



Legal Consequences of Defaults in Hotel Booking Transactions in Bali Through Online

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Abstract. The tourism sector in Bali is a potential sector to be developed as one of the sources of regional income. In an effort to increase local revenue, the development program of resource utilization and tourism potential of the hospitality business area is expected to contribute to economic development. Based on this, the following problems are studied: how is the validity of hotel booking transactions in Bali online, and what are the legal consequences of default in hotel booking transactions in Bali online. The research method uses normative legal research, the source of legal materials using primary legal materials and secondary legal materials. The results of the study say that the validity of hotel booking transactions in Bali online, refers to the valid terms of the agreement Article 1320 of the Civil Code, the concept of the transaction is a sale and purchase which is an agreement made between the seller and the buyer, between the hotel owner and the customer or consumer occurs through a third party, namely the Travel party. In accordance with the conditions for the validity of the agreement transaction in Article 1320 of the Civil Code, that the parties must agree to enter into a transaction, the parties have legal capacity, certain things and a *halal causa*. If the transaction has fulfilled the four conditions, the agreement is considered legally valid. Legal repercussions in the event of default on online hotel booking transactions include the agreement being deemed illegal, the ability to cancel the agreement, and the declaration that the online hotel booking transaction never took place.

Keywords: Default, Consumer, Transaction, Online

1 Introduction

1.1 Background of the Problem

Bali is one of the most well-liked vacation spots for both domestic and foreign visitors. To support the large number of tourists who come, causing many investors to invest through the construction of hotels, especially in areas most visited by tourists. The COVID-19 pandemic caused a 25% fall in the number of hotels in Bali, however once the pandemic abated in 2022, the number of hotels in Bali slowly increased by 6%. (BPS, 2022). The increase in hotel occupancy indicates that there will be an increase in domestic and international tourist visits to Bali in 2022.

Article 33 of the 1945 Indonesian Constitution is the foundation of the national economic system. Article 33 paragraph (1) of the 1945 Constitution emphasizes that "The economy is structured as a joint effort based on the principle of kinship." The meaning contained in the paragraph is very deep, namely that the economic system developed should not be based on competition and a very individualistic principle.

The advancement of information technology has significantly improved human life to this point, with one such improvement being the ability to conduct transactions. This shows that there is a connection with the development of dynamic law following the times, namely the transformation of business activities from conventional transactions which should have a physical meeting between business actors (face to face) and a signatory as a form of transaction agreement to no need.

In making a contract, which is regulated in Article 1320 of the Civil Code concerning the validity of the agreement, it determines that: 1. Agreement of those who bind themselves; 2. Capacity to make an obligation; 3. A certain thing; 4. A halal cause.

Article 1320 of the Civil Code fulfills two elements, namely the subjective conditions in the first and second conditions, and the objective conditions in the third and fourth conditions which have different legal consequences. Electronic transactions in Indonesia are regulated in Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Electronic Information and Transactions (hereinafter referred to as the Electronic Information and Transaction Law). Electronic Contracts are agreements between parties made through Electronic Systems.

To offer parties transacting via electronic media with legal clarity, the Law on Electronic Information and Transactions by the State is continuously updated.⁴ In this instance, the consumer suffered loss as a result of a wrongdoing by the business actor, who unilaterally cancelled the hotel reservation that the consumer had previously made. Due to the violation that has been committed against the customer, a consumer dispute results. This dispute encompasses all areas of law.

(Riduan Syahrani, 2010: 203) Through these differences, legal problems arise regarding the validity of electronic contracts regarding the ability between parties to make an agreement and the difficulty of identifying the timing of an agreement between the two parties to the transaction. Based on these problems, this research is conducted to find out how the validity and timing of an online hotel booking transaction agreement, especially hotels in Bali as one of the most popular tourist destinations for domestic and international tourists. Based on the above background, the

research will be poured in the form of a normative thesis entitled Legal Consequences of Default in Online Hotel Booking Transactions in Bali.

1.2 Problem Formulation

1. How is the validity of hotel booking transactions in Bali online?
2. What are the legal consequences if there is a default in an online hotel booking transaction in Bali.

2 Research Methods

2.1 Research Type and Problem Approach

The present research uses normative legal research as its methodology. Research that explores the issues with a legal rule or legal norm and is connected to the existence of hazy legal standards is known as normative legal research. The problem-solving methodology used includes a legislative approach, which entails examining the rules and laws pertaining to the legal issues raised by the author, as well as a conceptual approach, which offers an analytical point of view for resolving legal problems from the legal concepts underpinning it.

Source of Legal Materials

Primary legal sources, secondary legal sources, and tertiary legal sources are all used in this research. The sources of legal material in question include:

1. Primary Legal Materials, or legal documents with force of law, include: a. the Republic of Indonesia Constitution of 1945. Book III of the Civil Code.c. Electronic Information and Transactions Law No. 11 of 2008.
2. Secondary legal materials, or those pertaining to research issues that can be found online, in books, articles, papers, or theses, but do not have legal authority.
3. Legal materials derived from online dictionaries or encyclopedias are considered tertiary legal materials.

Legal Material Collection Technique

Through a literature assessment of the Civil Code Book III agreements, Law Number 11 of 2008, and relevant regulations, legal sources for this study were gathered.

Analysis of Legal Materials

This research's investigation of the legal materials was qualitative. Document study criteria are used in the research's collecting of legal resources. The entirety of the legal information gathered from primary, secondary, and tertiary sources is processed and analyzed through the systematic preparation of legal materials, which are

then categorized and connected between one another to understand the meaning of legal material and legal interpretation from the researcher's perspective and draw descriptive conclusions.

3 Result and Discussion

3.1 Validity of Hotel Booking Transactions in Bali Online

In everyday life, the term agreement is often used when someone makes a business agreement, and recently the use of the term agreement has begun to expand its use, even the use of the term work agreement is commonly used to replace the term work agreement. In the English-Indonesian dictionary, the word "contract" is synonymous with agreement.

In this context, "business relations" means contacts between the Hotel and the Travel Party backed by a business agreement that has been agreed upon by both parties and that essentially describes the rights and duties of each party.

Consequently, it can be said that a business relationship only arises following the execution of a written business agreement between the Hotel and the Travel Party. This agreement must specify the parties' rights and obligations, contain business terms, and not be in conflict with the Civil Code.

All agreements, including economic agreements, signed between the Hotel and the Travel Party must adhere to the rules in Book III of the Civil Code, particularly Article 1320, which states that four requirements must be met for an agreement to be valid: A halal cause (causal), people who can bind themselves, are capable of creating an agreement, and specific items or objects.

If all of the above provisions have been fulfilled, a business agreement will be said to be valid according to the law, and binding as a law for the parties who make it specifically. (Lalu Husni, 2007: 32) As explained in Article 1338 of the Civil Code which states that: All agreements made legally apply as laws for those who make them.

The terms of a commercial contract that the parties have made legally binding (*Lex specialis*) are applicable as a specialized law that binds the parties who agree to it. Therefore, the emphasis on a business agreement's validity is crucial as a requirement to be able to bind the parties.

The party who violates the promise may be found in default as a result of the failure to fulfill responsibilities resulting from the commercial agreement. This may lead to the harmed party suing for damages in court.

A valid business agreement is an agreement that has fulfilled the requirements determined by Article 1320 of the Civil Code which determines four conditions that must be met, namely:

1. Agreement between parties that are already bound.
2. Capable to make an agreement.
3. Regarding certain matters or objects.
4. A halal cause (causal).

The purpose of the contents of the article can be explained as follows:

a. Agreement of those who bind themselves

The parties to a work agreement must agree / agree, agree on the items agreed upon, according to the agreement of both parties, also known as the agreement of those who bind themselves. What one side desires, the other party likewise desires.

b. Capable to make a work agreement

The Hotel and Travel parties can come to an agreement if they have the ability to do so, or if both parties have the ability to do so. If a person is of legal age, then they are judged capable of entering into an agreement. National legal provisions in the Civil Code provide a minimum age limit of 21 years. In addition, a person is said to be capable of making an agreement if the person is not mentally disturbed / sane.

c. Regarding certain matters or objects

The existence of an agreed object in terms of Article 1320 of the Civil Code is a certain thing. The agreement's goal is to carry out a business deal between the Hotel and the Travel party, and its legal ramifications establish the parties' rights and obligations with respect to a halal cause (causal). The agreement's goal must be halal and not in violation of the law, public order, or morality. The type of object promised is one of the elements of a business agreement that must be clearly stated.

The four conditions mentioned above are referred to as essential / cumulative conditions, meaning that all of them must be fulfilled before it can be said that the business agreement is valid. The requirement that the object of the agreement must be lawful is referred to as an objective condition because it concerns the object of the agreement, whereas the requirement that both parties have free will and the ability or capability to make a business agreement is referred to as a subjective condition because it concerns the people making the agreement. The commercial agreement is considered to have never existed from the beginning if the objective criteria is not satisfied, making it null and void. The legal consequences of the business agreement may be canceled if the subjective condition is not met. Parties who refuse to consent voluntarily, as well as parents, guardians, or guardians for those who are incapable of making business agreements, may ask the judge to declare the business agreement null and void. Consequently, the commercial contract is valid as long as the judge has not voided it.

Legal Consequences in the Event of Default in Booking a Hotel in Bali Online.

In contrast to the tort, which is created and drawn from the law rather than a contract based on consent, default arises or is born from the agreement (agreement). The outcomes of human decisions that are governed by the law are unlawful acts. As stated in Article 1352 of the Civil Code: "Obligations born of law, arise from the law as a law or from the law as a result of people's actions." To be able to say that the contracting party has made a default or not made a default depends on the contract that the parties do. In default usually the contract is first done/made, because it is from this work agreement that will later be able to cause default. Of course, in making an agreement between the two parties must always be guided by Article 1320 of the Civil Code, regarding the validity of a business agreement, as for the four conditions that must be met: agreement of the parties to bind themselves, the ability of the parties to act / make a business agreement, a certain subject matter, a cause that is not prohib-

ited. Of the four requirements for conducting a valid agreement, if violated by the Hotel Party, it can lead to default and losses experienced by the Travel Party in a business agreement made by the parties based on a mutual agreement. If the Travel party defaults and causes losses to the Hotel due to negligence on the part of Travel, then as stated in Article 1366 of the Civil Code which states that: "Everyone is responsible not only for losses caused by his actions, but also for losses caused by negligence or lack of care".

A business agreement may include defaults from time to time, although not all business agreements do. Some business agreements are troublesome or contain defaults. This default typically occurs when one party doesn't keep their obligations, especially with relation to payment deadlines. If the parties conduct a sale and purchase transaction, then first the parties must bind a business agreement. When a business agreement is signed and sealed in front of a Notary, it is intended to be legally binding and give the parties the sense of being inseparably linked so that they can meet all of their responsibilities. Usually in the binding of this business agreement there are stages in terms of payments that must be made by the contract personnel and various kinds of obligations and sanctions if the Travel party is negligent in its obligations or what is often called default.

From the function of the negligent statement is a legal effort to determine when to determine when the default occurs. Meanwhile, a negligent statement is a message or notification from the Hotel to the Travel Party explaining when the Travel Party is expected to fulfill its performance or obligations. (Purwahid Petrik, 2017: 13)

Because defaults can occur as a result of an agreement, the business arrangement between the Hotel and the Travel party, which was founded on mutual consent, does not differ significantly from defaults on other types of agreements. Where the default in question is someone who has neglected to fulfill his obligations in the agreement they made. Negligence here means either negligent in fulfilling some of his obligations, negligent in fulfilling all his obligations / not performing his obligations at all, negligent in fulfilling what he promised, negligent in doing something that according to the contract should not and cannot be done.

Article 1446 of the Civil Code stipulates that:

"All agreements made by minors or persons placed under guardianship, are null and void, and upon prosecution brought by or on their part, must be declared void, solely on the basis of their immaturity or guardianship. Agreements made by married women and by immature people who have received a statement of equality with adults, are only null and void, just as these agreements exceed their powers".

The legal consequences in the event of default on hotel reservations in Bali can be resolved by means of non-litigation, that the dispute resolution for default between the Hotel and Travel uses out-of-court dispute resolution (non-litigation) through several ways of settlement: consultation, negotiation, mediation, conciliation, and arbitration.

The Law of the Republic of Indonesia Number 30 of 1999 concerning Arbitration and Alternative Dispute settlement, which is applicable in the realm of commercial disputes, regulates dispute settlement through arbitration in general.

The decision of the District Court may make a ruling on the grounds of default and where no further challenge can be made. If a settlement is achieved, an arbitrator must

prepare a Deed of Peace that is seen by an arbitrator or panel of arbitrators and signed by both parties.

The stipulation of the Deed of Settlement is registered before the court, and can also be executed by the Court or the decision, as usual. The decision of the Arbitrator Agreement shall be made in 3 (three) copies and given to each party in one copy, against which the decision that has been legally enforceable cannot be filed again or the same dispute cannot be filed again with the court.

The arbitration award issued in accordance with the parties' agreement to settle default disputes in this cooperation agreement is final and irrevocable, with the exception of certain circumstances where it may be canceled by the Supreme Court of the Republic of Indonesia. As a result, the arbitration award cannot be challenged in court.

And it can also be done by means of settlement by means of litigation.

According to the General Indonesian Dictionary, justice is anything related to court matters. (Poerwadarminta, W.J.S, 1984: 16-17)

Litigation dispute resolution implies that the dispute is resolved through a judicial institution. Conversely, non-litigation dispute resolution implies that the dispute is resolved outside the judicial institution. The form of non-litigation settlement is fully determined by the community, including the business community. (Hendry Campbell Black, 1991: 70)

It is a common problem in any country, both in developed and developing countries, that there is a lot of criticism leveled at the judiciary in resolving disputes in the community and justice seekers, especially in the field of trade and business, are very numerous and religious. In general, they criticize the slow judicial process, high costs and convoluted processes. (Tony Mac. Adams, 1997: 155) argues that:

"American law has grown to be a huge industry, and the cost of litigation may be hurting the economies of other countries' businesses." (That the high cost of litigation is considered a very damaging factor to the American economy).

Some significant objections made by (Suyud Margono, 2000: 34) regarding the validity of the criticism that the high cost of litigation impacts economic life not only in rich countries but also in developing countries, like Indonesia:

- 1) Ineffective dispute resolution;
- 2) Exorbitant court costs;
- 3) Judiciary that is inactive;
- 4) Frequently, court rulings do not resolve the issue;
- 5) The broad-mindedness of judges.

Actually, there are still many criticisms that can be described, but from the description above, it can illustrate how complex the problems that exist in the judiciary, even though its position and existence as a "pressure valve and the last resort", namely as a pressure valve and the last resort in seeking truth and justice, can reduce public trust in the judiciary.

Because of the judiciary's formal and technical nature, disputes are frequently resolved slowly over a long period of time. A quick, inexpensive, and informal dispute settlement process is necessary, especially in business disagreements.

Time for a hotelier in this case is very valuable. With rapidly developing information technology, the world is no longer racing with a long time, years or months, but days hours and minutes, as said by William Irwin Thomson.

These factors demonstrate the significance of time and cost for hotels, and business issues are related to broader economic development because a country's economy develops more rapidly when there are more business transactions.

The court is a conventional resolution channel to resolve various kinds of disputes, for example those arising from breach of promise (default). If a dispute due to default arises, then one party who feels right or harmed by the other party can bring the dispute to the District Court (PN) in accordance with the applicable civil procedural law, the procedure for filing a lawsuit, answer, replication, duplicates and others related to court proceedings has been regulated. (Sudikno Mertokusumo, 1993: 10-17)

It is highlighted in Law of the Republic of Indonesia Number 14 of 1970 that the judiciary is conducted in a straightforward, efficient, and affordable manner. This is certainly intended for efficiency and to prevent the emergence of unnecessary bureaucracy and regulation. However, judicial institutions are often criticized for failing to apply the principles of simple, speedy and low cost justice. It is a reality faced by the Indonesian people that the settlement of a case from first instance to cassation takes an average of between 7-12 years. (Harahap, 1995/1996:14) This can result in reduced public confidence, especially among the business community, in the judiciary.

(Handry Capmel Ballack, 1991:70)

4 Conclusions and Suggestions

4.1 Conclusion

From the results of the discussion above, the author can draw the following conclusions:

1. The hotel and the travel party's online hotel booking transactions in Bali must comply with the agreement's legal requirements in order to be valid, including that the parties have an agreement, are of legal age, have certain things, and have a halal cause.
2. The legal repercussions for failing to pay for an online hotel reservation in Bali are handled through both non-litigation and litigation methods. It is one of the two options utilized by the parties to the dispute since it is thought that the non-litigation (arbitration) settlement procedure may run fast, at a cheap cost, and does not take a long time, and the bureaucracy is not difficult. This is due to the Law of the Republic of Indonesia No. 30 of 1999 about Arbitration and Alternative Dispute Resolution, which makes specific regulations regarding it.

4.2 Suggestion

As for what the author can suggest is as follows:

- 1) To the Community to avoid default disputes, the parties who have agreed to make a business agreement must obey and comply with the contents of the business agreement that has been made as a reflection of one of the principles of good faith.
- 2) To the Government in making a business agreement between the Hotel and Travel is a standard or standard agreement that the parties before signing the business agreement should first read and understand the contents of the agreement clearly.

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