



Application of Law no. 8 of 1999 concerning Consumer Protection to Minimize Consumer Disputes

Dede Hafirman Said¹, Azizatur Rahmah²

^{1,2}Lecturer of Islamic Family Law Study Program, Sekolah Tinggi Agama Islam Negeri Mandailing Natal

E-mail: [dedehfirmansaid@stain-madina.ac.id](mailto:dedahfirmansaid@stain-madina.ac.id)

Abstract

The purpose of this study is to find out what efforts are made to minimize consumer disputes in ensuring legal certainty to protect consumers. The existence of a trade-in in both goods and services carried out by business actors often causes consumers to be harmed in terms of shopping which leads to a dispute between consumers and business actors. The research method used is normative juridical with a statutory approach whose data source is secondary data consisting of primary, secondary, and tertiary legal materials with data collection methods using library research. Data analysis is carried out from the hierarchy of laws and regulations. The problems in this scientific journal are aimed at how to apply Law No. 8 of 1999 concerning Consumer Protection in minimizing consumer losses, providing education to consumers, and being responsible for losses suffered by consumers. Regarding the efforts to resolve consumer disputes, it can be carried out through deliberation between the consumer and business actors, or assisted by third parties.

Keywords: *Application, Constitution, Dispute, Consumer*

A. Introduction

Consumer protection at this time cannot be separated from trading activities. This trading activity is expected to create a balance of rights and obligations between business actors and consumers. business actors and consumers can create prosperous and prosperous people. And the main goal is to protect the people from the negative side of industrialization, and mistakes by emphasizing the welfare of the community. Everyone is obliged to respect the human rights of others in the orderly life of society, nation, and state. To increase the dignity of consumers, it is necessary to increase the awareness, knowledge, care, ability, and independence of consumers to protect themselves and develop the attitude of responsible business actors. , because it is the business actors and producers who know the composition and problems related to the safety of a particular product. In-Law Number 8 of 1999 concerning Consumer Protection Article 4 explains that one of the rights of consumers is the right to comfort, security, and safety in consuming goods and or services. Law Number 8 of 1999 becomes the basis for people who are harmed, to minimize consumer disputes.

Consumers are every person who uses goods or services available in the community, both for the benefit of themselves, their families, other people, and other living creatures and not for trading. Meanwhile, consumer protection is a legal instrument created to protect and fulfill consumer rights. Law Number 8 of 1999 Article 4 paragraph 8 concerning consumer protection states: "The right to obtain compensation and or replacement if the goods and services received are not by the

agreement or not as they should be." However, in terms of buying and selling, the position of consumers is weaker than that of business actors.

Very rarely do we find consumers who experience losses reporting these things to the authorities. It is in cases like this that we must immediately find a way out or solution so that consumer rights can be legally fulfilled. In this resolution, the interests to be protected in consumer protection are 1) Protecting consumers from the effects of harm to health and safety; 2) Promotion and protecting the socio-economic importance of consumers; 3) Availability of adequate information to consumers to provide their ability to choose the right choices and according to their wants and needs; 4) Consumer education; 5) Compensation effectively and 6) Freedom in forming consumer associations.

With the enactment of the Republic of Indonesia Law Number 8 of 1999 concerning Consumer Protection, it is hoped that the Indonesian people can understand and be aware of their rights and obligations owned by business actors so that they can be held accountable. The need for a Consumer Protection Law is due to the weak position of consumers compared to the position of business actors. Law No. 8 of 1999 concerning Consumer Protection as an implementation of legal reforms that have developed alternatives for dispute resolution either by using the court or outside the court. Out-of-court dispute resolution Consumer protection law facilitates consumers who feel aggrieved by business actors by filing lawsuits against business actors outside the judiciary, namely the Consumer Dispute Settlement Agency. Which has the same goal, namely to demand obligations and rights either by business actors or consumers.

B. Method

The type of research used by the author in this scientific work is normative juridical research. This type of normative juridical research is a method carried out through thorough research using library materials or secondary data. In supporting the research process, the type of approach used is a normative juridical approach, namely library law research carried out by researching library materials or secondary data using deductive thinking methods (thinking in drawing conclusions drawn from something general and aimed at something specific). special).

The source of data used in this research is secondary data which consists of legal materials whose types are primary, secondary, and tertiary legal materials. Premier legal materials are legal materials that have a binding nature and consist of the 1945 Constitution, the Civil Code, and Law Number 8 of 1999 concerning Consumer Protection. In addition to primary materials, secondary legal materials are also used which consist of related books, papers, and journals. Tertiary legal materials are legal materials that provide direction or explanation regarding primary, and secondary legal materials such as legal dictionaries, and encyclopedias. The technique of collecting legal materials used is legal materials obtained using a literature study, namely the method of collecting legal materials by tracing or searching and reviewing several statutory regulations or literature related to the problem under study

C. Research Results And Discussion

1. Consumer protection

Consumer protection is all efforts that guarantee legal certainty to protect consumers. Consumer protection is regulated by Law no. 8 of 1999 concerning Consumer Protection. UU no. 8 of 1999 concerning Consumer Protection, the formulation refers to the national development philosophy that national development including the development of laws that protect consumers is in the context of building a complete Indonesian human being based on the state philosophy of the Republic of Indonesia, namely the state foundation of Pancasila and the state constitution, the 1945 Constitution.

The definition of Consumer in the Consumer Protection Law is the End Consumer. This is explained in the Elucidation of Article 1 point 2 of Law no. 8 of 1999 concerning Consumer Protection, namely that in the economic literature the terms end consumers and intermediate consumers are known. End consumers are end-users or beneficiaries of a product, while intermediate consumers are consumers who use a product as part of the production process of another product. The definition of consumer in this law is the final consumer. Principles of Consumer Protection in Law Number 8 of 1999 concerning Consumer Protection:

- a. The principle of benefit is intended to mandate that all efforts in the implementation of consumer protection must provide the maximum benefit for the interests of consumers and business actors as a whole.
- b. The principle of justice is intended so that the participation of all people can be realized maximally and provide opportunities for consumers and business actors to obtain their rights and carry out their obligations fairly.
- c. The principle of balance is intended to provide a balance between the interests of consumers, business actors, and the government in a material or spiritual sense.
- d. The principle of consumer security and safety is intended to provide guarantees for security and safety to consumers in the use, use, and utilization of goods and/or services consumed or used.
- e. The principle of legal certainty is intended so that both business actors and consumers obey the law and obtain justice in the implementation of consumer protection, and the state guarantees legal certainty.

Consumer protection in the case of business actors violating intellectual property rights (HAKI) is not regulated in this Law on Consumer Protection because it is already regulated in Law Number 12 of 1997 concerning Copyright, Law Number 13 of 1997 concerning Patents, and Law Number 14 of 1997 concerning Marks, which prohibits the production or trade of goods and/or services that violate the provisions concerning intellectual property rights. In the future, it is still possible to form a new law that contains provisions that protect consumers. Thus, this Law on Consumer Protection is an umbrella that integrates and strengthens law enforcement in the field of consumer protection. In this Law what is meant by:

- a. Consumer protection is all efforts that guarantee legal certainty to protect consumers.

- b. Consumers are every person who uses goods and/or services available in the community, both for the benefit of oneself, family, other people, and other living creatures and not for trading.
- c. A business actor is every individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through an agreement to organize business activities in various economic fields.
- d. Goods are any object, both tangible and intangible, whether movable or immovable, consumable or non-expendable, which can be traded, used, used, or utilized by consumers.
- e. Service is any service in the form of work or achievement provided for the community to be utilized by consumers.
- f. Promotion is an activity to introduce or disseminate information on an item and/or to attract consumer buying interest in goods and or services that will be and are being traded.
- g. Import of goods is the activity of entering goods into the customs area.
- h. Import of services is the activity of providing foreign services for use within the territory of the Republic of Indonesia.
- i. The non-Governmental Consumer Protection Agency is a non-Governmental institution registered and recognized by the Government that has activities to handle consumer protection.
- j. Standard Clauses are any rules or conditions and conditions that have been prepared and determined in advance unilaterally by business actors as outlined in a document and/or agreement that is binding and must be fulfilled by consumers.
- k. Consumer Dispute Settlement Agency is an agency tasked with handling and resolving disputes between business actors and consumers.
- l. National Consumer Protection Agency is an agency established to assist efforts to develop consumer protection.
- m. Minister is a minister whose scope of duties and responsibilities covers the trade sector.

Consumer protection aims to:

- a. increase consumer awareness, ability, and independence to protect themselves
- b. elevating the dignity of consumers by preventing them from the negative excesses of using goods and/or services
- c. increasing consumer empowerment in choosing, determining, and demanding their rights as consumers
- d. creating a consumer protection system that contains elements of legal certainty and information disclosure as well as access to information
- e. growing awareness of business actors regarding the importance of consumer protection so that an honest and responsible attitude grows in doing business
- f. improve the quality of goods and/or services that ensure the continuity of the business of producing goods and/or services, health, comfort, security, and safety of consumers.

2. Consumer Dispute Resolution Agency

In article 49 the government establishes a Consumer Dispute Settlement Agency in Level II Regions for the settlement of consumer disputes out of court. To be appointed as a member of the consumer dispute settlement agency, a person must meet the following requirements:

- a. Citizen of the Republic of Indonesia
- b. Healthy body
- c. Behave well
- d. Never been convicted of a crime
- e. Have knowledge and experience in the field of consumer protection
- f. Be at least 30 (thirty) years old.

The appointment and dismissal of the Consumer Dispute Settlement Body shall be determined by the Minister. The members of each element are at least three people and the maximum is five people. The duties and authorities of the Consumer Dispute Settlement Body include:

- a. Carry out handling and settlement of consumer disputes utilizing mediation or arbitration or conciliation
- b. Provide consumer protection consultation
- c. Supervise the inclusion of standard clauses
- d. Report to the general investigator in the event of a violation of the provisions

of this Law: Receive complaints, both written and unwritten, from consumers regarding violations of consumer protection, Conduct research and examination of consumer protection disputes, Summoning business actors suspected of having violated consumer protection, Summoning and presenting witnesses, expert witnesses, and/or anyone who is deemed to know the violation of the law, Requesting assistance from investigators to present business actors, witnesses, expert witnesses, or any person as referred to in letters g and h, who are not willing to comply with the summons of the consumer dispute settlement agency, Obtain, examine and/or evaluate letters, documents, or other evidence for investigation and/or examination. Decide and determine whether or not there is a loss on the part of the consumer, Notifying the decision to business actors who violate consumer protection, Imposing administrative sanctions on business actors who violate the provisions of this law

Consumers who feel aggrieved have the right to sue business actors through institutions tasked with resolving disputes between consumers and business actors. Consumer dispute resolution can be reached through court or out of court based on the voluntary choice of the disputing parties. energy so that dispute resolution outside the court (non-litigation) is often used as an option by consumers to resolve disputes with business actors. Settlement out of court is settlement through an institution tasked with resolving disputes between consumers and business actors, namely the Consumer Dispute Settlement Agency (hereinafter referred to as BPSK) and/or other forums to reach an agreement as regulated in Article 1 point 11 UUPK which reads: Consumer Dispute Settlement is an agency in charge of handling and resolving disputes between business actors and consumers.

The existence of BPSK is very much needed to fulfill the community's need for a forum or institution that has the authority to help resolve consumer disputes. Settlement of consumer disputes by BPSK is carried out through three ways of

resolving consumer disputes which are selected based on the agreement of the two parties to the dispute as stipulated in Article 52 letter of the UUPK regarding the duties and authorities of BPSK which reads: "The duties and authorities of the Consumer Dispute Settlement Body include: and settlement of consumer disputes employing mediation or arbitration or conciliation.

3. Efforts to Minimize Consumer Disputes

The decision of the Consumer Dispute Settlement Agency (BPSK) as regulated in article 52 letter I of the Consumer Protection Act (UUPK) jo. Article 3 letter I of the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001, the lawsuit is filed no later than 21 (twenty-one) working days after the lawsuit is received at the Secretary of the Consumer Dispute Settlement Agency (BPSK), where this working day is already including 10 (ten) working days. The content of the BPSK decision is final and binding. The word "Final" there according to the Elucidation of Article 54 paragraph (3) of the Consumer Protection Act (UUPK) that there is no legal remedy for an appeal or cassation on the decision of the Council for the Consumer Dispute Settlement Body (BPSK). The results of the settlement of consumer disputes using conciliation or mediation are made in a written agreement signed by the consumer and business actor, then confirmed by the decision of the assembly signed by the chairman and members of the assembly. The decision of the assembly in conciliation and mediation does not contain administrative sanctions.

Meanwhile, the results of consumer dispute resolution by arbitration are made with the decision of the assembly which is signed by the chairman and members of the assembly. The decision of the assembly in arbitration may contain administrative sanctions, the decision of the assembly is called the BPSK decision. The process of issuing the decision of the Consumer Dispute Settlement Agency (BPSK) is carried out in stages, namely:

- a. Based on deliberation to reach a consensus
- b. Maximum if it has been attempted (sincerely), it turns out consensus is not reached, then the decision is made by voting the most.
- c. The decision of the Consumer Dispute Settlement Agency (BPSK) was limited to 3 alternatives, namely 1) Peace, 2) Claim rejected, and 3) Claim granted.

Legal protection is an effort to fulfill rights and provide assistance to provide a sense of security to victims or witnesses. Because the weak position of consumers must be protected by law, as well as the purpose of the law is to provide protection or protection for the community. In efforts to provide legal protection for the interests of consumers, the State has a vital role in making consumers aware of their rights and obligations. and essential consumer empowerment. Consumer empowerment is a goal in increasing consumer awareness, ability, and independence to protect themselves to avoid various negative accesses to the use of goods or services needed. However, the government also provides an agency to assist consumers in resolving their disputes with business actors which can be done by resolving disputes outside the court. It can be seen in Law no. 8 of 1999 on consumer protection does not define consumer disputes. But what is certain is that disputes can occur between consumers and business actors. A dispute can result in losses for consumers and business actors. Thus a problem or dispute concerning the parties must be resolved. A consumer dispute based on UUPK can be resolved in 2 ways, namely:

a. Court

Every consumer who is harmed or involved in a dispute can resolve the dispute through the general judiciary. Settlement of disputes against consumers through this court refers to the provisions on general courts that apply by taking into account the provisions of article 45 of the UUPK.

b. Out of Court

A consumer dispute besides being able to be resolved through the courts can also be resolved outside the court through the BPSK which carries out the handling and settlement of consumer disputes.

The principles of consumer dispute resolution procedures include:

a. Consolation

The provisions of article 1 point 9 of the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001 define consolidation as the process of resolving consumer disputes outside the court through BPSK to bring together the disputing parties and the settlement is left to the parties.

b. Mediation

Mediation is a process of resolving consumer disputes that feel outside the court with the intermediary of BPSK which is only an advisor and the settlement is left to the disputing parties accompanied by the BPSK assembly as an active mediator or intermediary.

c. Arbitration

Settlement of consumer disputes where the parties fully give BPSK to decide and resolve disputes that occur.

D. Conclusion

Consumers who feel aggrieved have the right to sue business actors through institutions tasked with resolving disputes between consumers and business actors. Consumer disputes can be resolved through courts or out of court. Settlement out of court is settlement through an institution tasked with resolving disputes between consumers and business actors, namely the Consumer Dispute Settlement Agency called BPSK and/or other forums to reach an agreement. The existence of BPSK is very much needed to fulfill the community's need for a forum or institution that has the authority to help resolve consumer disputes. Settlement of consumer disputes by BPSK is carried out through three ways of resolving consumer disputes which are selected based on the agreement of both parties to the dispute, handling and resolving consumer disputes using mediation or arbitration, or conciliation.

The results of dispute resolution both conciliation and mediation are stated in a written agreement as outlined in the BPSK decision, no later than 21 working days after the application is received at the BPSK secretariat. Likewise, if a consumer dispute resolution result is reached through arbitration, the result is stated in the form of a decision by the Consumer Dispute Settlement Agency (BPSK), which is signed by the chairman and members of the BPSK Assembly, in which administrative sanctions are imposed.

Legal protection for consumers in-laws and regulations by several regulations. The first is the 1945 Constitution and TAP MPR, which are based on the fourth paragraph, namely "Every citizen has the right to a decent life for humanity". meaning

that if anyone interferes with the rights of others, the State must protect them. Second, consumer law in civil law, Third Law No. 8 of 1999 concerning consumer protection in article 1 paragraph 1 explains the definition of consumer protection includes all efforts to ensure to meet consumer legal protection.

References

- Erman Rajagukguk, 2000. Pentingnya Hukum Perlindungan Konsumen dalam Era Perdagangan Bebas, Hukum Perlindungan Konsumen, Cetakan I, Mandar Maju Bandung.
- HR, Ridwan. 2006..Hukum Administrasi Negara. Jakarta: PT. Raja Grafindo Persada.
- Nasution, AZ. 2011. Hukum Perlindungan Konsumen Suatu Pengantar. Jakarta: Diadit Media,
- Nugroho, Susanti Adi.2008. Proses Penyelesaian Sengketa Konsumen Ditinjau dari Hukum Acara Serta Kendala Implementasinya.Jakarta: Kencana Prenada Media Group
- Made Udiana, 2011. Rekonstruksi Pengaturan Penyelesaian Sengketa Konsumen, Udaya University Press. Denpasar.
- Miru, Ahmadi&Yodo, Sutarman.2004. Hukum Perlindungan Konsumen. Jakarta: PT. Raja Grafindo Persada.
- Shidarta.2004. Hukum Perlindungan Konsumen Indonesia.Jakarta: PT. Grasindo.
- Susanti Adi Nugroho, 2008. Proses Penyelesaian Sengketa Konsumen Ditinjau dari Hukum Acara Serta Kendala Implementasinya, Jakarta: Kencana Prenada Media Group.
- Undang- Undang No. 8 Tahun 1999 Tentang Perlindungan Konsumen.