

A LEGAL REVIEW OF JOINT AND CONSEQUENTIAL LIABILITY FOR BREACH OF DEBT AGREEMENTS (Study of Supreme Court Decision Number 1017 K/Pdt/2021)

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ABSTRACT

Breach of contract implementation is a phenomenon that often occurs in practice. Many factors cause breach of contract, either due to the fault of the parties or beyond the fault of the parties. A joint liability lawsuit is one form of lawsuit that can be used in civil disputes, namely if one party is in default as in a housing development agreement. As a result of the law of default on the joint liability agreement for debts, the injured party files a lawsuit so that the party causing the loss can complete the payment. Other losses due to default that do not fulfill the debt agreement result in the loss of expected profits if there is no default, so that the parties who cause losses together (jointly liable) must pay and provide compensation for delays and deliberate failure to pay their debts. The conclusion of the discussion is that the legal considerations of the judge in the decision of the Supreme Court of the Republic of Indonesia Number 1017 K / Pdt / 2021 are that the defendants were proven to have purchased goods in the form of granite for which payment was made in installments or installments but until the agreed time the Defendants did not fulfill their obligations to the plaintiffs even though they had been warned by the plaintiffs.

1. Introduction

Humans require cooperation to meet their needs, thus interdependently requiring each other to engage in a mutually beneficial relationship. An agreement begins with a difference or dissimilarity of interests between the parties. The formulation of such an agreement generally begins with a negotiation process between the parties. Through negotiation, the parties attempt to create a mutually agreed-upon agreement to achieve mutually desired outcomes (interests) through bargaining.

An agreement creates rights and obligations within the realm of property law for the parties involved. By entering into an agreement, the parties voluntarily commit themselves to surrender, perform, or refrain from performing an act for the benefit and benefit of the party to whom they have made the promise or commitment.

One form of agreement found in society is a debt agreement between a creditor (lender) and a debtor (borrower). If someone wishes to develop their economy but

lacks sufficient capital, they can borrow money from others or through a bank, which is called credit.

When an agreement is reached between the parties, there is active, reciprocal interaction between both parties to exercise their respective rights and obligations, as in a debt agreement. If one party fails to fulfill its agreed obligations, a breach of contract occurs, known as a breach of promise or default.

Breach of contract, which occurs when one party to an agreement fails to perform as promised, is particularly vulnerable to oral agreements. This is due to the lack of strong evidence to prove the validity of the agreement, and oral agreements rely solely on the testimony of witnesses present at the time of the agreement, making it easy for one party to commit a breach.

One case of breach of contract resulting from one party's improper performance can be seen in Supreme Court Decision No. 1017 K/Pdt/2021. The occurrence of a breach of contract by one party carries legal consequences, namely joint and several liability for the parties.

The parties in this decision are PT. Bintang Muda Kreasi (Plaintiff I) PT. Mega Graha Nusantara (Plaintiff II) against PT. Asia Bangunan Center (Defendant I) and Anto Wijaya (Defendant II). The plaintiffs filed a lawsuit against the defendants due to not making payments on their obligations to the plaintiffs amounting to Rp.320,916,800.00 (three hundred twenty million nine hundred nineteen thousand eight hundred rupiah). As a result of the defendants' actions which have committed default/breach of promise by not making payments, the plaintiffs suffered losses both materially and immaterially.

2. Research Methods

The research used in this study is descriptive, meaning it is explanatory and aims to obtain a complete picture (description) of the legal situation prevailing in a particular place and at a specific time in society.

The approaches used in this study are the statute approach and the case approach. The statute approach is conducted by analyzing laws and regulations related to the legal issue being addressed. The case approach is conducted by examining cases related to the issue at hand that have become court decisions with permanent legal force.

As a consequence of the normative juridical method, data collection techniques are used through library research, which includes regulations, decisions, scientific books, research results, notes, and reports related to the problem being studied.

3. Results And Discussion

According to Article 1282 of the Civil Code, a joint liability agreement only exists

between a creditor and a debtor if it is clearly stated in the agreement that forms it. In principle, joint liability applies if one or more partners fail to fulfill their obligations. The other partners, in accordance with the agreement, are obligated to pay the defaulting partner. In this case, an external legal relationship applies, namely the legal relationship between the debtor and the creditor.

In this external legal relationship, each debtor is responsible for all obligations to the creditor. The creditor has the right to request fulfillment of obligations by selecting one debtor, but can also demand fulfillment from all debtors. Fulfillment of all obligations by one debtor releases the other debtors.

The internal legal relationship between debtors gives the debtor who has fulfilled the obligation the right to demand repayment from the other debtors, each in accordance with their respective share. Default by a partner can be identified from the provisions on the classification of partner conditions. Partner condition classification is a classification of partner performance by creditors, conducted to early detect potential problems in partners.

Joint liability applies to debt agreements, where each party is jointly and severally liable. Based on the agreed-upon agreement, a problem arises, namely, non-fulfillment of payment obligations. This could be due to the partner company's default on the terms of the agreement.

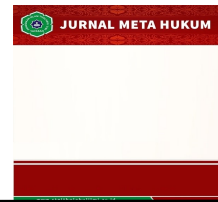
Due to the default of one party in the debt agreement, the injured party can file a lawsuit against the party causing the loss. A joint liability lawsuit is one form of lawsuit that can be used in civil disputes.

4. Discussion

Joint liability lawsuits are filed in breach of contract disputes between more than two parties. This is evident in Articles 1278 and 1280 of the Civil Code, which explain the concept of joint liability in contractual relationships.

Joint liability lawsuits can be filed when a breach of contract occurs. For example, a breach of contract dispute involving joint liability is discussed in Supreme Court Decision No. 1017 K/Pdt/2021. In this case, the plaintiffs (PT. Bintang Muda Kreasi and PT. Mega Graha Nusantara), legal entities established under Indonesian law, engaged in the trade and sale of building materials, supplied goods to the store of Defendant I (PT. Asia Bangunan Center).

The plaintiffs filed a joint and several lawsuit against Defendant I (PT. Asia Bangunan Center), a legal entity established under Indonesian law and regulations, which ordered and received goods from Plaintiff I and Plaintiff II. Anto Wijaya (Defendant II), an Indonesian citizen, is the Director of PT. Asia Bangunan Center and has pledged, provided, and signed a statement of debts and/or claims owed by Defendant I (PT. Asia



Bangunan Center) to the plaintiffs. The lawsuit stems from a breach of contract.

This breach arose because the Defendants had ordered or purchased granite from the Plaintiffs in installments. However, by the time this lawsuit was filed, the Defendants had failed to make payment for the purchased goods. The Defendants had failed to fulfill their obligations to the Plaintiffs, amounting to Rp320,916,800.00 (three hundred twenty million nine hundred sixteen thousand eight hundred rupiah), despite warnings from the Plaintiffs. The parties are bound to comply with the agreement they have entered into, along with the rights and obligations arising from it. These rights are legally protected in relation to interests, which are demands of one party that are expected to be fulfilled. These interests essentially contain powers guaranteed and protected by law in their implementation.

If an agreement stipulates that the object of the agreement will be delivered by a specified time, but the object is not delivered at that time, even though the time for delivery has arrived, then this is considered a breach of contract or a breach of promise, i.e., the failure to fulfill the promise, whether intentionally or unintentionally.

If one party to a housing development agreement fails to fulfill its promise by the specified time, the aggrieved party is required to issue a warning so that the other party can fulfill its obligations.

This breach of contract entails the right of the aggrieved party to sue the defaulting party for compensation. Therefore, the law expects no party to suffer any loss due to the breach. This breach of contract can occur intentionally, negligently, or without fault (without intent or negligence).

The agreement stipulates that a party's delay in fulfilling its obligations according to the provisions and within the specified timeframe constitutes a form of breach of contract. "This violation of contractual rights gives rise to an obligation to pay damages based on breach of contract." The determination of breach of contract itself is closely related to a declaration of default, which is a message from one party notifying the latest date by which it expects performance to be fulfilled. Therefore, the deadline for the performance of the agreement itself is an integral part of determining a party's declaration of default.

Delays in fulfilling obligations can also arise from other forms of breach of contract, such as performing something that does not comply with the agreement. This form of breach of contract must also be distinguished from the negligence of the other party in failing to fulfill their obligations at all, as in such cases the other party cannot be considered late in fulfilling their obligations.

In practice, in an agreement, if a loss occurs to one party, the party causing the loss is responsible for providing compensation to the injured party. The legal basis for

liability is Article 1367 of the Civil Code, which states that a person is also responsible for losses caused by the actions of those under their control or by goods under their control.

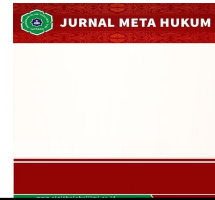
Work inevitably carries risks, namely the obligation to bear losses if an event occurs beyond the fault of either party that affects the object specified in the agreement. Therefore, the risk factor determines who should bear the loss if the buyer fails to fulfill its obligations due to fault.

If a force majeure event occurs, or circumstances beyond the reasonable control of the parties involved, and occurs suddenly, unintentionally, and unexpectedly, such as earthquakes, natural disasters, fires, riots, epidemics, war, civil war, or government regulations, all of which are directly related to this agreement, each party is released from its obligations or obligations under the agreement.

One exception to the penalty for compensation is the occurrence of force majeure. Force majeure is a condition that can prevent a right or obligation under an agreement from being fulfilled.

Force majeure can be defined as a condition that occurs beyond the fault of either party and prevents the buyer from fulfilling its obligations. However, this force majeure must be assessed until it is logically and rationally certain that the fulfillment of the obligation is impossible. Based on the Tangerang District Court's decision No. 122/Pdt.G/2019/PN.Tng, the author agrees with the decision, as the defendants' actions constituted a breach of contract due to their breach of promise to the plaintiffs. The defendants had ordered/purchased granite from the plaintiffs on an installment basis, but the defendants failed to make payment for the purchased goods. The defendants had purchased the granite on an installment basis, making incomplete payments. The Defendants have been warned by the plaintiffs or issued consecutive summonses to make payments for their obligations to the Plaintiffs amounting to Rp.320,916,800.00 (three hundred twenty million nine hundred sixteen thousand eight hundred rupiah) so that based on these considerations the plaintiffs' lawsuit is legally granted, namely punishing the Defendants to be jointly and severally liable immediately and in cash amounting to Rp.320,916,800.00 (three hundred twenty million nine hundred sixteen thousand eight hundred rupiah) plus interest on profits that should be received by the Plaintiffs amounting to 1% (one percent) per month of the debt, for 6 (six) months. With the following calculation 1% of Rp. Rp.320,916,800.00 (three hundred twenty million nine hundred sixteen thousand eight hundred rupiah times 6 (six) months or a delay equal to Rp.19,255,008.00 (nineteen million two hundred fifty five thousand eight hundred rupiah).

Then in the appeal level, the panel of judges at the Banten High Court upheld the Tangerang District Court Decision Number: 122/Pdt.G/2019/PN.Tng, dated June



24, 2019, which was appealed with the consideration that there were no new matters that needed to be considered, thus the High Court could agree and confirm the decision of the First Instance Judge because his legal considerations had contained and explained correctly and correctly all the circumstances and reasons that were the basis for his decision and were considered to have also been included in the decision at the appeal level. Thus, the legal considerations of the First Instance Judge were taken over and used as a basis in the considerations of the High Court's own decision, so that the Tangerang District Court Decision dated June 24, 2019 Number 122/Pdt.G/2019/PN Tng, can be maintained and upheld in the Appellate Court.

Furthermore, at the cassation level, the Supreme Court rejected the defendants' appeal, citing the legal grounds that the defendants had purchased granite in installments, but failed to fulfill their obligation to the plaintiffs in the amount of Rp320,916,800.00 (three hundred twenty million nine hundred sixteen thousand eight hundred rupiah) within the agreed timeframe, despite warnings from the plaintiffs.

The author agrees with the legal basis that the defendants' actions constituted a breach of contract, namely, failing to pay their debts to the plaintiffs. The author also agrees that in cases of default, debt receivables should be resolved through civil litigation and that they can be held legally accountable for compensation for the failure to fulfill their obligations.

5. Conclusion

The legal provisions governing joint and several liability in housing development agreements are Articles 1278 and 1280 of the Civil Code. A joint and several liability lawsuit is a form of lawsuit that can be used in civil disputes when one party commits a breach of contract, such as in a housing development agreement.

The legal consequences of a breach of contract under a debt receivables agreement are that the injured party files a lawsuit demanding that the party causing the loss settle the payment. Other losses resulting from a breach of contract result in the loss of expected profits, which would have been incurred if the default had not occurred. Therefore, the parties causing the loss must jointly and severally pay and provide compensation for the delay and deliberate failure to pay their debts.

The judge's legal reasoning in Supreme Court Decision No. 1017 K/Pdt/2021 was that the defendants were proven to have purchased granite, paid for in installments, but the defendants failed to fulfill their obligations to the plaintiffs by the agreed time despite the plaintiffs' warnings.

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