



Analysis of Default on Illegal Online Loans in The Review of Civil Law and Islamic Law

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Abstract: The development of information and communication technology has given birth to innovations in various fields, including the financial sector. One of the rapidly developing innovations is the emergence of online loans (pinjol). However, this pinjol has the potential for problems, one of which is the rise of illegal pinjol. This study aims to determine the process of agreements between online loan platforms and consumers, regulations and rights and obligations in agreements between online loan platforms and consumers according to civil law and Islamic law, and legal liability if one party defaults or violates the law. This research is a descriptive study with a normative research approach. The data sources for this study are secondary data and primary data. Data collection was carried out using literature studies and field studies (interviews). Furthermore, the data was analyzed using a qualitative approach. The results of this study show that the agreement process between illegal online loan platforms and consumers in Indonesia often does not meet the requirements for a valid contract regulated in the Civil Code, and violates the principles of consumer protection regulated in Law No. 8 of 1999. Agreements in online loan platforms, both according to civil law and Islamic law, must meet the requirements for a valid agreement which include agreement, capacity, clear objects, and lawful causes. In Islam, lending and borrowing must be done based on the principle of qardh which upholds mutual assistance and compliance with sharia. In the event of a default or violation of the law, especially in the context of illegal online loans, the agreement is invalid and null and void because it does not meet the requirements set out in Article 1320 of the Civil Code and does not comply with the principles of sharia law.

Keywords: Default; Online Loan; Civil Law; Islamic Law.

1. Introduction

The development of information and communication technology has given birth to innovations in various fields, including the financial sector (Pebriansyah et al., 2023). One of the rapidly developing innovations is the emergence of online loans (pinjol) (Widoyantoro & Ratna, 2023). Pinjol offers easy and fast access to funding for the community, especially for those who do not have access to traditional banking. However, behind its convenience, pinjol also has the potential for problems, one of which is the rise of illegal pinjol. Illegal pinjol is a pinjol platform that is not registered and is not supervised by the Financial Services Authority (OJK). Illegal pinjol often implements irresponsible practices, such as high interest rates, suffocating fines, and harsh debt collection (Noviyanti & Purwanti, 2022). One of the consequences of illegal pinjol practices is default, which is when one of the parties to the pinjol agreement does not fulfill its obligations. Default can occur from the lender (creditor) or the borrower (debtor) (Indrawati & Khakim, 2023; Wati & Syahfitri, 2022). The development of information and communication technology has indeed given birth to various innovations, including the emergence of online loans (pinjol). Behind its convenience, pinjol also has the potential for problems, such as the rise of illegal pinjol which often implements irresponsible practices and gives rise to various civil disputes.

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One of the consequences of illegal pinjol practices is default, namely when one party to the pinjol agreement does not fulfill its obligations. This can happen from the lender (creditor) or the borrower (debtor). In the context of civil law, default can be categorized as an unlawful act (PMH). Debtors who are harmed by the creditor's default can claim compensation through civil court channels.

The debtor also has an obligation to fulfill the pinjol agreement, such as paying installments or paying off the loan according to the agreement. The debtor's inability to pay can be categorized as default.

The Civil Code has provided regulations regarding borrowing and lending, specifically in Chapter XIII, Article 1754. Article 1754 of the Civil Code does not use the word borrowing and lending, but is better known as borrowing and using up, which is formulated as follows, borrowing and using up is an agreement, which determines that the first party hands over a number of goods that can be used up to the second party on the condition that the second party will return similar goods to the first party in the same amount and condition (Asmawati, 2015).

On the other hand, in Islamic law, borrowing and lending is a permissible muamalah activity (Andriyana, 2020). This is because borrowing and lending transactions contain noble values and very high social ideals, namely helping each other in goodness. Thus, the provision of loans must be based on sincere and sincere intentions only to Allah SWT.

In the context of Islamic law, default can also be categorized as a violation of the contract. Debtors who are harmed by the creditor's default can sue for cancellation of the contract and compensation through religious courts. Civil disputes related to illegal online loan defaults can be resolved in several ways, such as negotiation, mediation, arbitration, or filing a lawsuit in court.

It is important to note that debtors in illegal online loan cases have the right to cancel the agreement and get back the money they have paid, as long as the lender is not registered and is not supervised by the OJK (Supreme Court Decision Number 21/P/2018). Debtors also have the right to report illegal online loans to the OJK or to the authorities for action.

Default in illegal online loans is a complex problem and needs to be handled seriously. Understanding the rights and obligations in the online loan agreement and finding a solution to dispute resolution fairly and in accordance with the law are important steps to protect consumer rights and maintain the stability of the financial system.

Based on the description above, the author is interested in conducting research entitled "Analysis of Illegal Online Loan Defaults in a Review of Civil Law and Islamic Law". The purpose of this study is to determine the process of online loan platform agreements with consumers, regulations and rights and obligations in agreements between online loan platforms and consumers according to civil law and Islamic law, and legal liability if one party commits a breach of contract or violation of the law.

2. Materials and Methods

The type of research used in this legal research is descriptive with a normative research approach. The data source for this research is secondary data obtained from laws and regulations related to electronic information and transactions, consumer protection, and information technology-based money lending services. While the primary data of this research are subjects related to the agreement between the online loan platform and consumers, namely the Terms and Conditions agreed to by passengers when they are going to use the online loan platform application service.

Data collection was carried out using literature studies and field studies (interviews). Furthermore, the data was analyzed using a qualitative approach.

3. Results and Discussion

3.1. Agreement Process between Online Loan Platforms and Consumers

Illegal online loans have become a disturbing phenomenon in Indonesia, especially for people who have less access to official financial services. These various online loan

platforms offer convenience and speed in getting loans, but are often accompanied by practices that violate the law and harm consumers. In the context of civil law in Indonesia, illegal online loans not only contradict the principles of justice and equality in contracts, but can also result in various serious legal consequences for all parties involved.

According to the Civil Code (KUHPerdata), an agreement or contract is considered valid if it meets four main requirements: agreement of the parties, capacity to make a contract, a certain thing, and a lawful cause (Alfarisi et al., 2023). However, in the practice of illegal online loans, it is often found that these requirements are not met. For example, there are many cases where borrowers do not fully realize or understand the terms and conditions they agree to because of information that is hidden or presented misleadingly. In such cases, the loan contract can be considered invalid or null and void due to defects in the agreement or unlawful causes.

In addition, civil law also provides protection for consumers through Law No. 8 of 1999 concerning Consumer Protection. This law stipulates that every consumer has the right to obtain correct, clear, and honest information regarding the conditions and guarantees of goods and/or services. In the context of illegal online loans, many platforms do not provide transparent information regarding interest, additional fees, and risks that borrowers may face. This is clearly a violation of consumer rights, which can be the basis for borrowers to file a civil lawsuit and seek compensation for the losses incurred.

Abusive and intimidating debt collection practices, which are often carried out by illegal online lenders, also violate the principles of civil law. Debt collection carried out with threats, violence, or other acts of intimidation not only contradict moral norms but can also be considered an unlawful act. Based on Article 1365 of the Civil Code, every act that violates the law and causes harm to others requires the perpetrator to provide compensation for the loss (Wardhani & Ningsih, 2024).

Furthermore, privacy violations that often occur in the illegal online loan collection process, such as the distribution of borrowers' personal data without permission, are serious violations of civil law. This violation of privacy can provide a basis for borrowers to file a civil lawsuit against the perpetrator, demand compensation for the losses incurred, and ask the court to impose appropriate sanctions on the perpetrator (Najwan & Sudarwanto, 2024).

In conclusion, civil law in Indonesia provides a clear legal framework to protect borrowers from illegal online lending practices. Borrowers who are harmed have the right to seek compensation and justice through legal channels, while illegal lenders can be held legally accountable for their actions. Therefore, it is very important for the public to be more vigilant and understand their rights in the context of civil law, in order to avoid the trap of illegal online loans that are detrimental.

Viewing the phenomenon of illegal online loans from a civil law perspective cannot be separated from the social and economic realities that underlie it. The rise of illegal online loans is often driven by the urgent need for people to have fast financial access, especially for those who have not been served by formal financial institutions. In such conditions, people tend to be less critical of the terms and conditions proposed, so they are easily trapped in detrimental agreements. Research conducted by Wardani, et al. shows that many online loan consumers in Indonesia do not fully understand the risks involved, especially regarding high interest rates and penalties imposed by illegal lenders (Wardani et al., 2023).

In the context of legal protection, Indonesia actually has a fairly strong legal basis to protect consumers from such practices. In addition to the Consumer Protection Law, Article 1338 of the Civil Code stipulates that legally made agreements apply as laws for those who make them. However, this article also states that agreements must not violate the law, morality, or public order. In the case of illegal online loans, which often involve elements of fraud, usury, and intimidation, such agreements can be considered contrary to public order and morality, so they can be canceled by the court.

A civil law review of illegal online loans must also consider the aspect of social responsibility of financial service providers. According to research by Budiarto & Pujiyono (2021), loan providers, both legal and illegal, have a responsibility to ensure that their services are not only financially profitable, but also do not harm consumers socially and economically. In the case of illegal online loans, this responsibility is often ignored, resulting in major losses for vulnerable consumers.

Furthermore, the implementation of standard clauses that are detrimental to consumers in illegal online loan agreements is also a major focus in civil law studies. These clauses, which are often made without adequate consultation and consent from consumers, can be considered to violate the principles of contractual justice. According to Article 18 paragraph (1) of the Consumer Protection Law, any standard clause that is unilaterally drafted by business actors and is detrimental to consumers can be declared null and void by law. Research by Malgieri & Niklas (2020) confirms that many consumers are unaware of the existence of these clauses in their agreements, which makes them vulnerable to exploitation. Thus, the civil law approach in dealing with the problem of illegal online loans must consider various aspects, from the validity of the contract to the social responsibility of service providers. Effective law enforcement, supported by better consumer awareness, is essential to protect the public from the trap of these detrimental loans. However, this effort cannot be done alone; there needs to be synergy between government regulations, public education, and strict law enforcement to create a fairer and more transparent financial ecosystem for all parties.

3.2 Regulations and Rights and Obligations in the Agreement between Online Lending Platforms and Consumers According to Civil Law and Islamic Law

The lender in illegal online loans is the third person in a transaction, where the lender authorizes the organizer to manage his finances. And based on the power of attorney that has been granted by the lender, the organizer for and on behalf of the lender agrees to a money lending agreement with the borrower (Fitriani et al., 2022). Based on this description, the lender acts as the grantor and the organizer acts as the recipient of the power of attorney. Article 1792 of the Civil Code explains that granting power is an agreement that contains the granting of power to another person who receives it to carry out something on behalf of the person granting the power.

In this case, the organizer is required to register and obtain a permit from the Financial Services Authority as regulated in Article 7 of the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. However, in its implementation, the regulation is still not enough to anticipate the occurrence of a problem that can harm the community, especially for people who are tempted by the ease of getting a loan, the problem is the existence of illegal online loans or those that are not registered with the Financial Services Authority.

Illegal online loans are a legal act carried out between two parties with an agreement. According to the provisions of Article 1313 of the Civil Code, an agreement is defined as: "An agreement is an act by which one or more people bind themselves to one or more other people."

The formulation given in Article 1313 of the Civil Code confirms that an agreement results in a person binding himself to another person. This means that from an agreement arises an obligation or performance from one or more people (parties) to one or more other people (parties), who are entitled to the performance. This formulation provides the legal consequence that in an agreement there will always be two parties, where one party is the party that is obliged to perform, and the other party is the party that is entitled to the performance.

The illegal online loan agreement has been placed in an electronic document. Article 1 paragraph (12) of the Financial Services Authority Regulation No. 77/POJK.01/2016

concerning Information Technology-Based Money Lending Services explains that electronic documents are any electronic information that is created, forwarded, received, and stored in analog, digital, electromagnetic, optical, or similar forms, which can be viewed, displayed, and/or heard via a computer or electronic system including but not limited to writing, sound, images, design maps, photos or the like, letters, signs, numbers, access codes, symbols or perforations that have meaning or significance that can be understood by people who are capable and understand them.

Thus, Article 18 of Law Number 11 of 2008 concerning Information and Electronic Transactions states that "Electronic transactions set out in electronic contracts bind the parties". However, the binding of the parties to the electronic contract made is not immediate, there are still things that must be considered, namely the validity or otherwise of an agreement.

The parties (lenders and borrowers) who enter into a money lending agreement through an application provided by an illegal online loan provider must be competent and have the authority. In the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services, there are no provisions regarding the age of the lender and borrower, but only regulates those who are entitled to become parties. Therefore, in order to be categorized as competent, the parties must meet the provisions of competence in the Civil Code, and also the provisions in the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. However, because the parties make an agreement through an application provided by an illegal online loan organizer, and the status of the illegal online loan organizer is the power of attorney of the lender, then indirectly the organizer must also meet the element of competence.

So in this case, the agreement of the parties made through an online loan organizer who does not register and apply for a permit is considered incompetent, because they do not have the authority to act, even though the parties who made the agreement have met the competence requirements.

In illegal online loans, if the object of the transaction is a loan, then it is clear that this does not conflict with public order, morality, and the law (Tampubolon et al., 2021). Because loans are not something that is prohibited. However, the loan transaction is carried out through an organizer application that does not register and apply for a permit, so the money lending transaction does not meet the elements of a lawful cause because borrowing through an illegal online loan organizer application does not achieve the goal of the recipient of the loan who wants the loan to be made through a legal online loan application.

Based on the explanation above, it can be concluded that the loan agreement made through an illegal online loan organizer application is an invalid agreement, because the agreement does not meet the requirements of the ability to agree (subjective requirements of the agreement) and the requirements of a lawful cause (objective requirements of the agreement).

Islam with its teachings that place the Qur'an and Hadith as its main sources of law, has been present on this earth as rahmatan lil alamin. The codification of Islamic teachings includes all dimensions of human life, both vertical relationships (human relationships with Allah) and horizontal relationships (human relationships with humans).

The relationship between humans and humans in Islam is included in the study of fiqh muamalah. Fiqh muamalah are Allah's rules that govern human relationships with humans in obtaining and developing property. Or more precisely, fiqh muamalah is an Islamic rule regarding economic activities carried out by humans (Setiawan, 2020).

Basically, all muamalah activities are permitted until there is evidence that prohibits them. This is in line with the rules of fiqh:

الأصل في المعاملة الآباقه الا أن يدل دليل على تحريمها

Meaning: "The original law in muamalah is permissibility until there is an argument that shows its prohibition" (Djazuli, 2007).

The issue of muamalah continues to develop in the life of society. One of the areas of muamalah that is prescribed by Allah SWT is borrowing and lending. Borrowing and lending in Islamic law is known as qardh. In the Fatwa of the National Sharia Council Number 19/DSN-/MUI/IV/2011 concerning al-Qardh, it is stated that al-qardh is a loan given to customers (muqtaridh) who need it.

Qardh is a transaction that contains the value of helping each other. Thus, qardh can be said to be a social worship which in the view of Islam is something that is liked and recommended, because in it there is a great reward. As the word of Allah SWT in QS al-Hadid/57: 11.

مَنْ ذَا الَّذِي يُفْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَعِّفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيمٌ ١١

Translation:

"Who is he that will lend to Allah a goodly loan, then Allah will increase it manifold to his credit, and he will have a great reward."

Furthermore, Allah SWT says in QS al-Hadid/57: 18.

إِنَّ الْمُصَدِّقِينَ وَالْمُصَدَّقَاتِ وَأَفْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَعِّفُ لَهُمْ وَلَهُمْ أَجْرٌ كَرِيمٌ ١٨

Translation:

"Indeed, those who believe (in Allah and His Messenger), whether male or female, and lend to Allah a goodly loan, it will be doubled for them, and they will have a rich reward."

These verses basically contain recommendations to perform qardh (giving loans) to others and the rewards will be multiplied by Allah. From the perspective of muqriddh (the person giving the loan), Islam encourages its people to provide assistance to others in need by giving loans. From the perspective of muqtaridh (the person borrowing), borrowing is not a prohibited act, but is permitted because someone who borrows with the aim of using the money he borrows to meet his life needs, and will return it exactly as he received.

Currently, lending and borrowing transactions are not only carried out directly but can also be done online. This is due to technological advances in the financial sector, namely the adaptation of Fintech (Financial Technology). The intense development of Fintech from year to year is an opportunity for the advancement and improvement of financial institution services to provide high-quality, easy, and fast services, wherever and whenever. Progress in transactions at financial institutions known as Fintech also has an impact on technological innovation in the world of Islamic finance, namely the emergence of a new breakthrough called Sharia Fintech. Sharia fintech is a combination of information technology innovation with existing products and services in the financial sector that accelerate and facilitate the process of transactions, investments and distribution of funds based on sharia values (Nasution et al., 2023). This sharia fintech is not only based on the Financial Services Authority Regulation No. 77 / POJK.01 / 2016 concerning Information Technology-Based Money Lending Services, but is also subject to the Fatwa of the National Sharia Council-Indonesian Ulema Council No. 117 / DSN-MUI / II / 2018 concerning Information Technology-Based Financing Services Based on Sharia Principles.

One type of sharia fintech is online loans based on sharia principles. Online loans based on sharia principles are fintech services in the financial sector guided by sharia principles that connect lenders and recipients of financing in order to carry out sharia contracts through an electronic system connected to the internet. The term online loans based on sharia principles presents a system with the concept of organizing digital-based financing transactions by avoiding practices that contradict Islamic sharia (Lova, 2021).

Legal subjects in online lending activities based on sharia principles, namely: Organizer; Financing Recipient; and Financing Provider. In online loans based on sharia principles, the parties are required to comply with the following general guidelines: (1) The provision of information technology-based financing services must not conflict with sharia principles, namely, among others, avoiding usury, gharar, maysir, tadlis, dharar; zhulm, and haram; (2) Standard contracts made by the organizer must fulfill the principles of balance, justice, and fairness according to sharia and applicable laws and regulations; (3) The contracts used by the parties in the provision of information technology-based financing services can be contracts that are in line with the characteristics of financing services, including al-bai', ijarah, mudharabah, musyarakah, wakalah bi al ujrah, and qardh contracts; (4) The use of electronic signatures in electronic certificates implemented by the organizer must be carried out with the condition that its validity and authentication are guaranteed in accordance with applicable laws and regulations; (5) Organizers may charge fees (ujrah/rusum) based on the principle of ijarah for the provision of information technology-based financing service systems and infrastructure, and (6) If the financing information or services offered through electronic media or disclosed in electronic documents differ from the reality, then the injured party has the right not to continue the transaction (Nuzula et al., 2022).

Organizers of sharia online loans are required to apply for registration and licensing to the Financial Services Authority, as regulated in Article 7 of the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. Thus, organizers who do not have a permit from the Financial Services Authority are illegal organizers or illegal online loans.

Talking about illegal online loan agreements based on sharia principles, it cannot be separated from the basic concept of agreements. In Article 20 of the Compilation of Sharia Economic Law, it is explained that a contract is an agreement in an agreement between two or more parties to do and or not do certain legal acts. The contract used in illegal online loans based on sharia principles is the qardh contract. The qardh contract is a loan contract from the lender with the provision that the borrower is obliged to return the money received according to the agreed time and method (Hidayati & Sarono, 2019). The status of illegal online loans if the analysis uses Islamic law. Then the discussion begins with the pillars and conditions of the qardh contract. The terms and pillars of qardh function as indicators of the validity, fasid, and invalidity of qardh transactions.

It has been explained by the fuqaha, that according to the majority of scholars, harmony and the conditions for qard include: (1) aqidain (two people who have a contract). (a) Muqtaridh (loan recipient), is a person who needs funds submitted through an illegal online loan provider application. (b) Muqaridh (lender), is a person who provides loans that are distributed through illegal online loan provider applications. The two people who entered into the qardh contract were competent and mature people. (2) the assets lent are in the form of money given by the lender to the loan recipient through the illegal online loan provider application with a limit amount determined by the lender which is stated in the illegal online loan provider application. (3) Shighat is a consent and acceptance agreement (loan recipient and lender) indicating a lending and borrowing transaction which is expressed in the form of a standard contract in the illegal online loan provider application. In the ijab and kabul, interest (additional repayment) on the principal loan is also agreed (Fitriani et al., 2022).

Based on the explanation above, it can be concluded that the pillars and conditions of the qardh contract in illegal online loans are contrary to the pillars and conditions of qardh, because they contain usury, and cause hardship and misery for their users. So in this case, illegal online loans carried out in the qardh contract are transactions that are prohibited by Islam.

Borrowing and lending transactions in Islamic law must basically be returned with the same nominal amount. However, if additional costs are required outside the principal

loan, this will damage the purpose of the qardh contract, the essence of which is the principle of helping each other.

The consequences of using online loan services on illegal online loan sites use relatively high interest, short repayment terms that are not in accordance with the agreement, then if you do not make payments, the debt collection is not in accordance with ethics, in the form of terror, intimidation, and harassment. The debt collection is not only for the borrower but also for the borrower's emergency contact. Thus, the community feels hardship and misery.

Islam does not give hardship to its people because Allah never burdens his creatures except according to their abilities, in fact Islam always wants convenience for all its followers, as the word of Allah SWT, in QS al-Baqarah / 2: 185.

...يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ ...

Translation:

"....Allah desires ease for you, and does not desire hardship for you...".

Fintech is intended to make it easier for humans to carry out financial activities, not to cause losses and misery. Therefore, Fintech must be utilized as well as possible and in accordance with sharia principles.

3.3 Legal Liability If One Party Commits Default or Violation of the Law

Legal consequences are all consequences that occur from all legal acts carried out by legal subjects against legal objects or other consequences caused by certain events that have been determined or considered as legal consequences by the relevant law itself. Or the result of an action taken to obtain a result desired by the perpetrator and which is regulated by law (Gumilang, 2020).

Illegal online loans are a legal act carried out between two parties with an agreement (Fitriani et al., 2022). Article 1320 of the Civil Code stipulates that four conditions are required for an agreement to be valid, namely the agreement of those who bind themselves; the capacity to make a contract; a specific subject matter; and a cause that is not prohibited. An illegal online loan agreement can be said to be valid if the requirements stipulated in Article 1320 of the Civil Code are met. Regarding the legal consequences arising from a valid agreement, they are as follows: (1) Valid as a law. An agreement that is made legally applies as a law for those who make it. Therefore, an illegal online loan agreement also applies as a law for the parties, meaning that they must comply with the agreement as well as comply with the law. (2) Cannot be withdrawn unilaterally. Because an online loan agreement that is made legally is binding or applies as a law for the parties, the result is a provision that the agreement cannot be withdrawn or canceled unilaterally. If you want to withdraw or cancel the agreement, you must obtain the consent of the other party. (3) Implementation in good faith. Good faith here means that the agreement must be implemented by adhering to the norms of propriety and morality. In an agreement, the parties are not only bound by what is expressly agreed in the agreement, but are also bound by propriety, customs, and laws. Thus, what binds the parties to the agreement are: Contents of the agreement; Propriety; Customs; and Law (Arifin, 2020).

Then, if the requirements for the validity of an agreement contained in Article 1320 are not met, then it will have different legal consequences. If the subjective requirements of an agreement in the form of "agreement" and "capacity" are not met, then the agreement is invalid, the legal consequence is that the agreement can be canceled. Meanwhile, if the objective requirements of an agreement in the form of "a certain thing" and "a lawful cause" are not met, then the agreement is considered never to have existed from the start, the legal consequence is that the agreement is null and void (Maramis et al., 2023).

As previously explained, illegal online loans are organizers who do not fulfill their obligations to register and apply for a permit as regulated in Article 7 of the Financial Services Authority Regulation No. 77 / POJK.01 / 2016 concerning Information Technology-Based Money Lending Services. In this case, the organizer does not meet the requirements of capacity (subjective requirements) and the requirements of a lawful cause (objective requirements) in the agreement. Thus, illegal online loans are not authorized to carry out legal acts. So that the agreement made between the lender and the borrower with the online loan provider with an unlicensed status is null and void by law.

The nullity of an agreement does not eliminate the obligation of the borrower to return what has been given. This means that the borrower has an obligation to return the funds lent to him without paying interest. Because in essence an agreement that is null and void is an agreement that was originally considered to have never existed.

In the Fatwa of the National Sharia Council-Indonesian Ulema Council No. 117/DSNMUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles, it has been regulated that information technology-based financing services are permitted on condition that they comply with sharia principles. Then it is also regulated that the provision of information technology-based financing services must not conflict with sharia principles, namely, among others, avoiding usury, gharar, maysir, tadlis, dharar; zhulm, and haram. (Savila et al., 2024) However, illegal online loan transactions are lending transactions with interest. The interest is categorized as usury. Abdurrahman Aljaziri argues that usury is an addition to one of two similar goods exchanged without any compensation for the addition. In short, usury is an additional payment of the principal debt, which is required for one of the two people who make a contract (Fitriani et al., 2022).

The scholars agree that usury is forbidden. Usury is an attempt to seek sustenance in an incorrect way and is hated by Allah SWT. The practice of usury prioritizes one's own gain at the expense of others.

As Allah SWT says, in QS al-Baqarah/2: 275 which means: "People who eat (take) usury cannot stand but stand like a person who has been possessed by Satan because of (the pressure of) madness. Their situation is like that, because they say (opinion), actually buying and selling is the same as usury, even though Allah has permitted buying and selling and forbidden usury. Those who have received a prohibition from their Lord, then continue to stop (from taking usury), then for them what they have taken previously (before the prohibition came), and their affairs (are up to) Allah. People who return (take usury), then those people are the inhabitants of hell, they will remain there forever.

People who are possessed by Satan due to insanity in the verse above, it is meant that people who take usury are not at peace like people who are possessed by Satan. One important thing is that illegal online loans are acts that occur on the basis of a qardh contract, in a qardh contract there are pillars and conditions of the contract, namely: (1) aqidain, namely two people who make the contract (the person who borrows and the person who gives the loan). The two people who make the contract are capable and adults. (2) the property that is lent is in the form of objects that are in his possession, and the amount and nature can be known. (3) Shighat, ijab and kabul must be appropriate and show their meaning for borrowing and lending (Ikafitria et al., 2022).

If the pillars and conditions of the qardh contract are met, then a valid contract is formed. However, there are several factors that cause a contract to be invalid, namely: coercion; submission that causes loss (dharar); contains gharar (uncertainty); contains invalid conditions; and contains usury (Fitriani et al., 2022).

Thus, illegal online loans are haram, as the Indonesian Ulema Council through the 7th Ijtima Ulama Fatwa Commission of the MUI stipulated a fatwa on the prohibition of online loans containing usury. So that all forms of transactions carried out by illegal online loan providers with qardh contracts are invalid. Regarding borrowers who have

already made loan transactions through illegal online loan providers, the borrower must still return the principal as a form of responsibility for using money that is not their right.

4. Conclusions

The agreement process between illegal online lending platforms and consumers in Indonesia often does not meet the requirements for a valid contract stipulated in the Civil Code, and violates the principles of consumer protection stipulated in Law No. 8 of 1999 concerning Consumer Protection. Practices such as hiding information, intimidating billing, violation of privacy, and the use of standard clauses that are detrimental to consumers are clear evidence of the imbalance in this agreement. Therefore, it is important for consumers to understand their rights to avoid losses, while law enforcement must be stricter in protecting the public from these detrimental illegal online lending practices. Agreements on online lending platforms, both according to civil law and Islamic law, must meet the requirements for a valid agreement which include agreement, capacity, clear object, and lawful cause. In Islam, lending and borrowing must be carried out based on the principle of qardh which upholds mutual assistance and compliance with sharia. Illegal online loans that do not meet these requirements can be considered invalid, both according to civil law and Islamic law. In the event of a default or violation of the law, especially in the context of illegal online loans, the agreement is invalid and null and void because it does not meet the requirements set out in Article 1320 of the Civil Code and is not in accordance with the principles of sharia law. Although the agreement is considered to have never existed, the borrower still has a legal obligation to return the principal that has been received without interest. This violation also implies that the parties involved, especially the organizers of illegal online loans, are not authorized to carry out legal acts and are responsible for the legal impacts that arise. The suggestion from this study is for the government and related institutions to increase supervision and law enforcement against illegal online lending practices in Indonesia. Consumers must be more empowered with education about their rights and the risks associated with illegal online loans, so that they can make wiser decisions. On the other hand, stricter regulations and strict law enforcement need to be implemented to prevent violations, such as withholding information, intimidating debt collection, and the use of detrimental standard clauses. Authorities also need to provide effective mechanisms to protect consumers and ensure that all online lending platforms comply with the legal requirements of agreements under both civil law and Islamic law, in order to create a fairer and more transparent financial ecosystem.

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