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

Abstract:

The practice of entrusting goods currently occurs so much, but the engagement that occurs between the seller and the buyer is only based on consensualism, so that there are no documents that serve as evidence that can provide legal protection for both the seller and the buyer, including in the aspect of imports, given the service of entrusting goods not taxed. The research, entitled Control of Overseas Goods Services as One of Legal Protection by the Government at Authorized Stores in Indonesia, first aims to find out and analyze how legal protection of overseas goods service agreements. ⁵ This research method is normative legal research with statutory approach. The results of this study are expected to be a reference for the public and the government in particular in order to make legal rules, especially regarding the form of legal protection in the practice of entrusting goods that occurs, so that there is legal protection for the parties, namely sellers and buyers.

Keywords: Personal Shopper, Agreements, Overseas

INTRODUCTION

The interactions that occur between members of human groups with the aim of meeting the needs of each party who want what they want to be achieved or materialized. Therefore, it is necessary to take into account 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 scale¹.

Indonesia is currently developing its business in entrusted services where this is a business opportunity that attracts a lot of attention from the

¹ Moch. Isnaeni, 2016, *Perjanjian Jual Beli*, Refka Media, Surabaya, p.2

Indonesian people, due to the ease with which it is easy to get the items needed without having to interact directly by visiting the store or outlet directly. At first, the emergence of this entrusted service originated from someone who made purchases of products in order only to fulfill orders from their friends or relatives when they were abroad on vacation or traveling. However, along with the times and technology, many people then open services to purchase goods that are desired by other people, in this case, they can be called consumers. With a smartphone, internet connection and social media, many people carry out this entrusted service business that can generate profits and attract consumers.

The emergence of this goods entrusted service business is also due to the unequal development of each region in Indonesia which results in an imbalance of welfare and equality between one region and another in Indonesia. This uneven development of public facilities also results in delays in the process of creating a prosperous society because the distribution of development from one area to another or from one island to another is much disrupted and not.

The still few companies engaged in the distribution process resulted in a quite striking price difference that was used by entrusted service businessmen because they saw opportunities that could be exploited for profit. One of the business people who see this opportunity is online business people. Online businessmen in this case are business people who use communication means in marketing their merchandise by using online media as the intermediary medium.

The development of online shops in Indonesia is currently quite 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 operational 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 or closed, visitors can access the online store whenever and wherever they want. However, behind the various conveniences and advantages, online stores also have various disadvantages when compared to conventional stores. One of the shortcomings is that there are shipping costs that must be borne by consumers and the consumers cannot physically see the goods they are going to buy.

The emergence of online stores and the growing interest of both sellers and buyers also has an impact on the increasing number of users of goods delivery services. A mutualism symbiotic relationship that exists 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 a 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 certain communities who want to collect some items that are already rare for sale in Indonesia. The convenience offered by this online entrusted service system is of course the

potential to disrupt the business traffic of the official distributor who is registered for the goods being entrusted to buy.

PROBLEM FORMULATION

Legal Protection of Overseas Goods Service Agreements

RESEARCH METHOD

5 This research is a normative legal research with a statutory approach.

DISCUSSION

In general, goods entrusting service agreements are rules and regulations that are made unilaterally by business actors entrusting goods, this often happens because so as not to unilaterally harm, especially entrusted service business actors. Agreements on entrusted services are not made in writing in different places and may even be different times, agreements on entrusted services are basically based on a sense of agreement and trust without an authentic deed or underhanded deed as evidence. In online buying and selling transactions through entrusted goods services related parties include:

- a. Entrusted 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, who receives an offer from a seller or business actor and wishes to carry out sale and purchase transactions of products offered by the seller / business actor.
- c. Banks or e-commerce as the channeling 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 different locations so that payments can be made through intermediaries in this case bank or e-commerce

- d. Social media such as Instagram as a sales and promotion medium.

In the entrusted goods service agreement, there are a number of clauses made by the entrusted service business actor which also includes disciplining consumers and entrusted service users in making agreements with business actors when they want to buy or order goods. These clauses include:

1. Consumers order goods from those offered by entrusted services by providing the format of the provisions for the color, size and image of the goods to be ordered;
2. After ordering and providing the complete format to the entrusted service provider, the consumer will transfer the money for a predetermined amount within the given time limit;
3. After making the stipulated money transfer, the consumer must show proof of transfer along with information in the form of a clear name and address to the entrusted service provider;
4. After the money that has been determined is transferred, the goods will be spent or purchased by the entrusted service provider;
5. After the item has been spent, the item cannot be refunded;
6. Goods will be sent 1 (one) day after being spent;
7. 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 goods entrusted service agreement, both parties are equally burdened with obligations.

Similar to buying and selling in general, the seller's obligation is to provide goods to the buyer that has been paid beforehand, but 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 completely agreed upon and also given at the agreed time as well before. . Meanwhile, the responsibility of the buyer 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 pay the agreed time, the goods that have been ordered previously will not be spent.

Based on the reality of the goods entrusted service agreement that is in vogue and is very developing today, the goods deposit service agreement is an anonymous type of agreement, and this kind of agreement is allowed in BW, namely Article 1319 BW, and the mandate of BW as described above, namely please make your own rules of the game in the agreement, as long as the agreement must be valid according to Article 1320 BW.

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

Due to the achievements of these parties, the agreement for the entrusting of goods creates an agreement between the parties, which means

that to fulfill their achievements, legal assistance can be requested. An engagement that is born in a service agreement for the safekeeping of goods, as with the types of engagement previously described, can be classified as a primary engagement. This is because in service transactions, goods entrusting goods has been determined in advance what rules must be obeyed by consumers before ordering goods, and at entrusting services for goods will also provide goods after consumers fulfill their obligations first. However, it is necessary to pay close attention to a legality requirement which is the cause which is allowed, or does not violate the law. Considering that the goods entrusted service agreement is related to the procurement of goods originating from outside the Indonesian jurisdiction.

The phenomenon of goods entrusted services which is increasingly widespread and developing has the potential for violations even to the import aspect, this is an urgency for attention and control by the Government. 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. In addition, the most important thing is the effort to prevent tenants or official outlets in Indonesia from developing because their income is reduced, as a result of buyers preferring to use entrusted goods for lower prices.

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

1. The existence of an act. An act of breaking the law always begins with an act on the part of the perpetrator. It is generally accepted that with an act, either doing something or not doing something, for example not doing something even though one of the parties has a

legal obligation to fulfill it, because an act violates the law does not contain an element of agreement and also does not contain permissible causal elements as contained in legal terms of the agreement;

2. The act is against the law. In an act that violates the law includes the following matters, an act that violates the applicable law; ¹ who violates 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;
3. 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, the law requires that the perpetrator of an act violating the law must contain ² 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 in BW requires ¹ an element of error so that it can be held accountable legally;
4. There is a loss for the victim. ¹ 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;
5. There is a causal relationship between actions and losses. There are 2 (two) types of causal relationships, namely the theory of factual relationships and the theory of approximate causes. Factual causal relationship is only a matter of fact or what has factually happened. Every cause that causes a loss can be a factual cause, as long as the loss will never exist without its cause.

In general, it **can be** concluded that an act of 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 that 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 position of the plaintiff to its original state prior to the occurrence of the illegal act, so that the compensation given is a real loss².

Based on the description above, the types of legal violations that can occur in the service of entrusting goods 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. The reason business people prefer to buy and sell online is based on several factors, one of which is, where the cost of promotion on the internet is much cheaper and easier than doing promotions 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:

1. **The goods do not match what is displayed.** Buying and selling online through entrusted goods today is not a new thing, because

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² Suharnoko, 2005, *Hukum Perjanjian, Teori dan Analisa Kasus*, Prenada Media, Jakarta, p. 166.

at this time the world is developing very rapidly, one of which is in the electronics sector. Shopping through entrusted 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 are lulled by prices of goods that are much cheaper with descriptions of quality goods brands very nice;

2. 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 in accordance with the agreement, this often happens not only because of the mistakes of entrusted service 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 entrusted because consumers do not provide a clear 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;

3. Prices Are Not In Accordance With Market Sales. The goods offered at entrusted goods services are often items that are rarely found in the market, so that consumers and service users are entrusted with interest in buying goods or entrusted to buy the entrusted service actors. This sometimes makes the prices of these

goods not in accordance with the actual market prices because entrusted service 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 due to the added cost of shipping costs, usually the shipping cost is charged if the delivery destination areas are remote and difficult to reach, another reason that makes postage charged to consumers is due to several reasons. entrusted services are applied a minimum amount of the purchase price of goods;

4. **Clauses Made Unilaterally by The Service Actors.** Based on Article 1 number 10 of Law Number 8 of 1999 concerning Consumer Protection, it is stated that the ⁶ Standard Clause is any ³ rules or conditions and conditions that have been prepared and determined unilaterally by the business actor as outlined in a document and / or binding agreement. and must be fulfilled by consumers. Based on this, business actors make clauses that are drawn up unilaterally but in the Consumer Protection Law, business actors are limited in making clauses. 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 ⁸ Law Number 8 of 1999 concerning Consumer Protection, this is often done and occurs because entrusted service actors and business actors do not want to experience losses;

5. Damage to Tenants or Official Outlets of Foreign Brands in Indonesia. Through the service of entrusting goods, 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 do so. Violations that are often committed by consumers in buying and selling online through goods entrusted services, namely:³

- 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;
- 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 entrusted service actor not to order the goods.

Through the above violations that often occur because there are no concrete rules or clear rules to regulate services for entrusting goods through online buying and selling, which make entrusted service actors and consumers often commit violations because they also do not make the perpetrators who commit violations get punished appropriate if it does not meet the agreement.

³ I Ketu Okta Setiawan, 2015, *Hukum Perikatan*, Sinar Grafika, Jakarta, h.105.

CLOSING

Conclusion

Services for entrusting goods is one form of business that is currently being developed. In the goods deposit service agreement, there are obligations from both parties, which means that this agreement is an obligatory agreement. Goods deposit service agreement is an anonymous agreement, this kind of agreement is allowed in BW, namely Article 1319 BW. Due to the achievements of these parties, the agreement for the entrusting of goods creates an agreement between the parties, which means that to fulfill their achievements, legal assistance can be requested. An agreement that is born in a service agreement for entrusting goods can be classified as a primair engagement because in a service transaction for goods entrusting it has been determined in advance what rules must be obeyed by consumers before ordering goods, and in this goods entrusted service will also provide goods after the consumer fulfills his obligations first ;

Recommendation

There needs to be a firm written agreement, not only with capital on social media or other advertising methods, to bind an agreement with the seller or buyer in entrusting goods, considering the aspect of proof that will be greatly helped by a written agreement and special regulations regarding entrusted business are necessary. goods.

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