

THE SMALL CLAIM COURT PROCEDURES IN UPHOLDING THE PRINCIPLES OF SIMPLE, FAST, AND LOW-COST COURTS IN INDONESIAN CIVIL PROCEDURE LAW

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Abstract

This legal research aims to explore important aspects concerning the settlement of simple lawsuits and the legal considerations made by judges in establishing the settlement of such cases. The research adopts a Normative Juridical method, which involves analyzing issues through library research, summarizing and interpreting legal doctrine opinions. The conclusions drawn from the research and discussions are as follows: Firstly, there are specific requirements for settling simple lawsuits that differ from those of regular civil proceedings. The time period and value of the object involved in simple lawsuits are distinct from ordinary civil lawsuits. Secondly, in determining the settlement of a simple claim, judges carefully consider the evidence presented by the Plaintiff, including documentary evidence and credible witnesses, ensuring that the lawsuit satisfies the elements outlined in PERMA number 4 of 2019.

Keywords: Simple Lawsuit, Ordinary Lawsuit, Judge's Consideration

1. INTRODUCTION

Civil law is a branch of legal science that governs the resolution of disputes arising from conflicts of private interests between legal subjects. These subjects can be individuals, legal entities, or a combination of both. The purpose of civil law is to provide a framework for legal subjects to seek compensation for both material and immaterial losses caused by violations of their private interests by other legal subjects (Soyan et al., 2014).

The main focus of civil law is on regulating legal relationships between individuals or legal entities within society, with an emphasis on safeguarding individual interests. It ensures that people understand and respect each other's rights and obligations, thereby guaranteeing and preserving the interests of each party involved. Whenever a person or legal entity believes they have suffered harm due to the actions of another party, they can seek redress through the legal process, specifically through litigation in court.

The principle governing dispute resolution in court is to ensure justice is delivered in a simple, swift, and cost-effective manner. Ideally, resolving disputes through litigation should be efficient and affordable for the community. However, in practice, this is not always the case. Complaints abound that the court process is time-consuming, convoluted, and costly. For instance, in Indonesia, the examination of cases from the first level to cassation has been known to take 5-12 years (Yahya, 2005).

To address these concerns and meet the public's demand for a simpler, quicker, and cost-effective dispute resolution process, the Supreme Court (MA) issued Supreme Court Regulation No. 4 of 2019. This regulation amends Supreme Court Regulation No. 2 of

2015, focusing on the Procedures for Settlement of Simple Claims, hereinafter abbreviated as PERMA No. 4 of 2019.

According to the Simple Lawsuit Pocket Book from the Supreme Court of the Republic of Indonesia (2015), a simple lawsuit, also referred to as a small claim court, deals with civil cases where the maximum material claim value does not exceed IDR 500,000,000.00 (five hundred million rupiahs). These cases are resolved through simplified procedures and evidence and are applicable to broken promises (defaults) and/or unlawful acts. Broken promises pertain to cases arising from the non-fulfillment of agreements, whether written or unwritten, while unlawful acts involve situations where one party causes harm to another without any prior agreement.

A significant distinction between a simple lawsuit and an ordinary lawsuit is the limited material loss value allowed in a simple lawsuit, whereas ordinary civil cases do not have such limitations. The timeframe for resolving a simple claim case is a maximum of 25 days, with decisions being made by a single judge and being final and binding at the first level. In the simple litigation trial process, both the plaintiff and the defendant are required to appear in person during each trial, and representation by attorneys or advocates is not mandatory, unlike in ordinary tort cases. It is essential to note that simple lawsuits are not intended for land rights disputes or cases that are subject to specific court regulations; rather, they aim to provide quick and straightforward solutions to legal issues faced by the parties involved. However, it is imperative for both parties, with or without attorneys, to be present in person during the trial, and a lawsuit cannot be filed if the defendant's place of residence or domicile is unknown.

2. LITERATURE REVIEW

2.1. Small Claim Court

In its history, the Small Claim Court was founded by the Cleveland Court in 1913. When the idea first appeared as the first court to end the exploitation of the poor by offering justice that prioritized justice in Cleveland. The Small Claim Court which was loosely implemented in the Norwegian coalition court which was founded in 1719 for the purpose of protecting farmers from lawyers who were believed to exacerbate wrongdoing and increase hostilities between parties at high costs. The first Small Claim Court in the United States was developed in the early twentieth century because the formal process of civil justice was so complex, complicated, and expensive that it could not be used by most people who have income or small entrepreneurs. This was written by the Center for the Study of Islamic Economic Law and Public Policy, Faculty of Law, Padjadjaran University in its journal which discusses the Small Claim Court.

Based on Black's Law Dictionary, (Kurniawan et al., 2022) Small Claim Court is defined as a court that is informal (outside the court mechanism in general) with a quick examination to make a decision on claims for compensation or debts with a small claim value. John Baldwin in his book defines that a small claim court is a form of dispute resolution that is informal, simple, and inexpensive and has less binding legal force. In this case the litigants are expected to submit their own case without the assistance of a lawyer and the judge is encouraged to take a more intensive approach. The purpose of the Small Claim Court is to be able to resolve lawsuits quickly, at a low cost, and avoid complex and formal litigation processes.

Small claim courts can resolve lawsuits quickly, cheaply and avoid complex and formal litigation processes. Small claim court is a legal institution that is intended to

provide fast and economical solutions to resolve disputes that do not require high costs. Small claim court is also interpreted as a conciliation court for people who really need a dispute resolution institution that does not require high costs and is carried out in a fast process.

2.2. Legal Basic of Small Claim Court

The small claim court in Indonesia is relatively new, its existence in a formal juridical manner is marked by the promulgation of the Supreme Court Regulation (PERMA) Number 2 of 2015 concerning Procedures for Settlement of small claim court. This Perma was signed by the Chief Justice of the Supreme Court Muhammad Hatta Ali and came into force upon promulgation on 7 August 2015 through the State Gazette of the Republic of Indonesia of 2015 Number 1172. PERMA Number 2 of 2015 consists of 9 (nine) chapters and 33 articles.

After 4 (four) years later, the Supreme Court issued a complementary regulation to PERMA Number 2 of 2015, namely PERMA Number 4 concerning Amendments to PERMA Number 2 of 2015 concerning Procedures for Settlement of Simple Claims which was promulgated on August 20, 2019. This was done to optimize settlement Simple Lawsuits, which from year to year are increasing in number because they receive a positive response from justice seekers, especially from the banking sector. This can be seen on the General page (website) of the Supreme Court of the Republic of Indonesia.

PERMA Number 4 of 2019 brought several changes to the provisions as well as additional articles and additional paragraphs. In Article 1 number 1 Perma Number 4 of 2019 states that the settlement of a Simple Claim is defined as a procedure for examining a civil lawsuit with a maximum material claim value of Rp. 500,000,000.00 (five hundred million rupiah) which is resolved by simple procedures and proof. In PERMA Number 2 of 2015 the maximum value of a material claim is IDR 200,000,000.00 (two hundred million rupiah).

Following are some of the main differences between PERMA Number 4 of 2019 and PERMA Number 2 of 2015:

1. In PERMA Number 4 of 2019, the maximum value of the material claim is IDR 500,000,000.00 (five hundred million rupiah). On the other hand, in PERMA Number 2 of 2015, the maximum value of a material claim is Rp. 200,000,000.00 (two hundred million rupiahs).
2. Under PERMA Number 4 of 2019, the plaintiff who resides in a different jurisdiction from the defendant can file a lawsuit by appointing a power of attorney, incidental power of attorney, or institutional representative (with a letter of assignment from the plaintiff's institution) who is domiciled in the same jurisdiction as the defendant. In contrast, PERMA Number 2 of 2015 requires both the plaintiff and the defendant to be domiciled in the same jurisdiction.
3. PERMA Number 4 of 2019 allows the Judge to place a bail bond, while there are no specific rules regarding collateral confiscation in PERMA Number 2 of 2015.
4. PERMA Number 4 of 2019 introduces the *verzet* legal remedy for the *verstek* decision, providing a mechanism for opposition in case of default judgments. However, this remedy is not stipulated in PERMA Number 2 of 2015.
5. The determination of the period of *aanmaning* (reprimand) in the execution process is outlined in PERMA Number 4 of 2019, but there is no time limit for *aanmaning* in PERMA Number 2 of 2015.

6. PERMA Number 4 of 2019 allows for the possibility of using case administration in court electronically, although it is still in the trial stage at the time of writing. However, there are no rules for the use of case administration in court electronically under PERMA Number 2 of 2015.

2.3. Civil Procedure Law

Civil procedural law is a formal civil law that regulates how material civil law is enforced in the event of certain violations. There is no uniformity of opinion regarding the limits of experts and doctrine in defining the Civil Procedure Code itself. One expert's opinion has several essences that approach the same regarding the definition of the Civil Procedure Code. With this, several expert opinions regarding the elaboration of the definition of Civil Procedure Law will be cited. In general, the Civil Procedure Code is the legal regulation governing the process of settling civil cases through judges (in court) since the filing of a lawsuit, the execution of a lawsuit until a decision is made by the Panel of Judges (Saleh & Mulyadi, 2012).

According to Sudikno Mertokusumo, the Civil Procedure Code is a legal regulation that regulates how to guarantee compliance with material civil law through the mediation of a judge. In other words, civil procedural law is a legal regulation that determines how to guarantee the implementation of material civil law. More concretely, it can be said that the Civil Procedure Code regulates how to apply one of the civil procedural law experts, Abdulkadir Muhammad, provides a definition of Civil Procedural Law, namely: "Civil procedural law is a legal regulation that functions to maintain the validity of civil law as it should. Because the settlement of cases is requested through the court (judge), civil procedural law is formulated as a legal regulation governing the process of settling civil cases through the courts, since the filing of a lawsuit until the implementation of the judge's decision.

The Code of Civil Procedure is summed up briefly, namely a collection or set of legal regulations governing the procedures for implementing civil law or the application of civil law regulations in practice. (Ridwan, 1986) Wirjono Prodjodikoro stated the limitation that Civil Procedure Law is as: "a series of regulations -rules which contain the manner in which people must act before and before the court and the manner in which the courts must act with each other to carry out the enactment of civil law regulations" (Saleh & Mulyadi, 2012).

Based on the limitations stated by the doctrinal above, the author can conclude that civil procedural law is a set of formal civil law regulations that function to protect and enforce material civil law through the intermediary of judges in court.

3. RESEARCH METHODS

This section describes the research methods employed in the study, highlighting their significance in achieving the desired level of accuracy in data collection and analysis. The primary objective of this scientific work is to systematically, methodologically, and consistently reveal the truth in the context of legal research (Dimiyati, 2004).

The type of research conducted for this study is normative juridical research, specifically focused on legal research. This type of research aims to establish the coherence and existence of legal rules in accordance with legal norms, as well as identifying norms in the form of orders or prohibitions consistent with legal principles.

To address the formulation of research problems in this study, two distinct approaches have been chosen: the Conceptual approach and the Statute approach. The Conceptual approach involves the examination, analysis, and interpretation of theoretical matters related to legal principles. This includes exploring legal conceptions, laws and regulations, viewpoints, legal doctrines, and relevant legal systems. The emphasis is placed on obtaining information from legal texts that are pertinent to the subject of study. Conversely, the Statute approach is employed by thoroughly examining all laws and regulations that pertain to the legal issues under consideration (Verhaert, 2018). This approach enables a comprehensive understanding of the legal framework surrounding the subject matter.

The main focus of this research is to study the system for resolving small claims court cases. By utilizing both the Conceptual and Statute approaches, this study aims to provide valuable insights into the efficiency and effectiveness of the small claims court system.

4. RESULTS AND DISCUSSION

4.1. Result Research

In Settlement of Simple Lawsuit cases, there are several stages that must be passed during the trial. The procedures and procedures for implementing the procedural law have been regulated in detail in PERMA Number 4 of 2019 concerning amendments to PERMA Number 2 of 2015 concerning simple lawsuits.

The examination begins with the registration of the lawsuit at the Registrar's Office of the District Court which has the authority to try cases and ends with the reading of a decision by a single judge. The Registrar determines the qualifications of the case in advance by analyzing whether the case filed for a lawsuit can be examined by a simple lawsuit settlement or will be examined by an ordinary civil procedure. If it turns out that the case is included in the object of a simple lawsuit, it will be followed up with a preliminary examination, but if the case is not included in the object of a simple lawsuit, the case will be examined in the usual way.

Completion of a simple lawsuit is no later than 25 (twenty five) days from the day of the first trial, so it does not include the process of *Replik-Duplik*, Provision or conclusion letters which require a long time. In the absence of a replication and duplication process, this is the hallmark of a simple lawsuit examination. Some parties supported it because this method was considered to reduce the duration of the examination time, but on the other hand there were also those who disagreed because this method was ineffective with no opportunity for each party to submit *replik* and *duplik*.

4.2. Discussion

4.2.1. Overview of the Purpose of PERMA Number 2 of 2015 as Amended by PERMA Number 4 of 2019

Civil Procedure Code in Indonesia, which still adheres to HIR and RBg as positive law which is the rule of the game for civil dispute resolution in court, does not recognize dispute resolution quickly or briefly as it is enforced to resolve criminal cases and state administration, in other words, HIR and RBg only differentiates cases into lawsuits and requests which, when resolved through a court, for any type of dispute, the parties are bound to follow a predetermined procedural procedure. Examination by Brief Procedure was actually known in the *Reglement op de Rechtsvordering* (RV) but was not enforced

after Indonesia's independence. With MA Jurisprudence No. 813 K/SIP/1976 through the Supreme Court Decision dated 17 February 1976 confirmed that Indonesian civil procedural law does not recognize express/brief examinations. (Anita, 2014)

The development of Civil Procedure Law in Indonesia, which initially only consisted of ordinary examinations, has now been simplified along with the issuance of PERMA Number 4 of 2019 concerning amendments to PERMA Number 2 of 2015 concerning Procedures for Settlement of Simple Claims. A simple court or commonly called the Small Claim Court is a mechanism for quickly settling cases so that what is examined in the Small Claim Court is of course simple cases. In Article 1 number 1 PERMA Number 4 of 2019 it is stated that Settlement of Simple Claims is defined as procedures for examining in court a Civil Claim with a maximum material claim value of Rp. 500,000,000.00 (five hundred million rupiah) which was settled with simple procedures and proof⁵³. In addition to the provisions regarding the amount of the claim value, of course there are other conditions for a case to be resolved through the Small Claim Court.

PERMA Number 4 of 2019 also stipulates that not all civil cases can be resolved through simple courts, but there are some cases that can be resolved through simple courts, but there are some cases that can be resolved simply, namely cases of default and/or acts against the law with a maximum material claim value of IDR 500,000,000.00 (five hundred million rupiah). Cases that cannot be filed with a simple judicial mechanism are cases whose settlement is carried out through a special court as stipulated in laws and regulations and land rights disputes. (Article 3 paragraph (1) and paragraph (2) PERMA Number 4 of 2019)

Based on research, Supreme Court Regulation (PERMA) Number 2 of 2015 as amended through PERMA Number 4 of 2019 is a major step for the Supreme Court which aims to provide convenience for justice seekers, especially the lower class who want to get justice but are constrained by the process of settling cases long and expensive. Moreover, circulating in the community about the term "fighting for the goat but losing the buffalo". In addition, it is hoped that the regulation on simple lawsuits can reduce the volume of cases in the Supreme Court, which are piling up from year to year. However, there is one thing that is no less important than the purpose of issuing the regulation on simple lawsuits, namely to achieve simple, fast and low-cost settlement of cases so that the vision and mission of the Supreme Court can be realized. The principle of simple, fast and low-cost justice is one of the principles in general courts. This is in accordance with the mandate of "Article 4 Paragraph (2) of Law Number 48 of 2009 concerning Judicial Power "That the court helps justice seekers and tries to overcome all obstacles and obstacles in order to achieve a simple, fast and low-cost trial". The explanation of the principle of simple, fast and low-cost justice is as follows, the simple principle means that the examination and settlement of cases is carried out in an efficient and effective manner in a way or procedure that is clear, easy to understand, understandable and not complicated or complicated. The fewer and simpler the formalities that are required or required in court proceedings, the better. The many formalities and stages that must be followed which are difficult to understand will lead to various interpretations or opinions that are not uniform, so that it will not guarantee diversity or legal certainty which in turn will cause reluctance or fear to proceed before the court. (Mertokusumo, 2009)

The simplicity of the procedure and the simplicity of the procedural law regulations will make it easier, so that it will speed up the course of justice. Simplicity means simplicity of judicial procedures that are not complicated or formalities. The

simplicity of the formulation means the formulation of regulations that use legal language that is simple and easy to understand without leaving the proper legal language.

4.2.2. Enforcement of Simple, Fast and Low-Cost Judicial Principles

This principle is contained in Article 2 paragraph 4 of Law Number 48 of 2009 concerning Judicial Power which reads: "Judgment is carried out simply, quickly and at low cost". entering from the time of examination until the decision is made, the procedure is carried out in a simple, uncomplicated manner so that it affects the time frame for completion of the case. Fast, represents that justice should be carried out within a short duration of examination by taking into account the efficiency of the time used so that it does not have an impact on the accumulation of incoming cases due to the lengthy examination process. Low costs mean that in implementing procedural law, costs are kept to a minimum so that all levels of society who wish to seek justice can afford it.

The principle of speed has the meaning of speedy justice, which relates to the course of justice by measuring the time or duration of the trial event. This is related to the problem of the simplicity of the procedure or trial process above. If the procedure is too complicated, it will take longer. Settlement of cases that take too long has the potential to cause new problems, for example changing conditions or circumstances of the object of dispute which will certainly have an impact on the execution time. Based on the Circular Letter of the Supreme Court (SEMA) Number 6 of 1992 concerning Settlement of Cases at the High Court and District Court dated October 21, 1992, determined by the Supreme Court, the deadline for completion is no later than 6 (six) months with the provision that if the deadline is exceeded you must report delay to the High Court and the Supreme Court. However, a fast judicial process does not always reduce the accuracy in examining and assessing law and justice.

The low-cost principle is the lowest possible court fee, so that it can be borne by the community. Even so, in the examination and settlement of cases it does not sacrifice thoroughness in seeking truth and justice.

5. CONCLUSION

In the ordinary civil procedural examination and simple lawsuit settlement, there is no significant difference because basically in simple lawsuit settlement, most of them also use the ordinary civil procedural law that applies in Indonesia, however, there are some visible differences between the two forms of litigation dispute resolution.

In a simple lawsuit, the maximum material claim value is Rp. 500,000,000.00 (five hundred million rupiah) which was settled in a simple procedure and proof, different from the usual procedure, with no limit to the value of material claims. The duration of the examination in the settlement of a simple lawsuit must be terminated no later than 25 days after the lawsuit was filed, whereas in an ordinary civil hearing the judge decides the case may not exceed 180 (one hundred and eighty) days or around six months, if the judge decides more than the specified time, the Judge is obliged to provide information and reasons. In the settlement of a simple lawsuit, the parties, both the Plaintiff and the Defendant, are not allowed to submit replicas and duplicates but proceed directly to proof, however, in the ordinary trial procedure after the response from the Defendant, the Plaintiff is given the opportunity to submit a replica and the Defendant may also submit a duplicate before entering the evidentiary event; The principle in civil proceedings is that

the judge is passive, while in the settlement of a simple lawsuit the judge is required to be active both to reconcile the parties, to provide input and solutions to the litigants

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