



Consumer Dispute Resolution Body Authority: An Examination of The Components of Default In Consumer Disputes

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Abstract- The Consumer Dispute Settlement Body (BPSK) is empowered by Law 8 of 1999 to investigate consumer issues. Consumer disputes encompass financing agreements involving a default aspect within the legal relationship. While there is a possibility of default, consumers opt for legal recourse at BPSK. The jurisdiction of the District Court is to adjudicate cases, including a component of noncompliance. However, BPSK receives multiple instances and subsequently analyzes and determines each instance. This article determines whether BPSK's choice to investigate consumer disputes involving defaults in financing agreements aligns with legal objectives. 2. Is it necessary to grant BPSK the jurisdiction to investigate consumer disputes in financing agreements that involve default clauses? A normative legal research method employing a qualitative approach is utilized to address the topic, with the idea of legal objectives serving as the theoretical framework. The research findings indicate that BPSK's decision-making process in consumer dispute cases has effectively addressed the issue of compensation for both consumers and corporate actors, successfully achieving its legal objectives. Therefore, it is necessary to grant BPSK the jurisdiction to investigate consumer issues involving default clauses in financing contracts.

Keywords- Consumer Disputes; Financing Agreements; Defaults; Dispute Resolution Bodies

I. INTRODUCTION

The objective of Law No. 8/1999 is to establish a consumer protection framework that encompasses aspects of legal certainty, information transparency, and accessibility to information. The Consumer Dispute Settlement Body (BPSK) has the authority to provide consumer protection. Consumer conflicts are prevalent, with one specific instance arising in the context of financing arrangements. [1] Consumer disputes arise as a result of the losses suffered by customers. Nevertheless, within the legal framework of financing arrangements, business actors are more adversely affected by consumer defaults, harming their interests. Nevertheless, the consumers initiated legal proceedings against the business operators at BPSK. Consumers initiate legal action against business entities since they see themselves at a disadvantage when they retract collateral assets in financing contracts. [2]

Default refers to a disagreement within the domain of civil law. Under civil procedural law, the investigation of default cases necessitates first mediation between the parties before delving into the study of the subject matter. This ensures that default is assessed by standard civil procedural law. The cases lodged at BPSK with default components pertain to the disputes between PT Sinar Mitra Sepadan Finance and Fitriadi. In the case of the Decision of BPSK

Kuantan Singing Regency Number 02/BPSK-KS/ARBT/II/2015, the business actor is instructed to surrender the vehicle object of the agreement, while the consumer is required to make the outstanding payments from the 13th instalment onwards, as per their obligation. When examining the case, it is essential to ensure that consumer responsibilities are fulfilled correctly, excluding missed payments and addressing defaults. [3]

Moreover, a comparable lawsuit involving PT Artha Asia Finance Madiun Branch and Erfin Rafikana, identified as case number 03/SKT-ABR/2021/BPSK Kdr. In the BPSK case, the business actor was ordered to return two automobile units to the customer, Erfin Rafikana. [4] Additionally, Erfin was forced to make instalment payments for the outstanding amount. Furthermore, a legal dispute exists involving PT Maybank Indonesia Finance and Robby Octo Irawan, identified by case number 10/PTS/BPSK-PDG/ARB/III/2021. In the BPSK case, the consumer was ordered to pay the outstanding principal debt and the fine. The business actor was also instructed to transfer the collateral object to the customer.[5]

The legal dispute between PT U Finance Indonesia and Ade Sulaeman is assigned case number 31/Pts.BPSK/BPSK/X/2020. The Consumer initiated legal proceedings against the business entity at the BPSK. BPSK determined that it upheld the Consumer's claim, and as a result, the Consumer was obligated to pay all remaining instalments.[6] The business actor was ordered to restore the collateral object, a four-wheeled vehicle, to the Consumer in instalments. Next is the legal dispute involving Ade Hasmarita Saputra and PT Clipan Finance Indonesia. BPSK resolved the dispute between Ade Hasmarita and PT Clipan Finance Indonesia. The verdict favoured the Consumer's claim, ordering the Business Actor to return the financed four-wheeled vehicle and the Consumer to pay the outstanding instalments.

When examining the instances of consumer dispute resolution in the financing above agreement, it is essential to consider the considerations made by the BPSK Panel when rendering case rulings. Generally, BPSK has considered the concept of loss and compensation for both consumers and commercial entities. The Supreme Court of Massachusetts has a distinct approach when dealing with issues similar to the one stated before. The Supreme Court is experiencing a division in its decision-making process about similar matters. There is a divergence of opinion over whether financing disputes involving defaults should be classified as consumer disputes. While the Supreme Court has established legal principles, justices still need a consistent interpretation.

These difficulties result in a lack of legal certainty. Legal certainty is a fundamental aspect of law enforcement. [7] The 1945 Constitution affirms that every individual is entitled to the acknowledgement, assurance, safeguard, and assurance of fair law and equal acknowledgement under the law. The regulations within the 1945 Constitution aim to establish a legal system that operates smoothly, where legal certainty is understood as an inseparable component of justice. [8] This aligns with the fundamental concepts of consumer protection, encompassing advantages, fairness, equilibrium, safeguarding, consumer well-being, and legal assurance. This paper will address the following issues based on the information provided: 1. Does BPSK's decision to investigate consumer disputes in financing agreements align with the intention of the law? 2. Is it necessary to grant BPSK the jurisdiction to investigate consumer disputes in financing agreements that include default provisions?

II. METHOD

To address the difficulty stated above, a qualitative juridical study uses a normative method grounded on the philosophy of legal aims, specifically legal certainty, utility, and fairness.[9] The primary data utilized consisted of BPSK determinations and District Courts that scrutinized challenges to BPSK determinations.[10] The decisions are reviewed mainly during the examination at BPSK to determine whether they align with the intended aim of the law.

III. RESULT AND DISCUSSION

Gustav Radbruch posited that within the realm of law, there exist three fundamental principles, specifically, legal certainty (*rechtssicherheit*), practicality (*zweckmassigkeit*), and justice (*gerechtigkeit*). [11] These aspects are commonly known as the theory of legal aims. Justice is the legal objective from a philosophical perspective, legal certainty is the legal objective from a normative perspective, and legal expediency is the legal objective from a sociological one. The BPSK decision encompasses the aforementioned legal goals. The judgments on BPSK have considered the losses and compensation for consumers and business entities. [12]

Nevertheless, commercial entities file legal appeals with the district court. Additionally, district court rulings support BPSK decisions and invalidate BPSK decisions despite their agreement in content with BPSK decisions.[13] Hence, there is a requirement for a reformation of consumer legislation that offers enhanced legal assurance. The reconstruction also concurrently upholds the ideals of efficient, expeditious, and cost-effective justice to fortify the model of the national legal framework. Due to its brevity, the maximum duration for the examination at BPSK is 21 days. [14]

The framework of national legal evolution encompasses two methods for creating national law: the first involves the establishment of laws and regulations, while the second involves court rulings or jurisprudence. Court decisions offer a more definitive manifestation of the law for anybody seeking justice. Furthermore, judges can modify legal regulations in response to evolving circumstances and shifting notions of justice through their court rulings. Nevertheless, court rulings in Indonesia serve as a partial standard or reference. This is because Indonesian law is predominantly based on the civil law system, where legislation is considered the primary source of law. According to the classical perspectives of Montesquieu and Immanuel Kant, judges are seen as mere conduits of the law when interpreting legal events. They are not meant to act as independent judges who have the power to alter the legal force of the law or modify it in any way. [15]

Default often occurs in an agreement relationship. This can occur due to non-performance of obligations in the contract in whole or in part, performing obligations but not on time, and doing something prohibited in the agreement. Defaults that many business actors often commit are the many business actors who override consumer rights. Apart from being caused by default, many of the losses experienced by consumers so far have also been caused by consumers being less critical of the goods offered. When a contract is breached, the party harmed by the breach is entitled to receive compensation from the party who has breached the contract. The compensation is a form of any loss or damage caused by the breacher. As a result of the default

can cause losses, so if one party commits a default, it can be punished by paying compensation, cancelling the agreement, transferring risks or paying court costs if it reaches the court. [16]

Dispute resolution is an essential aspect of consumer protection. It helps protect consumers, often the weaker party at the negotiating table. A dispute should not just be settled but should be resolved fairly. Consumers mostly make defaults in the legal relationship of financing agreements. The default is in the form of non-performance of the obligation to pay instalments by consumers as debtors to business actors as creditors. With the non-performance of achievements by consumers, business actors suffer losses. In the financing agreement, the consumer who made the default made legal recourse to BPSK because the business actor harmed the consumer. At BPSK, the application was accepted, and then an examination was conducted by inviting both parties. By BPSK, it was decided that the business actor who withdrew the object of guarantee from the consumer was punished by returning it to the consumer. BPSK also punished consumers who defaulted on their instalments to pay the arrears to the business. [17]

Looking at the decisions of BPSK and the District Court, although there is an element of default, the BPSK decision has accommodated the losses experienced by consumers and paid attention to the losses experienced by business actors. From the justice aspect, it is by the objectives of the law and simultaneously provides legal certainty and benefits. In addition, because business actors also often experience losses, business actors are also given the right to file a lawsuit against consumers at BPSK so that not only consumers can file a lawsuit at BPSK. Filing a lawsuit at BPSK must always be based on a written agreement between the consumer and the business actor.[18]

IV. CONCLUSION

Based on the above discussion, this work can be summarized with the following conclusions: a. The decisions made by the Consumer Dispute Settlement Body (BPSK) have provided remedies and compensation for both consumers and corporate entities, ensuring that these choices align with legal objectives. b. BPSK requires enhanced jurisdiction to investigate consumer disputes involving essential default components in financing arrangements. Furthermore, it is crucial to implement the concept of efficient, expeditious, and economical justice.

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