

LEGAL IMPLICATIONS OF CONSUMER PROTECTION DISPUTES ON CASH DELIVERY SYSTEMS IN E-COMMERCE

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Abstract

This article aims to verify the validity of online purchases and transactions between sellers and buyers through the Cash Delivery System and the legal impact of breach of contract or failure to comply. The methods used in this article are legal research methods employing legal, conceptual, and case-by-case approaches. Based on the research results, online sales contracts will be effective if they meet the four conditions specified in the Criminal Code, in accordance with Law No. 19 of 2016 on Changes to Law No. 11 of 2008 on Electronic Information and Transactions. Therefore, online sales agreements are as robust as other sales contracts. This is a legal application when a buyer makes transactions online through an E-Commerce application under Law Number 19 of 2016 concerning Changes to Law Number 11 of 2008. Electronic products are not clearly and elaborately regulated. According to criminal law, buyers are obliged to compensate for losses, transfer risks, support legal costs, and enter into contracts with the parties concerned.

Keywords: Breach of Contract, Cash Delivery System, Online Buying

1. INTRODUCTION

The landscape of information technology has undergone rapid development in Indonesia. Notably, this encompasses cyber technology, more commonly recognized as the internet. In the present context, the internet transcends being a mere luxury item; it has become an accessible resource for individuals across various socio-economic strata, ranging from the middle to upper class. It is pertinent to underscore that the internet has evolved beyond a niche utility; it now stands as an indispensable resource, ubiquitously employed by societies globally.

Within the realm of the internet, electronic communication tools are ubiquitously utilized on a daily basis to execute diverse functions, including data and news consultations, web exploration, email correspondence, messaging through social networks, and crucially, for conducting business transactions. This has implications for the business domain, particularly with regard to the operationalization of marketing activities through the medium of online e-commerce (Kurniawan & Nurwardhani, 2016). The majority of internet-based businesses involve intricate processes of buying and selling, the exchange of goods and services, and the dissemination of information facilitated by computer networks (Yaqin, 2019).

E-commerce, as a specific subset of online transactions, is characterized by dynamic patterns. Diverging from the conventions of traditional markets, where sellers and buyers typically engage in face-to-face transactions concurrently (as per the traditional market concept), online businesses transcend these constraints. Buyers and sellers can transact without necessitating direct physical interaction, thereby facilitating remote engagement in buying and selling activities (Berata & Made, 2016).

This paradigm of online commerce exhibits distinctive features, notably the ability to transcend business boundaries within a specific region and even across disparate

countries. In this mode of commerce, sellers and buyers engage in transactions devoid of physical encounters, affording them the flexibility to conduct business from any location and at any time. The utilization of online services accrues notable advantages for consumers, obviating the need to physically visit sellers and enabling shopping from virtually anywhere (Sulistiawati et al., 2019).

Indonesia represents a nation endowed with substantial market potential, wherein online transactions for buying and selling are buoyed by a sizable population. E-Commerce, an application facilitating online shopping and trade, is compatible with smartphones and can be accessed at any time and from any location. Functioning as an electronic system provider, E-Commerce operates within the legal framework defined by Article 1, number 6a, of Law No. 19 of 2016, which pertains to amendments to Law No. 11 of 2009 concerning Electronic Information and Transactions (referred to hereafter as UUIITE). This legal provision stipulates that "the organizer of an electronic system" encompasses individuals, state entities, corporate institutions, and entities facilitating, managing, and/or operating electronic systems, either independently or collectively, for their own or others' purposes.

Consequently, for individuals seeking to engage in online transactions, domestically or internationally, the absence of a necessity for face-to-face interactions between buyers and sellers is a distinctive feature, as all transactions can be conducted through the e-commerce platform. E-Commerce provides a diverse array of payment methods, including bank transfers, online credit/debit cards, Indomaret, Alfamart, E-Commerce Pay Later, E-Commerce Pay, One Klik, credit card payments, credit facilities, and the Cash Delivery System, which is interpreted as an on-the-spot payment.

In the context of the Cash Delivery System, it is recognized as a secure and prevalent payment method involving the delivery of cash subsequent to the buyer's receipt of the purchased goods (Nugroho, 2017). This method allows buyers to make cash payments at home without necessitating direct encounters with the sellers. The E-Commerce platform itself defines the Cash Delivery System as a form of on-the-spot cash payment, typically executed at the buyer's residence, following the receipt of the ordered items or packages through express delivery.

In essence, the Cash Delivery System is perceived as a secure means of facilitating online purchases, as it affords buyers the opportunity to ascertain the status of their acquired items before concluding the transaction (Le et al., 2019). Despite its perceived security, disputes between sellers and buyers persist. Public sentiment reflects an increasing frustration among buyers regarding the Cash Delivery System. Importantly, it is noteworthy that not only buyers fall victim to unscrupulous sellers; sellers, too, can suffer adverse consequences due to the misapplication of the Cash Delivery System by buyers. Instances where buyers cancel orders utilizing the Cash Delivery System abound, resulting in the delivery party failing to receive the predetermined amount agreed upon during the initial stages of the order. Consequently, sellers incur financial losses, underscoring instances where buyers fail to fulfill their financial obligations, breach contractual agreements, or neglect their responsibilities (Fauzi & Ansari, 2020).

Based on the aforementioned legal events, the legal issues at hand are of significant importance and warrant a legal analysis grounded in the framework of the Information and Electronic Transactions Law (UU ITE). Hence, the chosen title, "Legal Implications of Breach of Contract in Cash Delivery System Transactions on E-Commerce Applications," aims to investigate the legality of online sales agreements through the Cash

Delivery System. The main problem formulation includes inquiries into the legality of such agreements and the resolution of disputes arising from the buyer's breach of contract in online transactions. The research objective is to gain a comprehensive understanding of online sales agreements through the Cash Delivery System between sellers and buyers, and to explore the legal consequences that may arise if buyers engage in breach of contract in online transactions through the Cash Delivery System on E-Commerce applications.

2. RESEARCH METHODS

The research methodology employed in this study is the normative/doctrinal approach, defining law as a composition of regulatory systems. This article is prepared using legal, conceptual, and case-based approaches. The legal sources incorporated in the article serve as primary legal sources, encompassing legislation such as Law No. 8 of 1999 on Consumer Protection, Law No. 19 of 2016 on amendments to Law No. 11 of 2008 regarding Electronic Information and Transactions, and the Civil Code (*KUHPerdata*). Additionally, secondary legal sources include legal books and journals, complemented by tertiary legal sources such as legal dictionaries and the primary Indonesian Dictionary (KBBI).

The selected research approach facilitates a comprehensive examination of legal principles, conceptual frameworks, and case analyses, ensuring a thorough exploration of the implications of the Cash Delivery System in online transactions. This dual-method approach, combining normative and doctrinal elements, is employed to provide a well-rounded and insightful perspective on the legal aspects surrounding online sales agreements and potential breaches of contract through the Cash Delivery System.

3. DISCUSSION

3.1. Legality of Online Purchase Agreements through the Cash Delivery System

An agreement is a legal transaction frequently undertaken by individuals as a result of reciprocal relationships in social interactions (Iswara & Markeling, 2016). An agreement is defined between two or more parties related to certain matters that have been agreed upon by the involved parties (Umboh, 2020). According to Article 1313 of the Civil Code (*KUHPerdata*), an agreement refers to a legal action between two or more parties to mutually bind themselves. An agreement is a legal action conducted by two or more parties who freely commit themselves to an agreed-upon obligation (Palit, 2015). The agreement is deemed valid once the online sales transaction is completed. The sales contract is a common agreement wherein the first party or seller transfers their goods to the other party or buyer, who is obliged to pay for the received goods/products (PNH Simanjuntak, 2017).

With the evolution of time, the purchasing process has advanced, allowing transactions through face-to-face interactions and online platforms or e-commerce. Electronic sales contracts through e-commerce can also arise through legal relationships with telecommunication systems. In online transactions, the involved parties have the freedom to decide what can and cannot be done in the transaction based on the principles of contractual freedom and mutual agreement. The agreement is established when consensus is reached on the commodity or price. This principle generally applies to online

purchases. The principle of mutual consent or agreement is closely related to the principle of freedom of contract. Article 1338 paragraph (1) of the Civil Code states that all valid agreements can function as law for those who have made them.

Furthermore, Article 1338 paragraph (3) of the Civil Code stipulates that contracts must be executed in good faith. In the concept of commercial transactions processed in online stores, it is necessary to settle transactions with good faith in addition to the provisions of the Civil Code. Moreover, parties engaged in electronic transactions, as per Article 17 paragraph (2) of the ITE Law, must provide electronic information or documents during the interaction or circulation of electronic information or documents throughout the transaction.

Online sales agreements through e-commerce need to meet several conditions. Based on Article 1320 of the Civil Code, a valid agreement must cover four conditions, namely:

- a. Agreement or consent of all parties.
- b. Competence in performing obligations.
- c. A specific subject matter.
- d. A legal cause.

Points 1 and 2 involve subjective requirements concerning the regulations on individuals or parties entering into contracts. When subjective conditions are not met, the agreement can be voided. Points 3 and 4 are objective requirements governing contracts or agreements resulting from legal actions. If objective conditions are not fulfilled, the agreement may be considered void ab initio.

These conditions are regulated not only by civil law but also by information technology law. Article 5 paragraph (3) of the ITE Law mandates the application of electronic information or documents where electronic systems are used in accordance with this law. Additionally, Article 6 of the ITE Law establishes the validity of agreements. This means that when a seller sells products in an online store, they must provide clear information and perspectives where parties can consult in detail to purchase products later. This refers to the fundamental agreement not prohibited by any basic agreement but must not violate the law. Article 9 of the ITE Law determines that product alliances conducted on the entrepreneur's electronic system must provide complete and accurate information depending on the given goods. This condition also applies to business actors who must include clear and easily understandable terms and information. Sales from online stores, based on trust that the selling party may not be the original owner of the goods and in the case of intermediaries, not a third party responsible for replacing lost goods, require careful attention to product information. After the contract is completed, the buyer typically takes over and can determine the payment method, one example being the Cash Delivery System. Cash Delivery System refers to the cash payment method after the goods have been delivered to the buyer.

In light of the detailed elucidation provided above, the validation of the online purchase agreement facilitated by the Cash Delivery System hinges on its fulfillment of the four essential requirements delineated in Article 1320 of the Civil Code, alongside compliance with the pertinent provisions outlined in the Information and Electronic Transactions (ITE) Law. These critical conditions encompass the unanimous agreement or consent of all parties involved, ensuring that each party has the legal competence to fulfill their respective obligations, defining a specific subject matter integral to the

transaction, and establishing a lawful cause for the agreement. The subjective requisites, encapsulated in the first two conditions, pertain to the regulatory framework dictating the eligibility of individuals or entities entering into contracts. Non-compliance with these subjective prerequisites renders the agreement susceptible to annulment. In contrast, the objective conditions, encapsulated in points three and four, govern the essence of the contract and the legal foundation underpinning the agreed-upon obligations. Should these objective criteria remain unmet, the agreement could be deemed null and void ab initio. Therefore, a meticulous adherence to these stipulations, guided by both the Civil Code and the ITE Law, is imperative to establish the legal soundness and validity of online purchase agreements, particularly those employing the Cash Delivery System.

3.2. Resolution of Disputes in Online Buying and Selling Transactions through the Cash Delivery System

In the current era of globalization, online buying and selling have become commonplace for many individuals. This trend is evident in the substantial growth of e-commerce in Indonesia. Stores or applications operating in the online commerce realm, such as online buying and selling, provide easy access via smartphones. The transaction process between sellers and buyers is facilitated by E-Commerce. E-commerce websites are popular among both younger and older demographics.

The emergence of the Covid-19 pandemic has significantly intensified the use of e-commerce. The population has been advised to stay at home unless for urgent needs. Consequently, the middle to upper-class population has increasingly turned to e-commerce to meet their daily needs during the pandemic. Online shopping during this pandemic has various advantages, especially through E-Commerce applications (Rakhmawati et al., 2021). E-Commerce often offers free shipping, promotions with discounts ranging from 5% to 90%, and cashback up to 50%. Additionally, e-commerce is renowned for its flash sales, which distinguishes it from others and attracts users, making them loyal. E-Commerce provides various payment methods to facilitate online transactions, including online credit/debit cards, Alfamart, E-Commerce Pay Later, Bank Transfers, Indomaret, E-Commerce Pay, One Klik, Kredivo, Credit Card Installments, and Cash Delivery System or cash on delivery.

Newcomers to the e-commerce world feel more confident and less worried about whether the ordered goods will be delivered in accordance with their quality, as payment can be made when the goods arrive. Conceptually, the Cash Delivery System payment method is an alternative where the buyer pays when the goods are safely received in good condition, as promised. The Cash Delivery System can instill trust in buyers and from customers to sellers when shopping online. However, issues persist between sellers and buyers. Generally, buyers are more often portrayed as victims of failed sellers. Simultaneously, some sellers also become victims due to consumer failures.

A case in point is an incident in Manado, where a school principal refused to pay for Cash on Delivery (COD) items already sent, citing a misunderstanding of the system. This news was uploaded to Instagram by @Terang_media and Liputan6.com. Eventually, the school principal clarified and apologized for the misunderstanding. Despite the apology, the seller still incurred losses because the delivered goods or packages corresponding to the order were not paid for. As a result, the seller suffered a loss, and

the buyer committed a breach or non-performance of the previously agreed-upon agreement between the seller and the buyer.

In reciprocal activities involving two legal subjects, rights and obligations arise for each legal subject to support their activities. As discussed earlier, online sales contracts become effective when the agreement is reached, and other details are regulated in Article 1320 of the Civil Code. Sellers must provide specific, honest, and accurate information about the goods sold online to customers. This is in line with Article 9 of the ITE Law. Conversely, consumers must comply with the payment terms of the purchased products as agreed with the seller, and subsequently, the buyer acquires rights to the purchased goods. Meanwhile, the seller is obliged to deliver the goods as agreed with the buyer.

If the rights and obligations of the buyer or seller are not executed properly or do not meet the requirements, the aggrieved party can file a claim for compensation. Compensation arising from non-performance is outlined in Book III of the Civil Code, Article 1243 – Article 1252 of the Civil Code (Salim & Sh, 2021). Non-performance is a failure or inadequacy of the obligations and rights regulated in the agreed-upon agreement (Fauzi & Ansari, 2020). There are three types of non-performance:

- a. Failure to fulfill the obligation at all.
- b. Fulfillment of the obligation but not on time.
- c. Fulfillment of the obligation but not perfectly.

The occurrence of non-performance in online transactions is attributed to two primary factors: external and internal (Setiawan, 2021). External factors may manifest as adverse economic conditions, such as death due to natural disasters, insufficient supply, heightened demand, damaged goods at specific times, and inadequate distance. Conversely, internal factors may arise from negligence, malicious intent, inadequate education and morals, as well as financial difficulties. In accordance with Law No. 8 of 1999 on Consumer Protection, sellers possess both rights and obligations in online buying and selling transactions, including:

- a. Seller's Rights: Defined in Article 6 of the Consumer Protection Law, sellers have the right to receive payment commensurate with the agreed-upon price and the condition of the service and/or goods sold. They are also entitled to legal protection against customers engaging in improper behavior.
- b. Seller's Obligations: Outlined in Article 7 of the Consumer Protection Law, sellers are obligated to act in good faith during business activities and provide accurate, honest, and truthful information regarding product use, repair, and maintenance. Sellers must ensure the quality of services or goods, offering compensation, indemnification, or replacement if the received service or goods fail to meet the agreed-upon terms.

Buyers, similarly, possess rights and obligations in online transactions, as specified in Law No. 8 of 1999 on Consumer Protection:

- a. Buyer's Rights: Stipulated in Article 4 of the Consumer Protection Law, buyers have the right to receive goods, determine goods and/or services, and receive these items in accordance with the agreed-upon exchange rate, conditions, and guarantees promised. They are also entitled to accurate, clear, and honest information about the condition and guarantees of goods and/or services.

- b. Buyer's Obligations: Defined in Article 5 of the Consumer Protection Law, buyers are obliged to act in good faith during the purchase of products and/or services and pay according to the agreed-upon exchange rate.

The principle of absolute responsibility is applicable in cases of non-performance in online transactions (Perdana & Dahlan, 2014). In the realm of E-Commerce, consumers find themselves in a weak position, with the onus entirely on the seller. Consequently, sellers bear full responsibility for all activities in e-commerce transactions. In the aforementioned case, where the buyer failed to pay, the buyer assumes responsibility for their actions. Article 21, paragraph (2), letter a of the ITE Law states that in transactions conducted without involving a third party, all legal consequences fall upon the transacting parties.

Furthermore, according to the Civil Code, the repercussions of a buyer's/debtor's non-performance in fulfilling the agreement result in losses for the seller. The legal consequences arising from consumer non-performance encompass:

- a. The buyer must compensate the seller for the suffered losses, with the seller holding the right to receive performance (Article 1243 of the Civil Code).
- b. The buyer must obtain a court decision regarding the agreement, along with compensation (Article 1267 of the Civil Code).
- c. The buyer must bear the risk of non-performance (Article 1237, paragraph (2) of the Civil Code).
- d. The buyer must cover court costs if sued in court (Article 181, paragraph (1) of the HIR).

Consumers who engage in non-performance are obligated to compensate the seller. However, such compensation is contingent upon meeting various conditions, such as:

- a. Proving negligence in committing non-performance.
- b. Not being in an urgent situation.
- c. Not raising objections or defenses against the compensation claim proposed by the party experiencing the loss.
- d. Receiving a summons or not acting negligently.

If a buyer commits non-performance and acts in bad faith, the buyer is accountable for their actions. The seller, as the aggrieved party, can pursue legal remedies based on the ITE Law, specifically Articles 38 and 39, which address dispute resolution. These articles state that "any person can file a lawsuit against the party causing them harm in the online payment process and resolve disputes through arbitration or alternative dispute resolution agencies." This is due to electronic evidence being deemed valid in court.

4. CONCLUSION

The legality of a purchase and sale agreement through online transactions via the Cash Delivery System between sellers and buyers is generally unrestricted in determining any agreements they wish, guided by the principle of freedom to contract, provided such agreements do not contravene the constitution or prevailing regulations. Engaging in online transactions necessitates good faith from all involved parties. As per Article 1320

of the Civil Code (*KUHPerdata*), the validity of an online purchase and sale agreement is contingent upon meeting the four conditions stipulated in the article. Furthermore, in accordance with the Civil Code, the legitimacy of an online purchase and sale agreement aligns with the provisions of the ITE Law, specifically in Article 5 paragraph (3), Article 6, and Article 9. Thus, an online purchase and sale agreement is recognized as valid if it satisfies the requisites outlined in Article 1320 of the Civil Code and the ITE Law.

The legal ramifications arising from a buyer's default in an online transaction through the Cash Delivery System on an E-Commerce platform, as per the ITE Law, lack explicit and detailed articulation. According to the Civil Code, a defaulting buyer is obliged to compensate, assume risk transfer, cover legal expenses, and terminate the contract with the injured party. In the event of an error, dispute resolution can be pursued by the buyer in the context of online buying and selling through the Cash Delivery System, where the seller, as the aggrieved party, can employ legal remedies in accordance with the provisions of the ITE Law, particularly in Articles 38 and 39 concerning dispute resolution. Articles 38-39 stipulate that "any person can file a lawsuit against the party causing them harm in the online payment process and resolve disputes through arbitration or alternative dispute resolution agencies." This acknowledgment stems from the recognition of electronic evidence as valid in court proceedings.

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