



CONSUMER DISPUTE SETTLEMENT BY MEDIATION THROUGH A CONSUMER DISPUTE SETTLEMENT AGENCY IN REALIZING LEGAL PROTECTION

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Article history:	Abstract:
Received: 6 th January 2023 Accepted: 6 th February 2023 Published: 11 th March 2023	<p>Specific characteristics that are encountered in consumer disputes include, among others, related to the imbalance of bargaining power (bargaining position) between consumers and business actors, where in general consumers are in a weak position economically, psychologically and in terms of knowledge compared to business actors who are generally in the form of corporations and It has been systematically arranged from a management point of view. Therefore, this study aims to discuss how to resolve consumer disputes at BPSK through mediation regarding e-commerce issues and legal protection efforts for consumers through mediation in resolving consumer disputes related to e-commerce issues, using dispute resolution theory and legal protection theory.</p> <p>The method used by this writer is normative juridical research which is supported by a statute approach, a conceptual approach, a case approach based on primary legal materials, secondary legal materials and tertiary legal materials. The technique of collecting legal materials was obtained through studies or reviewing legislation and library research.</p> <p>The results showed that the settlement of consumer disputes at BPSK through mediation related to e-commerce issues is carried out on the basis of the agreement of the parties, the Assembly provides a forum for the parties in dispute, actively reconciles the parties, the Assembly fully submits the dispute resolution process to consumers and business actors concerned both regarding the form or compensation, the Assembly acts actively as a mediator by providing advice, instructions, suggestions, and other efforts in resolving disputes and then the Assembly receives the results of deliberations which are then strengthened by a determination signed by the Chairman and Members of the BPSK Assembly. Legal protection efforts against consumers through mediation in resolving consumer disputes related to e-commerce issues are in the form of an agreement between the parties that is strengthened by a determination issued by BPSK which is final and binding</p>

Keywords: Consumer Dispute Resolution, Mediation, BPSK

INTRODUCTION

The Internet as an electronic information and communication medium has been widely used for various activities, including browsing, surfing, searching for data and news, sending messages to each other via e-mail and trading. Trading activities by utilizing internet media are known as electronic commerce, or abbreviated as e-commerce. Indonesia is currently the largest E-commerce market in Southeast Asia, contributing up to fifty percent of all transactions in the region. Along with the increasing population using the internet and increasing penetration of E-commerce, the contribution of this sector to the Indonesian economy has the potential to continue to increase.

Quoting GlobalWebIndex data, Indonesia is the country with the highest E-commerce adoption rate in the world in 2019. As many as 90% of internet users aged 16 to 64 years in Indonesia have purchased products and services online.

The development of information and telecommunications technology, as well as the rapid advancement of technology, (mobile phones and gadgets and their operational systems) have driven the growth of internet users

significantly. The rapid growth of internet users is a fact that makes the internet one of the most effective media (for businesses) to introduce and sell goods or services to potential customers from all over the world.

Which was the first time the internet function was used to exchange information but now with the development of communication and information technology, it is believed to be able to provide benefits and is considered important for economic growth.

The rapid development of the internet has had a significant impact on various aspects of life, one of which is in the business world. The use of the internet is not only limited to the use of information that can be accessed through internet media, but can also be used as a means to carry out trade transactions known as electronic commerce or E-commerce. The E-commerce industry in Indonesia is developing quite well, the use of E-commerce which is quite good is inseparable from the number of internet users in Indonesia which is increasing every year. It can be said that the growth of information and communication technology has led us towards a digital economy.

The use of technology has driven business growth rapidly, because various information can be presented through long-distance relationships and those who wish to carry out transactions do not have to meet, but only through computer and telecommunications equipment.

A consumer who usually buys goods by physically going to the market will find it easier to get goods or services through E-commerce. The potential of E-commerce shows that every product or service that is very far away can be purchased using only a few clicks from E-commerce consumers.

One of the advantages or advantages in E-commerce is the diverse and detailed information that can be obtained from consumers compared to conventional trading without having to bother going to many places. However, E-commerce also has weaknesses. Electronic transaction methods that do not bring together business actors and consumers directly and consumers cannot see directly the goods ordered have the potential to cause problems that are detrimental to consumers.

E-commerce transaction is a form of modern business that is non-face and non-sign (without meeting face to face and signing). E-commerce transactions have several special characteristics, including that these transactions are paperless (without written documents), borderless (without geographic boundaries) and the parties making transactions do not need to meet face to face. E-commerce transactions are based on electronic processes and data transmission via electronic media.

the growth of E-commerce is facilitated by marketplaces where companies and sellers sell a variety of products ranging from food or drinks, clothing, electronic devices, to lodging rentals. Everything is offered to consumers with a variety of attractive appearance so that consumers want to buy it.

With advertising, business actors will find an easy way to promote the goods and/or services they produce and in this way they will also be able to run their business smoothly with various large profits. In fact, sometimes business actors often justify any means in promoting the goods and/or services they offer to consumers with the intention that consumers are interested and interested in buying, so that business actors will be able to reap large profits. For example, business actors often promote the goods and/or services they offer with excessive information and the information conveyed is not in accordance with the conditions and conditions of the original product.

With technological sophistication, which makes it easy for people to carry out E-commerce transactions, it is not certain that consumers feel satisfied with making these transactions, in fact there are consumers who feel dissatisfied in making these transactions because of problems that occur in carrying out these E-commerce transactions and it can be said that there is a dispute between the parties involved in the transaction, in this case it is the consumer who is harmed. Problems that occur in carrying out E-commerce transactions such as low quality goods or defects in goods marketed and not in accordance with advertisements which result in losses, while consumers can legally sue for compensation for the losses they experience. Often losses befall consumers in transacting or shopping online, so a legal protection is needed for consumers whose purpose is to increase the dignity and awareness of consumers and online business owners. In this regard, the need for legal protection for the public as consumers in order to prevent or reduce the problems caused by business owners by cheating their consumers.

METHOD

This research uses statutory approach (statue approach), case approach (case approach) and conceptual approach (conceptual approach). The statutory approach (statue approach), namely the statutory approach is carried out by examining all laws and regulations related to the legal issues handled.

The case approach is a case approach that is carried out by examining cases related to the issue at hand, and has become a decision that has permanent legal force, this case can be in the form of cases that occurred in Indonesia or outside other countries, and the object of study The main point in the case approach is the ratio decidendi or reasoning, namely the court's considerations to arrive at a decision.

The technique of analyzing legal material used in this study by means of interpreting the law (interpretation) is an attempt that basically explains, explains, confirms both in the sense of expanding or limiting/narrowing the meaning of existing law in the framework of its use to solve problems or problems that are being faced. The legal interpretation used is grammatical interpretation, namely giving meaning to a term or word in accordance with everyday words or legal language, systematic interpretation, that is, if a term or word is stated more than once in an article or a law, then the meaning is it must also be the same, the interpretation of teleology, namely seeking the purpose and intent of a statutory regulation.

DISCUSSION

It is known that consumers in various ways are dominant in a lower and weaker position when compared to business actors. The importance of legal protection for consumers is due to the weak bargaining position of consumers. Sudaryatmo argued, legal protection for consumers requires an election to a weak bargaining position (consumers).

In this first problem formulation, the author examines how to resolve consumer disputes through mediation related to e-commerce issues carried out by BPSK. Because the Consumer Dispute Settlement Agency (BPSK) is a body tasked with handling and resolving disputes between business actors and consumers as a non-structural institution domiciled in the Regency/City area and has the function of resolving consumer disputes outside the court and BPSK is expected to facilitate, speed up and provide a guarantee of legal certainty for consumers to sue their civil rights to business actors who are not right.

The Consumer Dispute Settlement Agency was formed so that dispute resolution can be resolved in an easy, fast and inexpensive way. Hurry because the law determines that within a period of 21 working days, BPSK is obliged to give its decision. Cheap lies in the affordable cost of cases. Every consumer who feels that he has been harmed by a business actor can report his problem to BPSK, either directly, represented by his attorney or by his heirs. Complaints submitted by their attorneys or heirs can only be made if the consumer is sick, deceased, elderly, immature or not a foreign citizen.

As previously stated by the author in CHAPTER II of this research, that out-of-court consumer dispute resolution is held to reach an agreement regarding the form and amount of compensation and/or regarding certain actions to ensure that no losses are suffered by consumers.

According to Salim HS, dispute resolution theory examines and analyzes the categories or classifications or conflicts that arise in society, the factors that cause disputes and the methods or strategies used or end these disputes. The scope of the theory of dispute resolution includes, namely the types of disputes, factors that cause disputes, and strategies in dispute resolution.

Thus the first formulation of the problem in this study the author will use the theory of dispute resolution. Because in theory this dispute resolution consists of various forms of dispute resolution that are in accordance with the method of consumer dispute resolution at BPSK.

As we know, e-commerce transactions are the same as buying and selling transactions in general, only the media is the difference. E-commerce cases that go to the Consumer Dispute Settlement Agency (BPSK) which the authors explain in chapter III are none other than consumer rights that have been violated by business actors, namely the right to correct, clear and honest information regarding the conditions and guarantees of goods and / or services, then consumers ask for compensation from business actors but the results do not match consumer expectations. Consumers are entitled to get dispensation, compensation and/or compensation if the goods and/or services received are not in accordance with the agreement or not as they should be.

In carrying out its duties and authorities, BPSK is guided by related laws and regulations, among those that directly regulate the existence of BPSK, namely:

Law No. 8 of 1999 concerning consumer protection

Ministry of Trade No. 350/MPP/Kep/12/2001 Concerning the Implementation of Duties and Authorities of the Consumer Dispute Settlement Agency. The existence of Law No. 8 of 1999 concerning consumer protection as the legal basis for the formation of the BPSK, while the Ministry of Trade No. 350/MPP/Kep/12/2001 Concerning the Implementation of the Duties and Authorities of the Consumer Dispute Settlement Agency, this rule is also known as the BPSK procedural law in handling consumer disputes. .

In e-commerce transaction disputes, the consumer here is anyone who can be said to be a buyer of the benefits of the goods and services that are traded. Parties involved in consumer disputes are generally consumers, business actors and the government, especially those engaged in the goods/services needed by the community. Without the consumer as one of the parties, the dispute is not a consumer dispute. Disputes over cases of e-commerce transactions are part of consumer disputes seen from this because the buyer of e-commerce transactions is a consumer.

Consumer protection is closely related to legal protection in the sense that consumer protection is closely related to legal aspects and based on this, what is protected is consumer rights that must be obtained by consumers and must be protected by law.

Consumers have the right to get dispensation, compensation and or compensation if the goods and/or services received are not in accordance with the agreement or not as they should be, then efforts For notice rights consumer by country hasput forward various argument between other with put right consumer as a right human rights.

The Consumer Dispute Settlement Agency (BPSK) is a body that was specially formed to handle and resolve disputes between business actors and consumers, has the authority to handle mechanisms by means of mediation, then how to legal protection efforts for consumers through mediation in resolving consumer disputes.

In Article 47 UUPK it is stated that the agreement contained in consumer dispute resolution at BPSK is held to achieve the form and amount of compensation and/or regarding certain actions to ensure that losses suffered by consumers will not be repeated.

During the Mediation session at the BPSK, the activeness of the Assembly in assisting the Assembly's dispute resolution process in this case greatly influenced the course of the trial, because it had to pay attention to all the information submitted by each party. Because the information submitted is the version of each party, the mediator must qualify the facts that have been submitted, because all the facts presented are the interests that are always defended

by each party so that the other party agrees, then the Assembly provides an explanation or direction the main problems faced by the parties, make concrete suggestions for the creation of an agreement. The suggestions given by this assembly are related to what is the subject matter in order to provide legal protection for dispute resolution by mediation. Background The mediator is expected to play an active role because the parties to the dispute are currently in a dispute by being passive or waiting or having difficulty communicating. Thus the mediator must be responsive and take the initiative to take various actions.

Regarding the cases of e-commerce transactions that the author described above, the willingness of the parties to meet in a mediation process has at least been able to clarify the roots of the dispute and narrow down the dispute between them. This shows the willingness of the parties to resolve the dispute. This is also due to the support of existing facilities at BPSK with the active role of the Assembly as a mediator and the presence of 3 elements, both the government, consumers and business actors, so that this mediation is successful so that it can produce an agreement that contains an agreement for both parties, which is in principle dispute resolution. This mediation results in peace and a win-win solution for the parties. For business actors, they will think that resolving disputes through mediation will be more profitable for business actors because if this consumer dispute enters the litigation route, there will be more costs incurred by business actors. mediation at BPSK.

The stipulation issued by BPSK DKI Jakarta, in which on the basis of good faith the parties to the dispute have agreed to reconcile, the contents of the stipulation are in the form of an agreement between the consumer and business actors. The author is of the opinion that the agreement made by the parties is an agreement that the parties should be able to carry out. With an agreement at the beginning of the dispute settlement at BPSK and agreed with the mediation mechanism and so it was finally issued. The results of dispute resolution by mediation at BPSK can be equated with the existence of a peace (*dading*) in the Civil Code article 1851 paragraph (1), namely an agreement whereby both parties, by handing over, promising, or holding an item, end a case that is currently dependent or prevent something from happening. The agreement only has legal force if it is made in writing.

The agreement in the Civil Code is contained in Article 1313 which states that an act by which one or more people binds himself to one or more people. In general, the agreement in KBI is an agreement (written or verbal) made by two or more parties, each of which promises to obey what is in the agreement. Arrangements regarding agreements in Indonesia only regulate in general, this is regulated in Article 1320 of the Civil Code which states the legal terms of an agreement that are binding on the parties. An agreement is considered valid if it fulfills the subjective and objective conditions. Fulfillment of these conditions results in the agreement that has been made considered valid. The agreement is also binding on the parties regarding their rights and obligations, so that the fulfillment of the legal requirements of an agreement is absolute to be fulfilled, this later if a problem or dispute occurs in the future, the settlement will be based on the agreed agreement.

The failure of the mediation process cannot be carried out with objection legal remedies as stipulated in Article 56 paragraph (2) UUPK jo. Article 41 paragraph (3) Kep. Minister of Industry and Trade No. 350/MPP/Kep/12/2001 remembers that everything related to dispute resolution through mediation is purely carried out by the parties themselves so that the decision is final and binding.

CONCLUSION

1. Settlement of consumer disputes at BPSK through mediation related to e-commerce issues , namely carried out on the basis of consumer complaints to BPSK, after the complaint is received by BPSK, BPSK officers summon consumer parties and business actors to meet, which then the Assembly offers a form of dispute resolution, wherein the settlement submitted fully to the parties concerned, both regarding the form of compensation. In this case the Assembly only acts as a mediator by providing advice, instructions, suggestions and other efforts in resolving disputes. Then the results of the dispute resolution are set forth in a written agreement signed by the parties and confirmed by an Assembly Decision in the form of a stipulation signed by the Chairman and Members of the BPSK Assembly.
2. e-commerce issues , namely agreements that contain agreements that are strengthened by stipulations issued by BPSK. This is because the results of the agreement through mediation by BPSK have legal consequences for consumers and business actors.

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