Law Faculty, Universitas Wijaya Kusuma Surabaya

e-Mail: [suwenipurba888@gmail.com](mailto:suwenipurba888@gmail.com)

### **Abstract:**

Nowadays, many business people use personal shopper because they also provide benefits in addition to being more effective and efficient. After all, the activities of designated personal shoppers are carried out without face to face. This also creates many problems related to both parties' agreements in conduct buying and selling activities and how the validity of the deal that occurs between the two parties. The research method used is normative research method, and is carried out with a statutory approach. Based on the study, it can be concluded that the agreement made between the two parties is only based on understanding. The agreement contained is generally anonymous, and the deal is obligatory. Second: The Government's way to control personal shopper services is based on the Consumer Protection Act if a violation of law is committed by one of the parties. Control efforts that the government can do are limited to guidance and supervision.

**Keywords:** Personal Shopper; Agreements; Overseas.

### **Article's History:**

Received:

February 23, 2021;

Peer-Reviewed:

February 24, 2021;

Accepted:

February 27, 2021;

Published:

March 5, 2021.

**DOI:**

10.30742/nlj.v18i1.1318

## INTRODUCTION

The interactions between human group members aim to meet each party's needs who want to be achieved or materialized. Therefore, it is necessary to consider whether the interactions between groups of people produce benefits or will cause harm to the parties of each human group. An activity that relies on the calculation of profit and loss shows that what this group of people does is a business activity where they must get profits both on a small and large scale.<sup>1</sup>

Indonesia is currently developing its business in a personal shopper, where this is a business opportunity that attracts a lot of attention from the Indonesian people. It is easy to get the items needed without interacting directly by visiting the store or outlet now. At first, the emergence of this personal shopper originated from someone who made purchases of products in order only to fulfil orders from their friends or relatives when they were abroad on vacation or travelling. However, along with the times and technology, many people then open services to purchase goods desired by

<sup>1</sup> Moch. Isnaeni, *Perjanjian Jual Beli* (Surabaya: Revka Petra, 2016) 2.

other people; in this case, they can be called consumers. With a smartphone, internet connection, and social media, many people carry out this personal shopper business to generate profits and attract consumers.

The emergence of this personal shopper business is also due to the unequal development of each region in Indonesia, resulting in an imbalance of welfare and equality between one area and another in Indonesia. This uneven development of public facilities also delays creating a prosperous society. The distribution of growth from one location to another or from one island to another is much disrupted.

The still few companies engaged in the distribution process resulted in a quite striking price difference that personal shopper used because they saw opportunities that could be exploited for profit. One of the business people who see this opportunity is online business people. Online business people, in this case, are business people who use online media as the intermediary medium.

The development of online shops in Indonesia is relatively rapid. This happens because online stores have several advantages over conventional stores, especially in providing initial capital. The equipment and supplies needed to manage an online store are relatively small in terms of cost. The high operational costs of conventional stores, such as employee salaries, social benefits funds, overtime costs, electricity costs, and other operating costs, will not be found when opening an online shop. The online shop is open 24 (twenty-four) hours and can be visited or accessed anywhere. Unlike conventional stores, which are closed, visitors can access the online store whenever and wherever they want. However, online stores also have various disadvantages behind multiple conveniences and advantages compared to conventional stores. One of the shortcomings is that there are shipping costs that consumers must bear, and the consumers cannot physically see the goods they are going to buy.

The emergence of online stores also impact the increasing number of personal shopper services. A symbiotic mutualism relationship between online sellers and shipping service companies in economic terms has resulted in the emergence of many new shipping service companies, both state-run, private, and overseas shipping service companies. Through service with a buy-in concept, these online sellers offer themselves to buy goods that consumers want by getting a wage that has been agreed in advance. Electronic payment support is also growing; the main target is the market for hobbyists or specific communities who want to collect some items that are already rare for sale in Indonesia. This online personal shopper system's convenience can disrupt the official registered distributor's business traffic, especially in Indonesia.

## **RESEARCH METHOD**

This research is normative legal research, and since it discussion is based on law regulation, therefore this research done with statutory approach.

## DISCUSSION

In general, personal shopper service agreements are rules and regulations made unilaterally by business actors personal shopper; this often happens not to harm specially assigned service business actors unilaterally. Arrangements on commissioned services are not made in writing in different places. Other times, deals on charged services are based on a sense of understanding and trust without an authentic deed or underhanded deed as evidence. In online buying and selling transactions through designated goods services related parties include:

- a. Personal shopper service actors, namely, those who offer a product through social media as a business actor;
- b. Buyers or consumers, namely any person who is not prohibited by law, receive an offer from a seller or business actor and wishes to carry out the sale and purchase of products offered by the seller/business actor.
- c. Banks or e-commerce as the channelling party of funds from buyers or consumers to sellers or business actors, because in online buying and selling transactions, sellers and buyers do not face each other, because they are in various locations so that payments can be made through intermediaries in this case bank or e-commerce
- d. Social media such as Instagram is a sales and promotion medium.

The agreement's essence is to realize the exchange of rights and obligations in detail (fairness). Thus, the imbalance of results can be accepted as something fair if exchanging rights and obligations occurs proportionally. In the event of a failure to perform the contract, the level of error must be measured based on the principle of proportionality so that minor errors (minor critical) do not necessarily result in contract termination or the imposition of compensation to other parties. This is not proportional and, therefore, must be rejected based on the principle of proportionality.<sup>2</sup> In principle, an agreement that has been made can be cancelled if the deal in its implementation will be detrimental to certain parties. These parties are the parties to the understanding and third parties outside the parties who agreed.<sup>3</sup>

In the personal shopper service agreement, the personal shopper business actor has several clauses, including disciplining consumers and assigned service users in making agreements with business actors when they want to buy or order goods. These clauses include:

- a Consumers order goods from those offered by personal shopper by providing the format of the provisions for the color, size, and image of the goods to be collected;

---

<sup>2</sup> Agus Yudha Hernoko, *Hukum Perjanjian: Asas Proporsionalitas Dalam Kontrak Komersil* (Jakarta: Prenada Media Group, 2011) 33.

<sup>3</sup> Gunawan Widjaja and Kartini Muljadi, *Perikatan yang Lahir dari Undang-Undang* (Jakarta: Raja Grafindo Persada, 2003) 46.

- b. After ordering and providing the complete format to the personal shopper provider, the consumer will transfer the money for a predetermined amount within the given time limit;
- c. After making the stipulated money transfer, the consumer must show proof of transfer along with information in the form of an exact name and address to the personal shopper provider;
- d. After the money that has been determined is transferred, the goods will be spent or purchased by the personal shopper provider;
- e. After the item has been spent, the item cannot be refunded;
- f. Goods will be sent 1 (one) day after;
- g. Goods that have been determined will arrive at the time stipulated by the delivery service.

Based on the description above, it is clear that in the personal shopper agreement, both parties are equally burdened with obligations. Like buying and selling in general, the seller must provide goods to the buyer paid beforehand. Still, in the case of goods entrusting services, the seller is also required to deliver the goods according to the specifications and orders that have been ultimately agreed upon and also given at the arranged time as well before. Meanwhile, the buyer's responsibility is to pay the price of goods that have been previously agreed with the seller and with a grace period agreed by both parties; if the buyer does not reimburse the arranged time, the goods that have been ordered previously will not be bought.

Based on the reality of the personal shopper agreement in vogue and is significantly developing today, the personal shopper service agreement is an unknown type of understanding. This kind of arrangement is allowed in BW, namely Article 1319 BW, as long as the agreement must be valid according to Article 1320 BW.

Considering that in the personal shopper service agreement as described above, there are obligations on both parties. Regarding the anonymous agreement regulated in Book III BW, it can be interpreted that the contract for the safekeeping of goods is an obligatory agreement. This means that the service agreement for a personal shopper is an agreement that gives birth to an engagement. There are achievements from the parties, be it the achievement of providing something (giving money, giving goods) and doing something (buying goods), also the accomplishment of not doing something (not asking for a refund).

Due to these parties' achievements, the agreement for the entrusting of goods creates an agreement between the parties, which means that legal assistance can be requested to fulfil their achievements. An engagement that is born in a service agreement for the safekeeping of goods, as with the types of employment previously described, can be classified as a direct engagement. In service transactions, interests, personal shoppers have been determined to obey rules before ordering goods. Empowering

services for goods will also provide goods after consumers fulfil their obligations first. However, it is necessary to pay close attention to a legality requirement which is the cause that is allowed or does not violate the law—considering that the personal shopper agreement is related to the procurement of goods originating outside the Indonesian jurisdiction.

The phenomenon of personal shopper that is increasingly widespread and developing has the potential for violations even to the import aspect; this is an urgency for government attention and control. The hope is that there will be an order to control the entry of goods from abroad into Indonesia and so that there will be no smuggling of goods from abroad which will cause losses to the state. The most important thing is the effort to prevent tenants or official outlets in Indonesia from developing because their income became lower due to buyers preferring to use personal shopper for lower prices.

Following the provisions in Article 1365 BW, an act violating the law must contain the following elements:

- a. The existence of an act. An act of breaking the law always begins with an action on the part of the perpetrator. It is generally accepted that with effort, either doing something or not doing something, for example, not doing something even though one of the parties has a legal obligation to fulfil it because an act violates the law does not contain an element of agreement and also does not include permissible causal factors as contained in standard terms of the contract;
- b. The act is against the law. A show that violates the law includes the following matters, an act that violates the applicable law; which infringes the rights of others guaranteed by law; acts that are contrary to the legal obligations of the perpetrator; acts contrary to decency; Actions contrary to good social attitudes to pay attention to the interests of others;
- c. There was an error on the part of the perpetrator. Article 1365 BW so that it can be said to have committed an act violating the law requires that the perpetrator violate the law must contain an element of error in carrying out an act violating the law. This is because the responsibility without error is not included in Article 1365 BW because BW requires an element of error so that it can be legally accountable;
- d. There is a loss for the victim. Losses due to illegal acts in addition to material losses and immaterial losses which are valued in money are different from defaults which only recognize material losses;
- e. There is a causal relationship between actions and losses. There are 2 (two) types of causal relationships: the theory of genuine relationships and approximate causes. The genuine relationship is only a matter of fact or what has factually

happened. Every reason that causes a loss can be a definite cause, as long as the loss will never exist without its cause.

In general, it can be concluded that breaking the law is not only because it violates the law but also violates the obligations of one of the parties, morality, and the rules that must be obeyed in society. Based on the classic theory, it distinguishes between a default lawsuit and a lawsuit against the law. The purpose of the default lawsuit is to place the plaintiff in a position if the agreement is fulfilled; thus, the compensation is in the form of a loss of expected profit. Meanwhile, the purpose of a lawsuit against the law is to place the plaintiff's position in its original state before the occurrence of the illegal act so that the compensation given is an actual loss.<sup>4</sup>

Based on the description above, the types of legal violations that can occur in a personal shopper's service are default or illegal acts. The culture of buying and selling in the current era has changed along with the development of technology and the internet. Buying and selling today is not only in stores or markets but can also be done on social media and is commonly called buying and selling online. Business people prefer to buy and sell online based on several factors. The cost of promotion on the internet is much cheaper and more comfortable than using printed media. The development of business models and the use of technological sophistication has the potential to result in defaults occurring more frequently than using conventional methods, given that the seller and the buyer do not meet face to face when binding the agreement. Some of the potential violations that result in losses are:

- a. The goods do not match what is displayed. Buying and selling online through personal shopper today is not new because the world is developing rapidly, one of which is in the electronics sector. Shopping through commissioned services has many advantages and disadvantages, one of which is that the goods displayed or offered through cyberspace sometimes do not match the original. This often happens because sometimes consumers are not careful in reading the information on these items, another reason that consumers are often deceived by goods that do not match the appearance because many buyers attracted by prices of goods that are much cheaper with descriptions of quality goods brands adorable;
- b. The estimated arrival of goods does not comply with the agreement. Goods entrusting services are currently booming at this time, often sending goods at times that are not following the deal; this usually happens not only because of the mistakes of personal shopper actors who take too long to pack goods and pile up the goods to be sent, the reason other things that may make the goods entrusted to the hands of consumers or service users are commissioned because

---

<sup>4</sup> Suharnoko, *Hukum Perjanjian, Teori dan Analisa Kasus* (Jakarta: Prenada Media Group, 2005) 166.

consumers do not provide an exact address or information about the recipient of the goods. Another thing that causes delays in the arrival of the goods is the limited access to the destination areas for the goods to be sent;

- c. **Prices Are Not Following Market Sales.** The goods offered at personal shopper services are often items that are rare in the market. Consumers and service users are empowered to buy goods or authorized to purchase personal shopper actors. This sometimes makes these goods prices not following the actual market prices because personal shopper business actors take too much profit from these goods, not to mention adding a deposit service that has been charged and has been previously agreed. Another thing that makes the price of goods more expensive than the market is the added cost of shipping costs; usually, the shipping cost is charged if the delivery destination areas are remote and challenging to reach; another reason for consumers' postage is several reasons. A personal shopper is applied a minimum amount of the purchase price of goods;
- d. **Clauses Made Unilaterally by The Service Actors.** Based on Article 1, number 10 of Law Number 8 of 1999 concerning Consumer Protection, the Standard Clause states is any rules or conditions and conditions prepared and determined unilaterally by the business actor as outlined in a document and/or binding agreement. And must be fulfilled by consumers. Business actors make clauses drawn up unilaterally, but business actors are limited in making clauses in the Consumer Protection Law. However, in practice, many business actors, especially those who entrust goods, make clauses that violate the rules stipulated, especially in Article 18 paragraph (1) letters b, c, and g of Law Number 8 of 1999 concerning Consumer Protection, this is often done and occurs because personal shopper actors and business actors do not want to experience losses;
- e. **Damage to Tenants or Official Outlets of Foreign Brands in Indonesia.** Through personal shopper service, it can be recognized that one of the advantages is the lower price compared to buying branded and original products in official shops in Indonesia. The spread of businesses like this, of course, will slowly fade away the income from these official outlets.

However, in reality, it is not only business actors who entrust goods to goods that often commit violations, but consumers also. Violations that consumers often commit to buying and selling online through personal shopper, namely:<sup>5</sup>

- a. Consumers who are late in making money transfers according to the agreed price so that sometimes business actors also have to go 2 (two) times to the same place to buy goods ordered by consumers and make service actors entrust a loss of time and energy;

---

<sup>5</sup> I Ketu Okta Setiawan, *Hukum Perikatan* (Jakarta: Sinar Grafika, 2015) 105.

- b. Consumers who have agreed on the goods to be purchased at the agreed price also often do not make the transfer and do not tell the personal shopper actor not to order them.

Violations that often occur because there are no clear rules to regulate services for personal shopper through online buying and selling, which make personal shopper actors and consumers often commit violations.

## CLOSING

### Conclusion

Services for a personal shopper are one form of business that is currently being developed. There are obligations from both parties in the personal shopper service agreement, which means that this agreement is obligatory. The personal shopper service agreement is anonymous; this kind of deal is allowed in BW, namely Article 1319 BW. Due to these parties' achievements, the contract for the entrusting of goods creates an agreement between the parties, which means that legal assistance can be requested to fulfil their achievements. A deal that is born in a service agreement for a personal shopper can be classified as a primary engagement because, in a service transaction for goods commissioning, it has been determined in advance what consumers must obey rules before ordering goods, and in this personal shopper will also provide goods after the consumer fulfils his obligations first ;

### Recommendation

There needs to be a firm written agreement, not only with capital on social media or other advertising methods. Considering the aspect of proof that will be significantly helped by a written agreement and special regulations regarding authorized business are necessary.

## REFERENCES

- Hernoko, Agus Yudha. *Hukum Perjanjian: Asas Proporsionalitas Dalam Kontrak Komersil*. Jakarta: Prenada Media Group, 2011.
- Isnaeni, Moch. *Perjanjian Jual Beli*. Surabaya: Revka Petra, 2016.
- Setiawan, I Ketu Okta. *Hukum Perikatan*. Jakarta: Sinar Grafika, 2015.
- Suharnoko. *Hukum Perjanjian, Teori dan Analisa Kasus*. Jakarta: Prenada Media Group, 2005.
- Widjaja, Gunawan, and Kartini Muljadi. *Perikatan yang Lahir dari Undang-Undang*. Jakarta: Raja Grafindo Persada, 2003.