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LEGAL REVIEW OF COMPENSATION FOR BREACH OF ACTS IN TUGBOAT RENTAL AGREEMENT (Study of Supreme Court Decision of the Republic of Indonesia Number 1116 K/Pdt/2023)

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ABSTRACT

Agreements made orally are very dependent on the presence of witnesses in making the agreement.. The problem formulation in this thesis is howThe legal force of a warehouse rental agreement made orally, what are the judge's considerations in the Supreme Court Decision of the Republic of Indonesia Number 2368 K/Pdt/2019. Oral agreements also have legal force to bind the parties who made them, so that if there is a breach of contract in an oral agreement, the oral agreement can be used as a basis to declare someone in default. The legal force of a warehouse rental agreement made orally has legal force to bind the parties who made it, so that if there is a breach of contract in an oral agreement, it can be used as a basis to declare someone in default. Oral agreements must be carried out by the parties who made them, because the parties must comply with what they have agreed to, this obligation arises from the agreement itself which has the force of law for the parties who made it (formulation of Article 1338 of the Civil Code), as long as the agreement is declared valid in accordance with the formulation of Article 1320 of the Civil Code which is a requirement for the validity of the agreement

1. Introduction

Humans need cooperation to meet their needs. Therefore, they need each other and engage in agreements, usually between people who already have a high level of trust. The parties to an agreement typically do not want to be burdened by the rules that must be met when making an agreement. The key to ensuring the implementation of an oral agreement is mutual trust.

Legally, an agreement is "an event in which one person makes a promise to another or in which two people mutually promise to carry out something." As a result of this event, a relationship arises between the two people called a contract. This contract creates a bond between the two people who make it. An agreement in its form is a series of bonds containing promises or commitments that are spoken or written.

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"Agreements are the most important source that gives rise to obligations. Most obligations are born from agreements, but there are also obligations that are born from laws." The existence of agreements as one of the sources of obligations can be found in the provisions of Article 1233 of the Civil Code (hereinafter referred to as the Civil Code) which states that: "Every obligation is born, whether because of an agreement or because of a law."

This provision is further emphasized by the formulation of the provisions of Article 1313 of the Civil Code, which states that: "An agreement is an act in which one or more people bind themselves to one or more other people." An agreement is a legal relationship, meaning a relationship that is regulated and recognized by law. This legal relationship needs to be distinguished from relationships that occur in social life based on politeness, propriety and morality. Denial of such relationships will not have legal consequences. Therefore, relationships that are outside the legal environment are not obligations.

An agreement creates rights and obligations in the field of property law for the parties who make the agreement. By making an agreement, the party making the agreement voluntarily commits himself to hand over something, to do something, or not to do something for the benefit and benefit of the party to whom he has promised or bound himself. Voluntary in nature, an agreement must be born from the will and must be carried out in accordance with the intentions of the party making the agreement.

The agreement must include active, reciprocal interaction between both parties to carry out their respective rights and obligations, such as in a rental agreement, where for the agreement to occur there must be an agreement from both parties.

People generally enter into lease agreements using private agreements and verbal agreements, this is because people consider private or verbal agreements easier, more efficient, and cheaper than using agreements with authentic deeds. Private deeds are "deeds made by the parties without involving an authorized official such as a notary or other authorized official

2. Research Method

"The nature of the research used in this study is descriptive, namely research that is explanatory in nature and aims to obtain a complete picture (description) of the legal conditions that apply in a particular place and at a particular time that occurs in society."

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3. Results And Discussion

The term agreement in contract law is the equivalent of the term contract in English. The term contract in Indonesian has actually been around for a long time, and is not a foreign term. For example, in Indonesian law the term 'freedom of contract' is known.

A contract, or what is more legally called an agreement, is a statement of will or a promissory agreement between two or more parties that can create, modify, or eliminate a legal relationship. "The parties who bind themselves in a contract agreement have the rights and obligations to do or fulfill everything stated in the contract that has been agreed upon by the parties, which usually concerns rights and obligations."

According to Richard Burton Simatupang, contracts usually begin with a discussion, introduction and subsequent level discussions (negotiations), to mature the possibilities that may occur, the contract will be signed when it is truly mature (complete and clear).

According to scholars, including Abdul Kadir Muhammad, the formulation of the agreement in the Civil Code is less than satisfactory, because it contains several weaknesses, namely.

a. Only concerns one party
   This is known from the formulation "one or more people bind themselves to one or more other people". The verb "bind" only comes from one party, not from both parties. The formulation should be "mutually bind themselves", so there is a consensus between the parties.
b. The word action also includes without consensus
   The definition of "act" includes the act of carrying out tasks without authority*(zaakwaarneming)*, an unlawful act (onrechtmatige daad) that does not contain consensus. The word "consent" should be used.
c. The definition of an agreement is too broad
   The definition of an agreement in the aforementioned article is too broad, as it also encompasses marriage and marriage promises, which are regulated under family law. In reality, the intended definition is only the relationship between debtors and creditors in the realm of property. The agreements required by Book Three of the Civil Code are actually only material agreements, not personal ones.
d. Without mentioning the purpose
   In the formulation of the article, the purpose of entering into the agreement is not stated, so the parties are not clear for what purpose.

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Based on the reasons above, it is necessary to reformulate the meaning of an agreement. Sudikno said that an agreement is "a relationship between two or more parties based on an agreement to give rise to law." R. Wirjono Prodjodikoro said that an agreement is "a legal relationship regarding property between two parties, in which one party promises or is deemed to have promised to do something or not to do something, while the other party has the right to demand the implementation of that promise."

Based on the description above, it is clear that an agreement has both a broad and a narrow meaning. The narrow meaning of an agreement only applies to legal relations in the field of property, as defined in Book III of the Civil Code.

Based on several definitions of the agreement, the elements that form the definition of an agreement are:

a. There are parties who promise
b. The agreement is based on agreement / conformity of will;
c. An agreement is a legal act or legal relationship;
d. Located in the area of wealth;
e. The existence of rights and obligations of the parties;
f. Give rise to binding legal consequences.

There are some things that need to be clarified regarding the six elements mentioned above, for example, the change in the concept of a contract, which according to the Civil Code is considered an agreement merely as an act (handeling), was then refined by scholars to become a legal act (rechtshandeling) and the latest development is called a legal relationship (rechtsverhoudingen). Therefore, civil law experts want to find the difference between a legal act and a legal relationship. This difference is not only about the terminology but more about the substance conveyed by the definition of the agreement.

Sudikno Mertokusumo explains the difference between legal acts and legal relations that give rise to the concept of an agreement as follows: that the legal act (rechtshandeling) that has been meant in the sense of an agreement is a two-sided legal act (een tweezijdigerechtshandeling) namely the act of offering (aanbod) and acceptance (aanvaarding). It is different if an agreement is said to be two legal acts each containing one (twee eenzijdige rechtshandeling) namely an offer and acceptance based on an agreement between two people who are related to each other to give rise to legal consequences, then the concept of such an agreement is a legal relationship (rechtsverhoudingen).

In relation to the development of the understanding of the contract, Purwahid Patrik concluded that "a contract can be formulated as a legal relationship between two parties where each carries out a unilateral legal act, an offer and acceptance."

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According to Sudikno J. Satrio, there are 3 (three) elements in a contract, namely:
a. Essential elements;
b. Natural elements;
c. Accidentalia elements.

Essential elements are contract elements that must always be present in a contract, absolute elements, without which no agreement can exist. Therefore, these elements are essential for the creation of a contract and must be present for the agreement to be valid, thus constituting a requirement for a valid contract.

The natural element is a common element inherent in contracts, that is, an element that, without being specifically agreed upon in the contract, is tacitly assumed to exist in the agreement because it is inherent or inherent in the contract. Therefore, this element is regulated by law, but can be removed by the parties. Therefore, the nature of this element is aanvullendrecht (the law regulates).

The element of accidentalia is an element that must be included or explicitly stated in the contract. This element is added by the parties to the contract, meaning the law does not regulate it. Therefore, this element must be expressly agreed upon by the parties.

Leases or rental agreements are regulated in Articles 1548 to 1600 of the Civil Code. The provisions governing rental agreements are contained in Article 1548 of the Civil Code, which states: "Leases are agreements by which one party binds himself to provide another party with the enjoyment of an item for a certain period of time and with the payment of a price, which the latter party undertakes to pay."

A lease is a consensual agreement, meaning that it is legally binding upon reaching an agreement on its essential elements, namely the goods and their price. A lease is an agreement by which one party binds himself to provide another party with the enjoyment of an item for a certain period of time and in exchange for a price which the latter party agrees to pay.

Leasing is a reciprocal agreement. Renting means using something by paying rent, and renting means using by paying rent. Leasing is the transfer of goods by the owner to another person to start and collect the proceeds from the goods, with the condition that the user pays rent to the owner. Leasing is "an agreement between the lessor and the lessee. The lessor hands over the goods to be rented to the lessee for their full enjoyment."

Based on the definition above, in a lease agreement, there are two parties: the lessor and the lessee. The lessor is obligated to hand over the goods for the lessee's enjoyment, while the lessee is obligated to pay the rental fee. The goods

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handed over in a lease are not for ownership, as in a sale and purchase agreement, but are solely for their use.

The essential elements of a lease are the goods, the price, and the specific timeframe. A lease agreement is a consensual agreement, formed based on mutual agreement between the parties, who are mutually bound. The only difference from a sale and purchase is that the leased object is not to be owned by the lessee, but only for use or enjoyment. Therefore, the transfer of goods in a lease only transfers control over the leased goods, not ownership.

Leasing, like buying and selling and other agreements, is generally a consensual agreement, meaning it is binding upon reaching an agreement on its essential elements, namely goods and services. This means that if what one party desires is also desired by the other party, and they mutually desire the same thing, then a lease agreement can be said to have occurred.

Based on the definition of leasing, it can be seen that the elements listed in the leasing agreement are:

a. There is a party who rents and a party who rents;
b. There is an agreement between both parties;
c. The existence of a rental object;
d. There is an obligation on the part of the lessor to hand over the enjoyment of an object to the lessee;
e. There is an obligation for the tenant to hand over the rent money to the party renting it out

4. Conclusion

Consent must be given freely, and consent given due to misunderstanding (dwaling), coercion (dwang), or fraud (bedrog) means that the consent given is clearly a flawed consent. Such consent can be revoked, but it is not automatically void. A revocable misunderstanding or misapprehension must concern the essence of the agreement. Therefore, it must concern the object or desired performance. A misunderstanding (dwaling) regarding the person does not invalidate the agreement. Only a misunderstanding regarding the object does.

Coercion that can eliminate the problem of permission in agreement is coercion in the nature of having no choice. Such is the force of violence that is threatened, that the person concerned has no other choice but to carry out the act that is being forced. Coercion is absolute or absolute in nature which causes a person to be forced to follow the wishes of the person forcing him so that he cannot avoid the coercion

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