

LEGAL CONSEQUENCES OF UNILATERAL REVOCATION OF A POWER OF ATTORNEY BY A CLIENT FROM THE PERSPECTIVE OF A RECIPIENT AGREEMENT IN THE GRANTING OF POWER OF ATTORNEY TO SETTLE CIVIL CASES IN COURT

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ABSTRACT

Representative institutions are widely used in practice because they can facilitate the journey through legal traffic. This representation gives rise to the giving of orders and the person who has been given power of attorney can carry out the legal act on behalf of the person who gave the power of attorney or it can also be said that he represents the principal acting in law. This means that what he does is at the expense of the principal and all his rights and obligations arising from the actions he does become the rights and obligations of the person who gave the power of attorney. The formulation of the problem in this study is how the legal regulation of the power of attorney agreement for the settlement of civil cases in court, what is the legal responsibility if one party defaults in the power of attorney agreement for the settlement of civil cases in court, what are the legal consequences of unilateral revocation of the power of attorney in the power of attorney agreement for the settlement of civil cases in court from the perspective of a reciprocal agreement.

1. Introduction

A person facing a legal problem typically seeks the assistance of a lawyer, also known as an advocate, to act as a legal aid provider or legal services provider to the public or clients facing the legal problem.

An advocate is a professional who provides legal services in carrying out their duties and functions. They also act as a companion, provide legal advice, and act as legal counsel for and on behalf of the principal. This agreement is generally formalized in the form of an agreement.

In this legal aid agreement, each party has rights and obligations that must be fulfilled. These rights and obligations of the parties are stated in the agreement, which defines the terms of the agreement as written in the deed. If one party



fails to perform or fulfill the promised performance, that party is considered to be in breach of contract, and the injured party can seek compensation from the party causing the loss.

In practice, the agreement is not properly implemented because one party has been proven to have committed a breach of promise or breach of contract but has not shown good faith to resolve the matter. When this breach occurs, the injured party files a lawsuit demanding compensation or redress from the party causing the loss. These legal aspects and legal consequences are problematic in practice, even if the parties have agreed to the terms of the agreement.

A principal/client in a legal aid agreement can unilaterally revoke the attorney/advocate's power of attorney. This is regulated by Article 1813 of the Civil Code, which permits the unilateral termination of a power of attorney agreement.

These provisions can be applied to the relationship between the recipient and the service provider, in this case, between the client and the attorney/advocate. The fundamental nature of the legal profession is to represent anyone who requires legal assistance/consultation to sue or seek justice for that party, provided the attorney/advocate is requested by the party concerned.

2. Research Methods

This research is descriptive in nature, beginning with the collection of data related to the problem being discussed. Then, it is compiled, classified, analyzed, and interpreted to obtain a clear picture of the phenomenon being studied.

The type of research used is normative juridical, which is conducted by examining secondary data such as legislation, court decisions, and other sources.

The data collection technique used is library research. This method involves examining written sources from scholars, obtained from books in the form of scientific theoretical materials concerning provisions regarding breach of promise (default) in legal aid agreements.

3. Results And Discussion

Results

Power of attorney is a power, a strength, or an authority. The Civil Code does not provide a clear definition of power of attorney; it only provides an understanding of granting power of attorney.¹² According to Article 1792 of the Civil Code, which is the opening provision, it only addresses granting power of attorney. In this article, granting power of attorney is defined as an agreement



whereby one person grants power to another person, who receives it, to carry out an activity for and on behalf of the grantor.

A power of attorney agreement is an agreement whereby one person grants power or authority to another person, who receives it, to carry out an activity for and on behalf of the grantor. A person who has received such power of attorney will perform a legal act on behalf of the grantor. This means that the actions of the grantee are the responsibility of the grantor. Any rights and obligations arising from the grantee's actions are the rights and obligations of the grantor. If the grantor enters into or concludes an agreement, the grantor is a party to the agreement.

This act of granting power of attorney can also be referred to as an act of representation. This representation can be divided into two, namely, direct representation and indirect representation. In indirect representation, the party representing or the party receiving the power of attorney is bound by the rights and obligations arising as a result of the legal actions he carries out, which will then be handed over to the party represented or the party granting the power of attorney, so that in this indirect representation there are two forms of legal acts, namely legal acts between the party receiving the power of attorney and a third party, as well as legal acts between the party receiving the power of attorney and the party granting the power of attorney. While in direct representation, the person represented or the party granting the power of attorney is directly bound in the legal relationship arising from the legal actions of the person representing him or the party receiving the power of attorney, so that in this direct representation there is only one legal act.

4. Discussion

A power of attorney, as a reciprocal agreement, creates rights and obligations between the grantor and the grantee. As the grantor and as a party to a power of attorney agreement, the grantor is obligated to fulfill every agreement made between the grantor and the grantee, and must act or refrain from acting in accordance with the terms of the agreement. In his or her capacity as the grantor, regarding costs or advances incurred by the grantee in carrying out the power of attorney granted to him or her, the grantor is obligated to return or reimburse the costs or advances incurred by the grantee. If a fee is agreed upon for carrying out an act delegated to the grantee, the grantor is obligated to pay the fee, regardless of whether the grantee is successful or unsuccessful. However, this is an exception if the grantee makes a mistake in carrying out the act delegated to him or her.





The grantee or the power of attorney has obligations as stipulated by law. Until the power of attorney is released from exercising their powers, they are responsible for all costs, losses, and interest that may arise from failure to exercise their powers. They are required to complete any work begun upon the death of the principal. Failure to do so promptly could result in losses.

The principal is obligated to carry out all matters authorized to them. As the principal, they must not exceed the scope of their powers. Therefore, the performance of the powers granted must be in accordance with the agreements agreed in the power of attorney agreement. If the principal exceeds the scope of their powers, the principal may sue the principal to enforce the agreement.

The principal is obligated to complete all unfinished matters. Once this is complete, the principal is permitted to resign. In other words, even after the principal has died, the principal must work to complete all matters. Only after the principal has been released will they be released after reporting the results to the heirs and properly accepting the accountability.

The obligations assumed by the authorized person will certainly result in the actions of the authorized person. By law, the authorized person is held responsible for all actions performed for the benefit of the principal, should they fail to perform their duties.

Article 1806 of the Civil Code states that: "An authorized person who has notified the person with whom they entered into an agreement in their capacity as authorized person is not responsible for anything that occurs outside the scope of the authorized person's power of attorney, unless the authorized person personally binds themselves to be responsible for anything not authorized to them by the principal."

The purpose of granting absolute power of attorney is to provide legal certainty to the land buyer. Therefore, if all the requirements for a deed of sale and purchase have been met, the seller's involvement in the transfer of land rights or the transfer of ownership is no longer required. However, Minister of Home Affairs Instruction Number 14 of 1982 stipulates that granting absolute power of attorney in connection with a binding land sale and purchase agreement (PPJB) is not considered to be the same as granting absolute power of attorney, which is prohibited.

Apart from the obligations described previously, there are other obligations of the power of attorney where the power of attorney is required to report everything he or she has done in the exercise of that power. Article 1802 of the Civil Code confirms this as follows: The recipient of the power of attorney is obliged to provide a report on what has been done and provide an accounting to the person giving the power of attorney regarding everything he has received





based on his power of attorney, even though what he received should not have been paid to the person giving the power of attorney.

From the description above, it is clear that the principal's obligation is to be accountable for all legal actions undertaken by the principal. However, this responsibility does not fall on the principal. Article 1806 of the Civil Code states: A principal who has legally notified the person with whom he or she has entered into an agreement in his or her capacity as attorney is not responsible for what occurs outside the scope of the power of attorney unless he or she personally commits to it.

If the principal has not committed any negligence, the principal cannot be held liable for the repayment of advances and costs or the payment of such fees, even if the case is unsuccessful (Article 1808 of the Civil Code). Failure to succeed cannot be blamed on the principal, provided they have performed their best and acted within their authority. The principal remains obligated to fulfill all obligations to the principal. For example, a lawyer who fails to win a case is entitled to his or her honorarium and the repayment of all advances and costs incurred for the principal's benefit.

Likewise, the principal must compensate the authorized person for any losses suffered while exercising their power of attorney, provided the authorized person has not acted negligently. Furthermore, according to Article 1819 of the Civil Code, the authorized person must pay the authorized person interest on advances made by the authorized person, calculated from the date of issuance of the advances.

This interest, as often explained elsewhere, is a 6% (six percent) annual moratorium interest. If a power of attorney is appointed by several individuals to represent their joint affairs, each of them is fully responsible to the authorized person for all consequences of the granting of the power of attorney (Article 1811 of the Civil Code).

Written law contains unwritten norms within society that effectively regulate social behavior. These norms are essentially societal in nature, so called because norms are not only related to social life but also a product of social life. According to Hans Kelsen, responsibility is in line with Article 1365 of the Civil Code, which states that unlawful acts that result in losses must be sanctioned as a form of accountability for the actions committed by legal subjects. The concept of legal responsibility relates to legal liability for actions committed by an individual or group that violate the law.

A related concept to legal obligation is legal responsibility (accountability). A person is legally responsible for a specific act or is liable for sanctions if their actions violate the law. Typically, when sanctions are directed at the direct





perpetrator, a person is responsible for their own actions. In this case, the subject of legal responsibility is identical to the subject of legal obligation.

The importance of determining the obligations that must be fulfilled by the obligated party. The obligation to provide something, do something, or/and not to do something is referred to as performance. Performance in fulfilling the aforementioned obligations has two important elements: first, it relates to the issue of legal responsibility for the obligated party's performance. Second, it relates to the responsibility to fulfill the obligation from the obligated party's assets, regardless of who is obligated to fulfill the obligation. Conversely, if the debtor fails to fulfill its obligations, it is known as a breach of contract.

Legal consequences are the source of the rights and obligations of the legal entities involved. For example, entering into a sales and purchase agreement creates a legal consequence: one legal entity has the right to receive goods and the obligation to pay for them. Likewise, another legal entity has the right to receive money and the obligation to deliver the goods. Clearly, the actions of a legal entity against a legal entity give rise to legal consequences. This legal consequence manifests itself when a person engages in a sale and purchase, creating a legal relationship between the two parties.

The purpose of an agreement is none other than to be fulfilled by the person or parties entering into it. Fulfilling a promise made and agreed upon also means prioritizing the other person to whom the promise was made. Therefore, it is undeniable that in human interaction, what is often called breach of contract often occurs.

The performance of an agreement essentially takes a specific form, whether to provide something, to do something, or to refrain from doing something. In practice, it is possible that the performance will not be realized as expected, and the law will subsequently declare the party unable to fulfill the performance negligent or in breach of promise (default).

Given this breach of contract, it is crucial to have contract law regulations that govern the ins and outs of events related to a breach of contract. Breach of promise here means failing to keep a promise as intended. Therefore, in general, breach of contract can be defined as the performance of a performance or obligation that does not meet expectations.

5. Conclusion

The legal provisions for power of attorney agreements for civil case settlement in court are regulated in Article 1793 paragraph (1) of the Civil Code. The granting of power of attorney, in addition to being based on mutual consent, can be set





forth in an authentic deed, privately, or verbally, and must comply with Article 1320 of the Civil Code, which states that for an agreement to be valid, the parties must agree to all matters contained in the agreement and provide their consent or agreement if they desire what is agreed upon.

Legal responsibility if one party defaults on a power of attorney agreement for civil case settlement in court is the party in breach of contract, and is responsible for all losses incurred by that default. Therefore, the party in breach must compensate the other party. Therefore, it is important to carefully review the terms of a power of attorney agreement before signing it to ensure that the parties understand their respective responsibilities.

The legal consequences of unilaterally revoking a power of attorney in a power of attorney agreement for civil case settlement in court, from the perspective of a reciprocal agreement, can be declared an unlawful act. Unilateral revocation of power of attorney by a client can affect the fulfillment of the rights and obligations agreed upon in the agreement. If the client, as the grantor of the power of attorney, fails to fulfill their obligations, this can lead to a dispute because the revocation results in losses for the advocate as the recipient of the power of attorney. These losses include material losses, which can be measured in monetary terms, and immaterial losses, which cannot be measured in monetary terms. These two losses occur when there is a breach of contract or an unlawful act.

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