

JURIDICAL STUDY OF SALE AND PURCHASE AGREEMENTS THROUGH E-COMMERCE TRANSACTIONS BASED ON THE PERSPECTIVE OF CIVIL LAW AND LAW NUMBER 8 OF 1997 CONCERNING COMPANY DOCUMENTS

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ABSTRACT

The problem is that the law in Indonesia does not have a clear regulation regarding E-Commerce transactions, therefore the author refers to the regulation of conventional sales and purchase agreements in the Civil Code to review E-Commerce transactions. The data collection technique is carried out by means of library research, the data used is secondary data obtained from primary legal materials, secondary legal materials and tertiary legal materials. The results of this study use a qualitative analysis method which will later be compiled systematically to answer the problems that have been formulated. Based on the results of the discussion, it can be concluded that the consensual nature of the sale and purchase according to Article 1458 reads "The sale and purchase is considered to have occurred between the two parties immediately after they reach an agreement on the goods and prices, even though the goods have not been handed over or the price has not been paid", so it can be concluded that by mentioning the word "agreed" without having to make a writing, deed and so on, then an agreement has been born legally or binding on the parties who make it and it applies as a law for those who make it. The legal regulation regarding E-Commerce transaction documents carried out by sellers and buyers refers to the Corporate Documents Law No. 8 of 1997 and in article 12 of the Constitution is also regulated regarding the transfer of the form and form of information storage media along with its legalization, So if there is a dispute between the seller (merchant) and the buyer, the e-commerce transaction documents stored in the merchant seller database and print out the transaction evidence owned The buyer can be used as evidence in court or other legal proceedings. Payment methods in e-commerce as a form of protection for consumers in e-commerce transactions.

Keywords: Buying and Selling Business, E-Commerce, Civil Law Perspective.

STUDI HUKUM PERJANJIAN JUAL BELI MELALUI TRANSAKSI E-COMMERCE BERDASARKAN PERSPEKTIF HUKUM PERDATA DAN UNDANG-UNDANG NOMOR 8 TAHUN 1997 TENTANG DOKUMEN PERUSAHAAN

ABSTRAK

Masalahnya adalah bahwa hukum Indonesia belum memiliki peraturan yang jelas mengenai transaksi e-commerce. Oleh karena itu, penulis merujuk pada peraturan perjanjian jual beli

konvensional dalam Kitab Undang-Undang Hukum Perdata untuk mengkaji transaksi e-commerce. Jenis penelitian ini adalah penelitian hukum normatif, dan sifat penelitian ini adalah analisis deskriptif. Teknik pengumpulan data dilakukan melalui penelitian perpustakaan, menggunakan data sekunder yang diperoleh dari bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Hasil penelitian menggunakan metode analisis kualitatif, yang akan disusun secara sistematis untuk menjawab permasalahan yang diajukan. Berdasarkan pembahasan, dapat disimpulkan bahwa sifat konsensual jual beli sesuai dengan Pasal 1458 menyatakan, “Jual beli dianggap telah terjadi antara kedua belah pihak segera setelah mereka mencapai kesepakatan mengenai barang dan harga, meskipun barang belum diserahkan atau harga belum dibayar.” Oleh karena itu, dapat disimpulkan bahwa dengan menyebutkan kata “kesepakatan” saja, tanpa memerlukan dokumen tertulis, akta, atau sejenisnya, kesepakatan yang sah atau mengikat terbentuk antara pihak-pihak yang terlibat dan berfungsi sebagai hukum bagi mereka. Ketentuan hukum mengenai dokumen transaksi e-commerce antara penjual dan pembeli diatur oleh Undang-Undang Nomor 8 Tahun 1997 tentang Dokumen Perusahaan, dan Pasal 12 UUDP ini juga mengatur perpindahan bentuk dan media penyimpanan informasi beserta legalisasinya. Oleh karena itu, jika terjadi sengketa antara penjual (merchant) dan pembeli, dokumen transaksi e-commerce yang disimpan dalam database merchant atau bukti transaksi cetak yang dimiliki pembeli dapat digunakan sebagai bukti di pengadilan atau proses hukum lainnya. Metode pembayaran dalam e-commerce sebagai bentuk perlindungan konsumen dalam transaksi e-commerce.

Kata kunci: Perjanjian Penjualan, E-Commerce, Perspektif Hukum Perdata.

INTRODUCTION

That one of the goals of forming the State of Indonesia is clearly contained in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia Tabun is to advance public welfare and educate the nation's life. Therefore, the Indonesian government should manage the economy in accordance with what is regulated in its constitution. One aspect of economic activity in the world almost entirely uses internet media. Economic activities using internet media are known as e-commerce. It should be emphasized that e-commerce is a dynamic set of technologies, applications and business processes that connect companies, consumers and communities through electronic transactions and trade in goods, services and information organized electronically.

Related to the legal aspects that apply in online buying and selling transactions, especially in an effort to protect consumers, the existence of Law Number 11 of 2008 concerning Information and Electronic Transactions and provisions that accommodate

electronic commerce which is one of the main ornaments in business. Online buying and selling transactions are like a conventional transaction which gives rise to rights and obligations between business actors and consumers. In fulfilling these rights and obligations, it is not always smooth, so it is possible for disputes between business actors and consumers. When compared to transactions in the real world, transactions or relationships in cyberspace have the potential for crime or at least harm to other parties, which is much greater, in addition to the benefits of each party. This is due to the easier interaction between business actors and consumers that go beyond the borders of the nation-state.

Although in various countries, even internationally, various regulations have been established that seek to eliminate actions in transactions that are detrimental to other parties, but they cannot be completely controlled by the agents of the state that have the authority to do so. The difficulty of controlling legally is mainly caused by jurisdictional issues and legal substance that are not fully harmonious between one country and another, including dispute resolution mechanisms or procedures while the law in Indonesia does not have clear regulations regarding E-Commerce transactions, therefore the author refers to the regulation of conventional sales and purchase agreements in the Civil Code to review E-Commerce transactions, Therefore, the author is interested in discussing the juridical study of sale and purchase agreements through E-commerce transactions based on the perspective of civil law and law number 8 of 1997 concerning company documents.

LITERATURE REVIEW

1. E-Commerce Concept

According to wikipedia.org, online businesses are known and described as e-commerce. Electronic commerce or e-commerce Electronic commerce. Electronic commerce or e-commerce is the dissemination, purchase, sale, marketing of goods and services through electronic systems such as the internet or television, www, or other computer networks. E-commerce can involve electronic fund transfers, electronic data exchanges, automated inventory management systems, and automated data collection systems. The information technology industry sees this E-commerce activity as an application and application of e-business related to commercial transactions, such as: electronic fund transfer, SCM (supply

chain management), electronic marketing (e-marketing), or online marketing (online marketing), online transaction processing, electronic data interchange (EDI), and others. E-commerce is part of e-business, where the scope of e-business is broader, not only business but also includes collaboration with business partners, customer service, job vacancies and others. In addition to www network technology, e-commerce also requires database technology, electronic mail (e-mail), and other forms of non-computer technology such as the delivery system of goods, and payment instruments for this e-commerce. E-commerce may be a relatively new concept compared to other phenomena; However, it will be interesting to follow history no matter how short. Of course the concept of international trade has been around for a long time and people have been engaged in good exchanges and services in the form of imports/exports and global sources in other forms since the long return. In this brief history of E-commerce, we will see so that its contribution to the concept of international trade can be decided in the right perspective as well as its role in promoting the cross-border movement of both services and services or imports/exports and global sources.

2. Brand Image

According to Article 1457 of the Civil Code (KUHPercivil) buying and selling is an agreement by which one party binds himself to deliver an item, and the other party to pay the promised price, then in Article 1458 of the Civil Code Sale and purchase is considered to have occurred between the two parties, as soon as the people reach an agreement on the goods and their price, even though the item has not been handed over and the price has not been paid.

3. Definition of Buying and Selling

Brand awareness is the ability of consumers to recognize, remember, and identify a brand as part of the purchasing decision-making process (Keller, 2020). This brand awareness includes various levels, such as brand recognition, which is the ability to recognize a brand when seeing it in person; brand recall, which is remembering the brand without visual aid; and Top of Mind, which is the first brand that appears in the minds of consumers when product categories are mentioned. A high level of brand awareness increases the likelihood of consumers to include the brand in the consideration set and ultimately choose it in the purchase process (Keller, 2020; Smith & Park, 2021). Therefore, the development of

effective brand awareness is essential for brands to compete and excel in a competitive market.

4. Definition of Corporate Documents

Based on Article 1 point (2) of the Corporate Documents Law No. 8 of 1997 where it is stated "Company Documents are data, records and or information made and or received by the Company in the context of carrying out its activities either written on paper or other means or recorded in any form that can be seen, read or heard".

RESEARCH METHODS

This type of research is normative law and the nature of this research is descriptive analysis. The data collection technique is carried out by means of library research, the data used is secondary data obtained from primary legal materials, secondary legal materials and tertiary legal materials. The results of this study use a qualitative analysis method which will later be compiled systematically to answer the problems that have been formulated.

RESULTS AND DISCUSSION

The law in Indonesia does not yet have a clear regulation regarding E-Commerce transactions, therefore the author refers to the regulation of conventional sale and purchase agreements in the Civil Code to review *E-Commerce transactions*.

According to Mieke Komar Kantaatmadja, the sale and purchase agreement carried out through the internet electronic media is nothing but an expansion of the concept of sale and purchase agreement in the Civil Code. This online purchase agreement has the basis of conventional trade law or buying and selling in civil law. The difference is that this agreement through the internet is special because there is an element of a very dominant role of the media and electronic devices.

According to Subekti, Sale and purchase is a reciprocal agreement in which one party (the seller) promises to give up ownership of an item, while the other party promises to pay a price consisting of a sum of money in exchange for the acquisition of the title."

Buying and selling according to H.F.A. Vollmar "That one party, the seller binds himself to another party, the BUYER to transfer an object in *eigendom* by obtaining payment from the last mentioned person a certain amount of money" According to Article 1457 of the Civil

Code Sale and purchase is an agreement by which one party binds himself to hand over an item, and the other party to pay the promised price.

The essential elements of the sale and purchase agreement are goods and prices. "In accordance with the principle of Consensualism which animates the agreement in the Civil Code, the sale and purchase agreement was born at the moment of reaching an "agreement" regarding goods and prices. Once both parties agree on the goods and prices, a valid sale and purchase agreement is born.

The consensual nature of the sale and purchase according to Article 1458 reads "The sale and purchase is considered to have occurred between the two parties immediately after they reach an agreement on goods and prices, even if the goods have not been handed over or the price has not been paid".

So it can be concluded that by mentioning the word "agreement" without having to make a writing, deed and so on, then an agreement has been born legally or binding on the parties who make it and it applies as a law for those who make it.

In the sale and purchase agreement, there are obligations of the seller and the buyer. As for Article 1474 of the Civil Code, sellers have three main obligations, namely:

1. Maintain and care for the property to be handed over to the buyer until the moment of delivery;
2. Hand over the goods for sale at a predetermined time or if the time has been determined at the request of the buyer;
3. Bear the material that is sold.

Meanwhile, the buyer's obligation according to Article 1513 of the Civil Code reads : "The buyer's primary obligation is to pay the purchase price at the time and place specified in the agreement".

The legal regulation regarding *E-Commerce* transaction documents carried out by sellers and buyers refers to the Corporate Documents Law No. 8 of 1997 where it is stated in Article 1 point (2) "Company documents are data, records and/or information made and or received by the company in the context of carrying out its activities either written on paper or other means or recorded in any form that can be seen, read or heard".

Based on the Corporate Documents Law, it is basically divided into 2 (two) types of documents, as stated in Article 2 of the Constitution which states that company documents consist of:

1. Financial documents, consisting of records, proof of bookkeeping and supporting data for financial administration which are the basis of the rights and obligations as well as business activities of a company.
2. Other documents consist of data or any writing that contains information that has useful value for the company even though it is not directly related to financial documents.

Furthermore, in Article 9 of the Constitution, it is stated that records must be made according to the company's needs and signed by the company's leaders or appointed officials within the company concerned. Then Article 10 of the Constitution states that there are 2 types of fixation, namely:

1. Notes that must be made on paper such as; annual balance sheet, annual profit and loss calculation or other writings that describe the income statement.
2. Records that may be made on paper or other means, such as accounts, daily transaction journals or any writing that contains rights and obligations and other matters related to the company's business activities.

In Chapter III Article 12 of the Constitution, it is also regulated regarding the transfer of the form and form of information storage media and its legalization, namely by allowing the company's documents to be transferred to microfilm media or other media and faithfully the transfer of the form must be legalized by the company's leaders or officials appointed within the company concerned.

Regarding the procedure for transferring company documents into microfilm or other media and legalization is regulated in Government Regulation No. 88 of 1999. As valid evidence in Article 16 of this Government Regulation states:

1. Documents that are transferred to microfilm or other media or printed copies of them are valid evidence.
2. Printed documents that have been transferred to microfilm can be legalized for the purposes of court proceedings and other legal interests.

So if there is a dispute between the seller (*merchant*) and the buyer, the e-commerce transaction documents stored in the merchant seller database and *print out* the transaction evidence owned by the buyer can be used as evidence in court or other legal proceedings.

Payment methods in *e-commerce* as a form of protection for consumers in *e-commerce* transactions. At this time there are many methods that can be used for payment *for e-commerce* transactions, with *this e-commerce*, an effective, fast and reliable payment method is needed. In conventional transactions, payments can be made using cash, checks, credit cards or debit cards. While in e-commerce transactions payments are made a little differently, usually in this transaction payments are usually made electronically. Below we will explain more about payment methods in *e-commerce transactions*.

1. Payment by credit/debit card
2. In the world of credit cards/debit cards, there are several parties that play a role in *E-Commerce* transactions. Credit card/debit card holders are called cardholders. Credit/debit cards are issued by a bank, commonly called an issuer. These banks license credit card/debit card brands from credit/debit card institutions such as Visa, *Master Card* or *Maestro*. Furthermore, merchants who can accept credit cards/debit cards also have a relationship with a bank, known as acquirer. With this acquirer, the merchant has an account that will "hold" money from cardholders.

There are several steps that are taken when making an *E-Commerce* transaction using a credit card

1. Consumers choose the goods to be purchased on the merchant's website;
2. After the price is totaled, then the consumer enters his credit/debit card information on the payment slip form that has been provided by the merchant's website;
3. The information is then sent to the merchant's *web server* along with other purchase information;
4. A gateway system, the merchant will carry out the authorization process;
5. The Merchant authorizes the Acquirer to be subsequently forwarded to the *issuer* through the credit/debit card network;
6. After checking the validity of credit/debit card information, *the issuer* will send the results to the consumer through the merchant's website;

7. If the authorization is successful, the merchant authorizes the transaction and delivers the purchased goods to the agreed address.

Various ways are usually done by *merchants* and banks to prove to consumers that the payment process has been done properly, such as:

1. Notification via e-mail regarding the status of the transaction of buying and selling products or services that has been carried out.
2. Sending electronic documents via e-mail or related sites containing "minutes" of the sale and purchase and purchase receipts detailing details regarding the payment method that has been made.
3. Delivery of payment receipts by courier to the consumer's address or location.
4. Recording of payment transactions by banks or financial institutions whose reports will be provided periodically at the end of the month.

The payment process is guaranteed in a system that has been created to secure the process carried out over the internet.

CONCLUSION

Based on the results of the discussion, it can be concluded that the consensual nature of the sale and purchase according to Article 1458 reads "The sale and purchase is considered to have occurred between the two parties immediately after they reach an agreement on the goods and prices, even though the goods have not been handed over or the price has not been paid", so it can be concluded that by mentioning the word "agreed" without having to make a writing, deed and so on, then an agreement has been born legally or binding on the parties who make it and it applies as a law for those who make it. The legal regulation regarding E-Commerce transaction documents carried out by sellers and buyers refers to the Corporate Documents Law No. 8 of 1997 where it is stated in Article 1 point (2) "Company documents are data, records and/or information made and or received by the company in the context of carrying out its activities either written on paper or other means or recorded in any form that can be seen, read or heard". In Chapter III Article 12 of the Constitution, it is also regulated regarding the transfer of the form and form of information storage media and its legalization, namely by allowing the company's documents to be transferred to microfilm media or other

media and faithfully the transfer of the form must be legalized by the company's leaders or officials appointed within the company concerned. So if there is a dispute between the seller (merchant) and the buyer, the e-commerce transaction documents stored in the merchant seller database and print out the transaction evidence owned by the buyer can be used as evidence in court or other legal proceedings. Payment methods in e-commerce as a form of protection for consumers in e-commerce transactions.

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