

Zoning the People's Market in the Middle of the Modern Shops in the Badung District Aspect of Business Competition

Ni Luh Made Mahendrawati

University of Warmadewa

Corresponding author. Email: made.mahendrawati@gmail.com

ABSTRACT

The existence of people's markets in Indonesia is not just an economic matter. However, it is also a matter of norms, cultural domains, and civilizations that have long been going on in various parts of Indonesia and are an essential aspect of the national trade system. People's markets throughout Indonesia continue to withstand attacks from modern markets. Especially in the Badung Regency Regional Regulation Number. 3 of 2017, to support the business or economy of the small community, it is hoped that they will be able to organize the rules of the game for supermarket business so as not to turn off the traders in the people's markets. This study will examine and analyze people's markets in Badung Regency and the form of community market management in providing legal protection in Badung Regency. This research method is adopted through socio-legal research, looking at the arrangement from a juridical, sociological, and philosophical point of view and its application in society. The output of this research is the discovery of a model for managing and fostering people's markets so that there is healthy business competition amid the spread of supermarkets. The input is expected to benefit economic development, tourism, and the welfare of the people in Bali, especially the Badung Regency, more concretely as an aspect in regulating and managing the people's market in Badung Regency.

Keywords: *Business Competition, Modern Shops, People's Market, Zoning.*

1. INTRODUCTION

The development of the business world today is very rapid, especially in the world of trade. Economic actors feel the impact of this free market—especially the fast-growing modern shops with various ways of offering. The people's market in Badung Regency will undoubtedly have an impact, so the regional government needs to pay special attention to protecting the community's citizens, especially in Badung regency. If left unchecked, it will result in the displacement and reduction of the people's market in Kab. Badung. The problem in this study is how the protection provided by the regional government of Badung Regency is related to the rapid development of modern markets. What are the obstacles in the implementation of supervision related to the zoning of modern markets in Kab. Badung, this research is a normative and descriptive juridical research by studying and reviewing books and regulations related to the legal protection of the people's market and modern shops known as literature study. field studies were also carried out through interviews with the head of the office of industry, trade, and cooperatives in Badung Regency

as a resource person and conducting direct interviews with small business owners in Badung Regency. In this way, it is hoped that the objectives to be achieved can be met or answered.

The type of research used in this research is the normative legal research to find out the zoning implementation of the Badung Regency Regional Regulation Regulation Number 3 Of 2017 in business competition. It seems that in its implementation, it has not provided legal protection, has not been effective due to non-compliance of modern shops in fulfilling the completeness of permits and not heeding the zoning rules that have been set as well as the indecision of law enforcement officers in providing a deterrent effect: the legal protection carried out by the Badung Regency government is felt to be not optimal because it is more directed to preventive legal protection, which is only in the form of prevention before the occurrence of violations, by providing guidance and socialization to people's market businesses and supermarkets.

2. METHOD

The method used in this research is normative legal research with a statutory approach. Primary legal materials in legislation, namely the 1945 Constitution of the Republic of Indonesia, Civil Code Law. Law no. 5 of 1999 concerning monopolistic practices and unfair business competition. Law no. 8 of 1999 concerning consumer protection, Badung Regency Regulation Number 3 of 2017, and secondary legal materials in literature, journals, documents related to modern store zoning against the public market. In the practice of the people's market, business competition in Indonesia is increasingly shifting by the proliferation of modern shops. In raising the problem more using qualitative data analysis, namely the data that has been collected from the results of the study and then analyzed descriptively by selecting the data obtained according to their quality and truth and then connected with theories and laws and regulations in order to obtain answers in this study.

3. RESULT AND DISCUSSION

3.1 The Existence of People's Markets and Modern Stores in Badung Regency

The island of Bali is an area that is the leading destination for domestic and foreign tourists. Tourist visits to Bali are not evenly distributed in all cities/districts. The distribution of tourism destinations in Bali is not evenly distributed in each city/regency. The tourism climate supports increased investment in Indonesia, especially in the province of Bali. Like other regional or local governments, Badung Regency as a tourism destination that has the right to make regulations also has regulations relating to supermarkets and people's markets, namely Regional Regulation 3 of 2017, which contains the establishment of people's markets and supermarkets, the number and distance of supermarkets, floor area and land, working hours, partnerships, people's market management, licensing, guidance and supervision as well as sanctions.

The issuance of Regional Regulation 3 of 2017 by the Badung Regency Government aims to create business certainty and orderly business that synergizes and is balanced between people's markets and supermarkets to grow and develop together in carrying out their business activities. It is supported by the Badung Regent Regulation Number 62 of 2017 concerning the Implementation of Regional Regulation Number 3 of 2017 concerning the Arrangement and Development of People's Markets, Shopping Centers and Supermarkets (hereinafter referred to as Regent Regulation 62 of 2017), which also regulates the number of supermarkets, the distance of supermarkets from other supermarkets and the distance of supermarkets from people's markets, and empowerment of people's markets.

Then the Regent's Regulation Number 46 of 2018 concerning Amendments to Regent's Regulation Number 68 of 2017 concerning Procedures for

Submitting Applications and the requirements for Issuing Business Permits for the Management of People's Markets, Shopping Centers and Modern Shops (hereinafter referred to as Regent Regulation 46 of 2018) regulates the requirements for submitting applications IUP2R, IUPP, and IUTS. All these regulations must not overlap so that when establishing, managing, and zoning supermarkets and people's markets, there are continuous or harmonious rules. This situation can harmonize laws and regulations with business competition regulations in Law No. 5 of 1999.

Table 1. Distance from People's Markets, Shopping Centers and Supermarkets Badung regency

Districts	Distance
South Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 50-100 meters outside the radius of Pasar Rakyat
Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 0-50 meters outside the radius of Pasar Rakyat
North Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 50-100 meters outside the radius of Pasar Rakyat
Mengwi	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 101-200 meters outside the radius of Pasar Rakyat
Abiansemal	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 200-500 meters outside the radius of Pasar Rakyat
Petang	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 300-500 meters outside the radius of Pasar Rakyat
South Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 50-100 meters outside the radius of Pasar Rakyat
Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 0-50 meters outside the radius of Pasar Rakyat
North Kuta	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 50-100 meters outside the radius of Pasar Rakyat
Mengwi	The distance between Pasar Rakyat and Supermarkets/Shopping Centers is 101-200 meters outside the radius of Pasar Rakyat

Table 2. Number of People's Markets, Shopping Centers and Supermarkets Badung regency

Districts	Number of Supermarkets	Supermarket Classification		
		Networking	Not Networking	Managed Independent (Local)
South Kuta	400	120	280	Unlimited
Kuta	389	116	273	Unlimited
North Kuta	408	122	286	Unlimited
Mengwi	264	78	186	Unlimited
Abiansemal	222	71	151	Unlimited
Petang	77	21	56	Unlimited
Total	1.7760	528	1.232	Unlimited
South Kuta	400	120	280	Unlimited
Kuta	389	116	273	Unlimited
North Kuta	408	122	286	

Foreign retailers or Modern Stores began to arrive and enliven the Indonesian retail industry. The presence of modern stores, in addition, in having a positive impact on the local and national economy, on the other hand, has a negative impact due to the proliferation of modern shops so that people's market business actors are reduced. Specifically, what can be noted is the folk art market which is increasingly being displaced by the proliferation of shopping centers and modern shops selling various objects that are needed by the local community. The Badung Regency Government has made a Regional Regulation as stated in Regional Regulation 3 of 2017 to support a small business or the community's economy. It is expected to regulate the game rules for supermarket businesses so as not to turn off traders in the people's market.

The people's market is managed with traditional management and implementation, namely the meeting of sellers and buyers. A price agreement occurs, and the transaction occurs after going through a direct price bargaining process. The presence of modern stores, in addition to having a positive impact on the local and national economy, on the other hand, has a negative impact due to the proliferation of modern shops so that people's market business actors are reduced. Specifically, what can be considered is the people's market which is increasingly being displaced by the proliferation of shopping centers or modern shops that sell various objects such as the people's market, which is the need for local communities to improve regulations in order to support healthy business competition in Badung Regency.

In order to create a strong economic foundation and economy that is efficient and free from market distortions, Law no. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. The emergence of this law reminds us that negative behavior from the economic system may appear in business activities that cause uncompetitiveness. Business competition is helpful as an effective way to achieve optimal utilization of resources; besides that, business competition can also be a fundamental basis for average performance for the long term and is called a sustainable competitive advantage that can be obtained through three strategies, namely cost advantage, differentiation and cost focus, (Jhony Ibrahim, 2009, page.1).

So in the economic aspect, small businesses in the form of a people's market in Badung Regency as a tourism development area are necessary so that constitutionally everyone (business actors) has equal access to existing economic resources. Thus, the importance of the Badung district government in regulating the existence of modern shops. Many parties are finally worried about the existence of the people's market seeing the increasing number of modern shops. As a result of this phenomenon, the Denpasar city government issued a regulation on modern shop management packaged in the mayor's regulation no. 9 of

2009 concerning the arrangement and development of traditional markets, shopping centers, and modern shops. This Denpasar mayor's regulation regulates the terms and quotas for minimarkets or modern stores in Denpasar. , the Regional Government of Badung Regency also continues to improve the management of the people's market. Based on an interview with Mr. I Wayan Marka as the Head of the Regional Public Company Planning Section of Pasar Mangu Giri Sedana, the primary strategy to manage people's markets is first, focusing on improving competitiveness programs. Management that is not neatly organized, dirty, and slum becomes its weakness for the survival of the people's market. Internal improvements are needed in managing the people's market to encourage the competitiveness of the people's market in balancing the presence of supermarkets.

Second, carry out a revitalization program that includes the physical construction of buildings and improvements to market facilities, including sanitation, aesthetics, and the provision of parking spaces. However, this program usually does not solve the problem. It creates new problems such as increasing kiosks but being narrower, the construction of upper floors. However, the traders do not want to sell in the area, and they often oppose this revitalization plan.

Third, good quality management through socialization and training on the importance of quality management to improve service to buyers in terms of behavior, quality, and cleanliness of goods so that they dare compete with supermarkets.

Based on the data that the author obtained from the Cooperatives, SMEs, Industry, and Trade Office, the number of supermarkets recorded until 2018 was only 679 (six hundred and seventy-nine) store units. The supermarkets owned by local people only amount to 59 (fifty-nine) units, and the rest are networked supermarkets such as Alfamart, Indomaret, Circle K, and Mini Mart. When associated with the parameters of effectiveness, whether or not the law is effective is determined by 5 (five) factors (Soerjono Soekanto, 1985; 7) as follows: The legal factor itself, in this case, Perda 3 of 2017, is a legal umbrella for the management and development of people's markets and supermarkets,

Law enforcement factors, namely the parties who form and apply the law carried out by the Civil Service Police Unit, Factors of facilities and facilities, in this case, the number of technical teams is not proportional to the number of supermarkets in Badung Regency, so it cannot be checked regularly, Community factors, namely supermarket business actors who are reluctant to take care of the completeness of licensing and establishment procedures according to what has been determined. Cultural factors, namely the culture of the people who currently have shifted where they prefer to shop at supermarkets.

Based on the author's observations, there are still many modern shops that do not heed the provisions of Perda 3 of 2017, many modern shops have erected their

buildings regardless of distance, modern open stores beyond the specified operating hours, only complete analysis of socio-economic conditions and do not carry out partnerships. What also affects the ineffectiveness of the implementation of Perda 3 of 2017 is the lack of coordination between the relevant agencies that issue permits, supervise, and enforce the law. Therefore, it can be said that the implementation of Regional Regulation 3 of 2017 in the Badung Regency has not been optimal. Based on the author's observations, there are still many supermarkets that do not heed the provisions of Perda 3 of 2017, many modern stores have erected their buildings regardless of distance, open supermarkets beyond the specified operating hours, only complete analysis of socio-economic conditions and do not carry out partnerships. What also affects the ineffectiveness of the implementation of Perda 3 of 2017 is the lack of coordination between the relevant agencies that issue permits, supervise, and enforce the law. Therefore, it can be said that the implementation of Regional Regulation 3 of 2017 in the Badung Regency has not been maximized. So it affects the existence of the people's market.

3.2 Zoning Management of People's Markets with Modern Stores in Badung Regency in Realizing Fair Business Competition

The people's market is a forum for the community as business actors in the trade sector and provides broad business opportunities for the community to create jobs. Protection of the people's market must be carried out because, especially in the case of licensing, which is a policy to control investment entering an area.

People's market and supermarket business actors who will set up their business must have a supermarket business license (IUTS) and a people's market management business permit (IUPPR) as legality from the Badung Regent. Based on an interview with Mr. I Ketut Gede Suwedharma as the Head of the Trade Division said that so far, only 85 (eighty-five) supermarkets have complete permits, the remaining 594 (five hundred and ninety-four) units do not have complete permits such as information Spatial Planning (ITR), Building Construction Permits (IMB), Environmental Permits (UKL/UPL/SPPL), especially Supermarket Business Permits (IUTS). In 2019, based on data obtained from Satpol PP, it was written that only 12 (twelve) supermarkets had a follow-up permit.

He said licensing is one of the efforts of the Badung Regency Government in providing legal protection for the people's market. Furthermore, it is necessary to supervise the ownership of the permit carried out by the Office of Cooperatives, SMEs, Industry, and Trade which is carried out in direct supervision and indirect supervision. This is where the role of the Civil Service Police Unit is needed.

Law enforcement functions as the protection of human interests, so the law must be enforced to become

a reality. Law enforcement contains 3 (three) elements, namely legal certainty, expediency, and justice. If a violation occurs, law enforcement officers can provide law enforcement in the form of preventive law enforcement by providing suggestions and solutions and coaching so that business actors are more aware and aware of the rules.

Then the form of repressive law enforcement is divided into 2 (two) namely non-judicial repressive law enforcement is carried out by giving administrative sanctions in the form of warning letters for 3 (three) times in a row within 7 (seven) days, if not followed up, the business license is suspended for a maximum period of 3 (three) months, and if it persists, the business license will be revoked. As for law enforcement in a pro-judicial repressive manner, if the Civil Service Police Unit Service steps down to conduct an investigation and a violation is found, it has the right to bring it to court.

The concept of legal protection for the people's market has been pursued through the issuance of Regional Regulation 3 of 2017, which has a philosophy so that the existence of supermarkets does not become a threat to the existence of the people's market as a weaker party so that a more robust party does not exploit it.

The Badung Regency Government has provided preventive legal protection by controlling the people's market by tightening the licensing process, limiting operating hours, and regulating the distance and number of supermarkets. Empowerment is carried out on people's market traders through partnership programs, funding, physical improvement, market management, and increasing the professionalism of people's market traders.

For repressive legal protection, it is carried out by providing administrative sanctions and criminal provisions for business actors who violate the provisions mandated in Regional Regulation 3 of 2017.

4. CONCLUSION

The implementation that regulates zoning through Perda 3 of 2017 in Badung Regency has not been implemented effectively. There are still many violations committed by supermarket business actors who operate without fulfilling the establishment procedures and do not have the required legal documents. The ineffectiveness of the implementation of Perda 3 of 2017 is supported by the lack of firmness of the relevant agencies in applying the applicable rules, the indecisiveness of law enforcement officials in imposing sanctions, and the legal culture of business actors who are reluctant to take care of permits due to complicated procedures. The impact caused by the ineffectiveness of the implementation of Regional Regulation 3 of 2017 disrupts the business competition climate. So that with the legal protection carried out by the Badung Regency Government, both preventively, namely through structuring and fostering as well as repressive legal protection by imposing administrative sanctions and criminal provisions, it can provide a deterrent effect to

violators for the realization of optimal legal protection for the people's market.

REFERENCES

- [1] B.N. Maribun, 2003, *Kamus Manajemen*, Pustaka Sinar Harapan, Jakarta.
- [2] Dewi Azimah, Kontribusi Pasar Tradisional dan Pasar Modern Terhadap Pendapatan Asli Daerah Kota Semarang Tahun 2011, *Jurnal Ilmu Pemerintahan*, Volume 2, Nomor 2, Tahun 2013, Fisip Undip, Semarang, 2013.
- [3] Jhony Ibrahim, 2009, *Hukum Persaingan Usaha (Filosofi, teori dan Implikasi penerapannya di Indonesia)*, Bayu Media, Malang.
- [4] Jun Ramadhani, 2015, Kebijakan Pemberian Izin Usaha Toko Modern Alfamart Dan Indomaret Oleh Pemerintah Kota Pekanbaru Berdasarkan Peraturan Presiden Nomo 112 Tahun 2007 Tentang Penataan Dan Pembinaan Pasar Tradisional, Pusat Perbelanjaan Dan Toko Modern, *Jurnal Online Mahasiswa, Fakultas Hukum Universitas Riau* Volume 2 Nomor .1
- [5] Mudrajad Kuncoro, 2005, *Strategi Bagaimana Meraih Keunggulan Kompetitif*, Erlangga, Jakarta.
- [6] Mahendrawati, Ni Luh Made, 2019, *Larangan Monopoli dan Persaingan Usaha Tidak Sehat Dalam Praktek Perdagangan di Indonesia*, Malang.
- [7] Ni Komang Devayanti Dewi, *Perlindungan Hukum Terhadap Pasar Tradisional Di Era Liberalisasi Perdagangan*, *Jurnal Law Reform* Volume 14, Nomor 1, Tahun 2008, Program Studi Magister Ilmu Hukum Universitas Diponegoro.
- [8] Riant Nugroho D., 2006, *Kebijakan Publik Untuk Negara-negara Berkembang Model model Perumusan, Implementasi dan Evaluasi*, Elex Media Komputindo Gramedia, Jakarta.
- [9] Royfen Sianipar, Kriteria Kebijakan Pembangunan Pasar Modern Agar Dapat Diterima Pelaku Pasar Tradisional Sesuai Dengan Konsep dan Teori Etika Utilitarianisme, www.royfensianipar.blogspot.com.
- [10] Solly Lubis, 2007, *Kebijakan Publik*, Mandar Maju, Bandung.