



Legal Protection of Borrower's Personal Data in Online Loan Application Services

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Abstract. Globalization and technology are rapidly evolving. Making things simpler is the availability of online loans, which are a result of technical advancements. Many provide more accessible and flexible borrowing terms and conditions than traditional financial institutions such as banks. However, breaches in the transmission of personal consumer data are common in some situations of online loans. In this issue, several of its clients have alleged that online loan providers have spread their data without their knowledge or consent. Personal data is disseminated by sending messages to all telephone contacts possessed by the borrower. The message comprises the borrower's information as well as the amount of debt borrowed, and it alerts the person concerned about the borrower's debt payments. To establish technical findings, this study adopted a legal method from the literature to examine online lending rules and synchronize key rules and regulations. Personal data protection laws and regulations, including those of POJK NO. 77/POJK.01/2016, letter an of article 26, require financial service providers to maintain the personal data of customers who utilize online loan application services. A lawsuit against this regulation under Section 1365 of the Civil Code to give legal certainty for consumer compensation is the overwhelming legal protection that customers who are victims of exploitation of their data by online credit activists may provide.

Keywords: Consumer Protection · Personal Data · Online Loans

1 Introduction

Rapid technological and globalization changes are occurring, particularly in electronic technology and internet networks. Of certainly, technological advancements and internet networks are the solutions to the difficulties that everyone in society faces. Furthermore, the needs of a technologically controlled practical environment necessitate the use of a smartphone with multipurpose features such as communication, transactions, documentation, and games. As a result, the advancement of technology and internet networks gives huge benefits that can transform the traditional lifestyle into a modern lifestyle with more practical features.

One of the things that exists and draws the public's attention is the emergence of online loan application services that provide a new bargaining value that is more practical

and unsecured in the debt agreement method, so many people can use it to do business, one of which is business in the business sector. Financial services are demonstrated by a variety of non-bank applications available on the internet that offer money loan services.

Online loans, being a type of financial technology, have an influence on technical advancements. Many lenders provide loans with more accessible and flexible terms and conditions than traditional lenders, such as banks. Furthermore, internet loans are seen appropriate for the Indonesian market since, despite a lack of financial access, cellular phone ownership and use is widespread. According to figures from the Association of Indonesian Internet Service Providers, the number of Internet users in Indonesia will reach 210 million by 2022, with a 50% increase in penetration [1].

Because there are so many of these online lending organizations, consumers are more lured by the programs given, even if the interest rate on an internet loan is greater than that of a bank. This causes issues for customers of these online lending businesses, particularly in terms of how to collect them utilizing terror. Furthermore, the transfer of contacts is an issue with online loans following billing with panic. Personal data privacy is minimal since lenders may access all HP and picture transactions. This is the third occurrence. Because Indonesia does not yet have a Personal Data Protection Law, commercial actors are free to do whatever they want. Similarly, the legitimate ones play two legs [2]. The installation of lending may be completed fast with this online loan. Furthermore, loan without collateral is possible. It varies from banks, who officially claim that KTA (Unsecured Loans) are not conceivable. Although banks extend credit without specific collateral, this does not imply that the granting of credit without collateral is the same [3].

With fair promises to acquire money loans, consumers flocked to install various web programs and quickly withdraw the maximum nominal amount that can be obtained without collateral. However, this must be viewed as a growth of technology and internet networks that are quite advantageous to those who want money loans swiftly and realistically. However, this online loan application service provider can access and use the borrower's data in online loan application services to collect debts that are due, namely by abusing the contact number stored on the cellphone to be contacted one by one whose message contains information. A nominal amount of debt and ordered to remind the person concerned to pay or repay the debt immediately.

Of course, this is very detrimental to the borrower in online loan application services, in which the social and psychological impact of the borrower will suffer because of the shame caused by the dissemination of personal and sensitive information, which is then known to the general public, especially the environment around the borrower in application services. In principle, the online loan event in the online loan application service is a civil relationship between the creditor and the debtor, in this case, the online loan application service provider. As a result, it must comply with the following provisions of Civil Code Article 1320: An agreement must meet four characteristics in order to be valid: 1. agreement with people who pledge themselves; 2. the ability to enter into an agreement; 3. a guaranteed item; 4. a legal reason Thus, these four factors must be completed before entering into a debt arrangement, particularly one obtained through an online loan application service. According to Subekti, the agreement should be fully

mentioned in the form of its accomplishments and also indicate how it is carried out so that neither party's right is injured during the execution of the agreement [4].

Furthermore, this online loan application service, which is available on Android and iPhone, is not legally registered with the Financial Services Authority as an application that provides online money loans. In truth, activities that damage debtors are common in society. For example, the misuse of personal debtor data, such as the use of Whatsapp stored in a debtor's data to be used as a collection method whose mode is to leak debtor information regarding money loans that he has made and has matured, and not only that, the person who was contacted was asked to remind the debtor of the delay in paying debts that were due. Of course, with something like this, the debtor will not agree to the billing method with this model because it will be very embarrassing and detrimental to the debtor.

The issue of online financial services is referred to not only as a violation of the law, but also of human rights, as stated in Human Rights Law Number 39 of 1999, Article 29 paragraph and Article 30, which states: 29th article, 8: 1. Every individual has the right to defend his or her personal, family, honor, dignity, and property rights. 2. This is the thirty-second article. Everyone has the right to feel safe and secure, as well as to be safe from the consequences of doing or not doing something. The government must take action in this area to address the issue of internet lending. According to Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services, Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, and Law Number 8 of 1999 concerning Consumer Protection, users of online loan services appear to be not fully protected by the law in this case.

Edi Supriyono's first study, Nur Ismawati, titled "A Web-Based Online Loan Fintech Information System," examines developing online fintech loan applications to assist the general population in obtaining credit, particularly those who have not been touched [5]. Yuliana Primawardani's second study, Protection of the Rights of Online Loan Service Users from a Human Rights Perspective [6] investigates online loan arrangements as a sort of financial technology.

The previous research did not address the security of personal customer data exploited by online lending service providers under the ITE Law and the Consumer Protection Law. As a result, the problems associated with online loans will persist and new victims will emerge, necessitating legal research to identify and comprehend the major issues that underpin the occurrence of problems between online loan application service providers and online loan application service users.

2 Method

After collecting primary, secondary, and tertiary legal resources, they are recognized, sorted, and systematized according to their origins and hierarchy. The legal material analysis approach employed in this study is a normative analysis technique that combines logic or legal reasoning using deductive procedures to generate findings and prescriptions on the legal issues investigated [7].

3 Result and Discussion

3.1 Legal Protection of Borrower's Personal Data in Online Loan Application Services

In modern life, of course, there are changes in the social system, especially in the context of the economy. Specifically, in this case, since the activity of borrowing money is done online, the presence of this online loan service application is indeed inseparable from the development of internet-based telecommunications network technology. Initially, it was done physically or conventionally, but now it is done online. There is no need to even meet between the receivables and the debtors, as the transaction money does not need to be physically there but digitally via transfer via mobile banking. This event is the fruit of the times' development towards the digitalization era. Everything is digital, and everything is practical and time-friendly.

The public responds enthusiastically to this, considering online loan service applications' many advantages and benefits. This application is present in the community, like a fresh wind that blows through the desert settlements. People flock to make online loans, which are very practical. The names of the online loan applications that occupy the most widely used positions are as follows: UangTeman, WinWin Loans, Prime RupiahPlus, Julo, DanaCepat, TunaiKu, and TunaiKita [8].

Aside from the ones mentioned above, there are many more. Some are not even registered with the Financial Services Authority. Of course, this creates a polemic in the community. In addition, many questions in the community explain how online loan application providers misuse personal data protection. Therefore, it is necessary to investigate the regulatory arrangements related to online loan application services more broadly and in-depth.

In terms of the increasing number of business actors engaged in online loan application services, this is because business lending will continue to be crowded with enthusiasts considering the culture of the Indonesian people, including the love of borrowing money or debt, so this business model will not be timeless. Then there's the issue of legality, and the criteria for establishing an internet lending business aren't too onerous, especially since the OJK has issued laws on registration requirements in Financial Services Authority Regulation Number 77/POJK. 01/2016 Concerning Borrowing and Borrowing Services Based on Information Technology.

In article 4, it is stated that the initial capital to establish an online loan application service must be at least Rp. 2,500,000,000.00. The standard of capital is included in relatively small capital for finance or finance companies, so it impacts the vast number of online loan companies, even though the number now reaches hundreds of online loan companies in Indonesia. OJK has collected data on customers who use online loan application services, reaching 66,700 million people throughout Indonesia, almost 25% more than Indonesia's population of 271,349,889 people. This is a great number than the enthusiastic form of using online loan application services. If a good online loan system management does not balance it, it can cause problems whose impact will be extensive.

According to Bank Indonesia's classification, online loans are Peer to Peer Lending or Crowdfunding, which is a subset of Financial Technology. In this scenario, the Financial Services Authority plays an important role in overseeing financial institutions,

particularly online loans. This is in accordance with Article 6 of Law Number 21 of 2011 governing the Financial Services Authority.

According to the article, one of the Financial Businesses Authority's responsibilities is to regulate and supervise other financial service firms, including online lending services. Because online loans are growing in popularity in Indonesia, the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Borrowing-Lending Services governs and supervises them specifically. With the high degree of public interest in the benefits offered by online lending services, this service provider is increasingly mushrooming in the midst of society, both legal and illicit. As a result, internet loans typically provide more appealing offers [9].

In such conditions, people will be confused about making choices in using online loan application services, considering that there are so many online loan applications. Moreover, this illegal application not accredited by OJK will act arbitrarily and not comply with OJK regulations. Usually, what often happens in the community is that this illegal online loan application service will determine a considerable interest of almost 50%, and the debt collection method uses the defamation method of its consumers, such as circulating photos of consumers with a fugitive stamp because they cannot pay their debts. Likewise, online loan service providers have also accessed personal data, both telephone, and consumer galleries, to defame consumers on consumer phones.

Online loan service users, as consumers, have rights that online loan companies must pay attention to. However, the reverse occurs. Under some situations, the online loan service provider violates the rights of the service client if the business process does not conform to the wishes of the service provider. For example, service consumers are subjected to unfavorable treatment. One of them is the threat and terror from collectors or debt collectors who try to instill fear and shame in online lending service users by sending images or letters to parties known to the service users and threatening to denounce them to the police. This situation is particularly troubling because, despite the fact that Indonesia is a state of law, crimes that violate a person's serenity and security continue to occur.

Furthermore, users of online loan services who receive unpleasant treatment appear to be "reluctant" to complain to the police about the treatment they receive as a result of loans that they are still obligated to repay, allowing online loan companies to continue their actions of threatening and terrorizing users of these online loan services. Because the crime is contained in the complaint offense, the police cannot take action in this scenario without user complaints. A complaint offense is one in which the prosecution is only carried out if the aggrieved person files a complaint, such as insult, adultery, or extortion with the threat of pollution. Due to the lack of complaints concerning violations of these rights, numerous violations of the rights of online lending service users as consumers were not followed up on.

Because crimes using technology occur if there is adequate internet access. However, in the absence of policies and preventive measures, the main factors, users can freely access specific data that irresponsible users can misuse. The Legal Procedural Constraints of the ITE Law The weak legal instruments of the ITE Law can be seen in Articles 27 and 37 regarding prohibited acts, where many law enforcement officers themselves do not understand the meaning of Article [10]. Regarding consumer complaints regarding

billing models that are highly libelous to consumers, the financial services business actors must provide dispute resolution services instead of creating defamation of the consumer.

A financial services authority rule establishes mechanisms for FSBs to provide consumer complaint services for losses sustained by customers. The aim of the complaint service is regulated in Article 2 of POJK No. 18/POJK.07/2018, particularly in safeguarding consumers whose rights have been violated in POJK No. 18/POJK.07/2018 concerning Consumer Complaint Services in the Financial Services Sector.

3.2 Personal Information of Borrowers in Online Loan Application Services

Non-Litigation Legal Efforts Consumer losses for acts of misuse of personal data by online loan business actors are a deviant act that is not approved and included in the electronic agreement clause between consumers and business actors so that all acts that are done outside the agreement of each party are acts of default or breaking a promise and can also be declared as an act against the law. In the context of unlawful acts that cause harm to consumers, it should be discussed and resolved non-litigation first because litigation is a process that leads to the end of winning and losing between the two parties. Besides that, the process can take months. Furthermore, the use of the Protection Act in terms of online loans is related, considering that users of online loan application services are included in the consumer category. In this case, articles related to violations of consumer rights are UUPK article 1, article 4, article 34, and article 52.

Legal Efforts: Litigation Repressive protection is the protection the state can implement through the judiciary. In this case, the state provides facilities in the form of a judicial system that victims of human rights violations can use. The consumer harmed by the misuse of personal data by online loan service business actors can use the justice system if there is a loss in the form of material or non-material to get compensation from the online loan application service provider. In civil law, there are two lawsuit mechanisms: the first is a lawsuit for default, and the second is a lawsuit against the law "PMH." By the provisions of Article 1233 of the Civil Code, it can be said that the lawsuit for default is based on an agreement that was born because of an agreement, while the lawsuit for violating the law is based on an agreement that was born because of a statutory provision, whether statutory or government regulations, as well as other regulations [11].

The legal basis for a lawsuit for unlawful acts is Article 1365 of the Civil Code, which reads: "Any act that violates the law and causes harm to others requires the person who caused the loss because of his mistake to compensate for the loss." An act of breaking the law (onrechtmatige daad) is an act that violates the legal rights of another person, a decision in society regarding the interests of others" [12].

Consumers who use online loan application services and are harmed by the misuse of personal data can use the civil justice mechanism, which aims to be a legal protection mechanism. This civil justice system would be able to attract perpetrators and victims through the civil justice mechanism. Article 1365 of the Civil Code states, "Every act that violates the law and harms others obliges the person who caused the loss because of his mistake to replace the loss."

Online loans that carry out their business activities in lousy faith violate the law. Moreover, it causes many consumers to experience losses, given the provisions of POJK NUMBER 77/POJK.01/2016 Article 29 letter d “data confidentiality and security” and Data Confidentiality Article 26 letter a The operator is obligated to: “Maintain the confidentiality, integrity, and availability of personal data, transaction data, and financial data that it manages since the data is obtained so that the data is destroyed.” consumer rights in terms of protection of personal data, but in practice, it is not obeyed by business actors/providers of POJK so that the qualifications of the actions of the POJK can be sued with a lawsuit mechanism against the law, of course aiming to sue the POJK issue compensation for losses that arise and have an impact on consumers.

4 Conclusion

Laws and regulations guarantee the right to personal data privacy, most notably in POJK NUMBER 77/POJK.01/2016 Article 26 letter a, which requires financial services firm actors to comply with the personal data of consumers who use online loan application services. Most significantly, corporate actors must behave in good faith rather than using strategies that may cause pain, security, or damage to customers. Financial services authority institutions can implement financial services sector protection measures. In this regard, Article 7 of POJK Number 18/POJK.07/2018 concerning Consumer Complaint Services in the Financial Services Sector highlights the importance of thorough monitoring of monthly reports from online lending financial services firm players in order to identify potential concerns. It may also use the reporting method to file a complaint with the consumer dispute resolution authority, which has jurisdiction under Consumer Protection Law No. 08 of 1999, Article 52. Consumers who have been victims of personal data abuse by internet lending company operators can seek oppressive legal protection by initiating a case against the law under Civil Code Article 1365. A case has been filed in the local district court against internet loan business actors.

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