



Legal Protection Againsts Buyers due to not Performing Seller in Electronic Transaction

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ABSTRACT

Transaction in electronic transaction is a legal action taken used a computer to, computer network, and or other electronic media. Setting the covenant of trading in electronic transaction equal to trading in general, in the book of the act of civil law, act no. 8/1999 on consumer protection and the act of no. 11 year 2008 about information and electronic transaction or also called by law item. Article 1338 (1a book the act of civil law explain if agreement which was built by legally valid as the act of for those who, the agreement applied and binding on the parties legally. But in fact trading online on the implementation of the rights and obligations the parties not according to what promised. What happens not performing that is generally carried out by the seller?

Keywords: Legal Protection, Not Performing, Electronic Transaction

JEL Classifications: G21, H32, K42

1. INTRODUCTION

Today, the use of the internet and businesses through the internet develops very rapidly, that the legal sector also were asked to down the hand so that in business over the internet like that, could be achieved order and certainty in business. Business by the internet with the use of electronic devices this often called electronic transaction of electronic commerce e-commerce) (Eid, 2011).

Ease in conducting electronic transaction make transactions had much cache it is getting consumers to workers who busy and he could not drop by at the mall to simply purchase. but the transactions a national banker on Monday that will walking a lot that disappoints the consumers for some time and there not performing violation of the rights of consumers in the form of the seller of a shop online. The form of not performing was often the case was the seller delivers goods that does not conform to that promised formerly with consumers or fail to provide goods in accordance with the time set (Simatupang and Franzlay, 2016).

Economic development today, has been a spur the other financial markets grow production sector and trade of being in reality

indirectly creates the position of business operators on the one hand, and put consumers on the other hand. Some business players to do their activities often abandoned customers. Considering its position like that, consumers often “forced to” received a product goods or services, even though it is not in line with (not performing) (Effendi et al., 2017).

Not performing by a party the seller a online shop also all served to emasculate the position of customer. Not performing to have effect to their customers, it is because this effect worship none but not performing is that are set out in the agreement on, so that it can be cause financial losses for the world largest oil consumers (Abrantes et al., 2010).

Therefore, in the relationship between the seller took online with consumers, consumers risk having greater than the seller took online, in other words the rights of consumers very vulnerable. Caused the position of women consumers weak, so the rights of consumers too risky to violated (Harwiki, 2016).

To prevent being drawn the consumer rights then required legal protection for consumers. Legal protection is necessary

to competition and the amount the product and services put consumers in position power. From the description above, writer formulate problems of (Bridson et al., 2013):

1. How is it possible for the implementation of the protection of the law against of buyers due to the not performing the seller in electronic transaction?
2. Are required the renewal of a law in the implementation of the protection of the law against of buyers due to the not performing the seller in electronic transaction?

2. LITERATURTE REVIEW

Trading is on the third book act as a kind of civil law about engagement. Based on article 1313 book act as a kind of civil law the agreement is a deed by which one person or more committed themselves over one or more.

Meanwhile (Jones et al., 2011) said that, the agreement is “an event which a person promised to others or two people are mutually promised to implement something cause an engagement between two parties that makes it.”

According to (“Business update,” 2018), the agreement is “a communications and transport have already law concerning shall plunder his treasury of between two parties, in which a party from promise to do any of the things or to did not do something, was in the middle of parties other is entitled demands the exercise of the covenant it.”

Then meant trading online or e-commerce according to Handayani and Purnama (2013) in his book” e-commerce: Law and office” adapted by Vickery et al., (2004) namely: “E-commerce is a commercial transactions done the seller and buyer or with other parties in the covenantal relationship equal to sending a number of goods, a service or the transfer of rights. Commercial transactions are to be found in in electronic media which not physically common concern the parties who transact, and the location of this media in public network in the system opposite to private network.”

According to Handayani and Purnama (2013) transaction online is “A process of doing business with electronic use technology links between company, consumers and residents in form of electronic transactions, and exchange/sales of, services and information electronically. Thus, in principle business with e-commerce activity was no business letter (paperless trading).”

E-commerce as a way to perform economic activities as the buying and selling of through the medium of net having a very wide range the application of, so that anyone, at any time, and wherever can do the buying and selling of through the medium of the internet. E-commerce in general currently applied to carry out economic activities which includes business to business, business to consumer, and consumers to consumer (Eid, 2011).

Any agreement who made by anyone who a treaty he must implement the contents of the agreement. When there are those who broken promises or was lax in implementing the contents of

agreement without any reasons justifiable according to laws and regulations and he can be consider not performing.

According to Rife et al. (2015), explained that form of not meeting was 3 (three) sorts, namely “not at all fulfilling accomplishment, late fulfilling accomplishment, and mistaken or inappropriate fulfilling accomplishment.”

When not performing there has been a on the agreement can instantly filled with his achievement, for example of items to be sold have been present then this achievement can be required to be so that filled instantly. But when achievements in the agreement cannot be fulfilled by instantly, for example goods to be sold there not come or have not present then to the seller have been given time to meet the first (Watson et al., 2015).

3. METHODOLOGY

The methodology included writer is methodology law normative. Normative research or research law literature available is research law with using national-level secondary data that is the data obtained from the materials library. In this normative legal research, writer calls are made the data in the form of secondary data obtained from books, the act of and the source of other literature available (Style and Performance, 2015).

4. RESULTS AND DISCUSSION

4.1. The Implementation of the Protection of the Law against of Buyers Due to the Not Performing the Seller in Electronic Transaction

An agreement to fruition when the parties have meet his achievement each as which had been promised without any the party being disadvantaged. But whether the agreement does not work with good because of not performing done by one of the parties.

The words of not performing derived from Netherland language, meaning that more than of and achievements of bad. But as for that which referred to not performing is a the state of being merely a result neglect or is accepted and her iniquity, were not able to fulfill achievement as in the agreement on and not in force majeure.

According to a dictionary law, not performing means omission, me, quarrels and promise, does not keep their obligations in agreement. Thus, not performing is a situation where a man does not meet or carry out achievement as it has been determined by an agreement. Not performing (negligent/alpha) may arise because:

1. Willfulness
2. Oovertmatch

As for the form of not performing from the seller in the buying and selling of online: Not do the things which able to be performed (Li and Hsu, 2016).

- a. Parties the seller it does not conduct any delivery of goods as those which have already been in the transactions of buying and selling transactions in an online manner.

- b. Done what fire but not as fire
The seller makes deliveries of goods but not in accordance with what ordered by the buyer
- c. Do what has already been too late
The seller makes deliveries of goods which had been ordered by buyers but implementation has been delayed delivery of goods unknown by the buyers
- d. Do something that according to the covenant of should not be done. A surge of parties a seller of goods which had been ordered by buyers but goods being shipped goods is disabled son, goods should not be traded.

As for settlement procedures not performing in trading online (Grégoire et al., 2015):

- a. The parties concerned may resolve disputes in accordance with the agreement both sides have been included in rules in trading contracts in the online.
- b. The parties could also due to happen associated with settling disputes through arbitration, the or institutions for the with the resolution of disputes come up with other s an alternative in accordance with regulations in this legislation (article 39 verse 2) the act of number 11 years 2008 about on information and electronic transaction).
- c. With the resolution of disputes outside courts held together to reach an agreement concerning the form and the size of the compensation and/or concerning a particular course of action in order to an earlier ensure the there will not be a return or not will happen again the losses suffered by the consumer such as (article 47 act as a kind of number 8 tahun 1999) on consumer protection.
- d. One party who were cheated may submit a claim against for parties that runs electronic systems and/or using information technology result in losses and submitted to local court (article 38 paragraph 1 of act number 11 years 2008 about on information and electronic very high transaction).
- e. Community members are also may submit a claim in the manner of a representatives of the local against parties that are as well as implementing of electronic systems and/or uses information technology that result in disturb residents, in accordance with the provisions legislation invitation rules designed to a weed out. (article 38 verse 1) the constitution number 11 years 2008 about information and electronic transaction).
- f. Court-based dispute resolution refers to the stipulations on common (article 48 of the act no. 8/1999 about consumer protection).

But in the resolution of the problems in the form of not performing the seller in electronic transaction, required the renewal of a law that is more specific namely required the renewal of a law in provide legal protection to consumer not only to Indonesian in, but also provide legal protection to consumers foreigners in Indonesia (Niode and Chabachib, 2016).

4.2. The Renewal of a Law in the Implementation of the Protection Laws against of Buyers Due to Not Performing the Seller in Electronic Transaction

With the advent of the way in which electronic transaction or which are often called e-commerce, does not mean a regulation on e-commerce transaction to the world so too. Even existing regulation is still having a tendency to sided with the parties the

seller than protect the rights of consumers. An example in the case of not performing in a transaction this electronic, many buyers who do not know how to return goods when the seller sends goods in order buyers. There are also the seller irresponsible with the order buyers not even deliver at all to the buyers.

Of a case that a lot of going on up has resulted in damages in the position of the purchasers or parties the colony consumers feel more to being feeble and will be able to receive to what has been party flags as well as the seller.

Therefore, going to take policy that new and consumer protection in electronic transaction in specific. With so position the purchasers or party people did not become weak and even position can be balanced with the seller (Mintrom and Norman, 2009; Nitzsche et al., 2014; Yuriyama and Kushida, 2010).

5. CONCLUSION

Not performing that occurs in electronic very high transaction or called as often as e-commerce, usually carried out by the seller. This has resulted in harm the buyers. But things that can be carried out by the buyers to solve the case not performing carried out by the seller is raised to do settlement outside court to pleads to court authorities. But in the development of today, its required return renewal laws governing electronic very high transaction more specific so will not happen again not performing problems in electronic very high transaction.

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