

The Validity of A Sale and Purchase Agreement Via The Internet Reviewed From A Civil Law Perspective

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ABSTRACT

This examination means to decide the legitimacy of deals and buy arrangements through the Web from a common regulation point of view. The sort of exploration utilized is standardizing juridical. The nature of this research is descriptive and qualitative. Document study methods derived from relevant literature studies on the issues discussed were used in the process of data collection. The exploration results show that the legitimacy of a deal and buy understanding through the web should have a similar legitimacy as a regular understanding as long as it very well may be demonstrated and meets the arrangements in Article 1320 of the Common Code. The reason for legitimacy happens if the two of them commonly concur and there is an expression of understanding between the purchaser and merchant in conveying in regards to the proposal of merchandise and the determination of the ideal products and both have concurred that there is an arrangement.

Keywords: E-Commerce, Legality, Legal Consequences

1. INTRODUCTION

The world's largest and most widely used network, the internet connects all parts of the globe. The web is a part that assists individuals with investigating the world. With the internet, everyone can communicate even if they are far away. Not only that, the internet also helps people interact and learn and even carry out other activities. One activity that is often carried out via the internet is trading. As time goes by, trading activities have become more efficient to carry out, how could someone not carry out buying and selling transactions without having to leave the house, so that this can save time by not leaving the house. [1]

The act of exchanging goods or services, also known as trading or buying and selling, is one in which the buying and selling itself is done with one's own awareness or without being coerced by others [2]. The use of the internet for buying and selling activities has had a significant influence so that it really helps people's activities in the world of commerce. The use of the internet as a trading medium has increased from year to year, this could be because companies and consumers feel the benefits of internet advances [3].

The economy of the world is significantly impacted by internet technology [4]. The web has brought the world economy into another stage which is all the more prominently known as computerized financial matters. The use of the internet for business transactions is on the rise. E-Commerce, for instance, is becoming an increasingly important means of conducting business. The term "e-commerce" broadly refers to computer-mediated electronic transactions [5]. E-commerce is a business process in which companies, consumers, and the general public use electronic technology to conduct electronic transactions and exchange or sell goods, services, and information [6]. Therefore, the online ordering, payment, and delivery of goods are all components of the E-Commerce transaction process [7]. E-commerce certainly differs from conventional agreements in a number of ways and can also have different legal repercussions [8].

E-commerce, more commonly referred to as E-Commerce, has begun to be used by several Indonesian businesses. E-commerce is essentially an online trade transaction between sellers and buyers. Web based business gives comfort to customers, however this advancement makes it simpler for makers to showcase items which brings about cost and time investment funds. Executing web based trading by and by leads to a few issues, for instance the purchaser who ought to be liable for following through on the cost of the assistance item he bought yet doesn't make installment. Parties who don't do their obligations as per the concurred arrangement can be sued by the party who feels impeded to acquire remuneration. The significance of legitimate issues in the field of web based business is principally in giving assurance to parties completing web exchanges.

As a result, the ITE Law, also known as Law Number 11 of 2008 Concerning Electronic Information and Transactions, was enacted in 2008 to regulate internet transactions. Electronic agreements should likewise have similar legitimate power as customary agreements, which tie the gatherings as expressed in article 18 section 1 of the ITE Regulation which expresses that "electronic exchanges framed in electronic agreements predicament the gatherings". There is likewise an issue on the off chance that we take a gander at it from the common regulation framework, where the legitimacy of trading through the web can't in any case be supposed to be legitimate as far as one of the circumstances for the legitimacy of an understanding, to be specific the abilities of the gatherings in doing trading exchanges. Because Article 1320 of the Civil Code stipulates that a person cannot determine whether or not they are legally competent when conducting business online. What will be studied is the relationship between the need for regulations in online buying and selling and the existing laws and regulations based on this study.

2. LITERATURE REVIEW

Accountability as a form of obligation to account for failure in the implementation of an action that has a goal to achieve a predetermined goal. The accountability of business actors to consumers is one form of responsibility for obligations that must be given by business actors to consumers caused by default actions carried out by business actors against consumers. Customers whose rights have been violated by business actors are held accountable through the accountability of business actors.

According to Civil Code Article 1457, a sale and purchase is an agreement in which one party promises to hand over an item and the other pays the agreed-upon price. In the meantime, in article 1313 of the Common Code, an understanding is a demonstration wherein at least one individuals tie themselves to at least one individuals. The sale and purchase take place if the buyer and the seller reach an agreement. Concerning the terms of endorsement. The event of a deal and buy understanding is likewise expressed in article 1458 of the Common Code which states "deal and buy are considered to have happened when individuals have arrived at an arrangement with respect to the products and their cost, despite the fact that the merchandise have not been conveyed and the cost has not been fixed."

Trading is an arrangement wherein one party predicaments himself to surrender an item and the other party to follow through on the cost that has been guaranteed (Article 1457 of the Common Code). The delivery of the item and payment of the price constitute the core of this definition. According to the way this article was written, buying and selling is a type of agreement that creates an obligation or engagement to give something. In this case, the obligation or

engagement is realized when the seller gives the buyer the item being sold and the buyer gives the seller the money. There have been a lot of changes to sales and purchase agreements, especially in terms of the procedures or forms used. A form of object development in the sale and purchase agreement is one of them, especially for goods that will exist. Trading is a typical type of exchange that is frequently done by individuals. Based on the agreement of the parties (seller and buyer), a sale and purchase agreement are typically made verbally or in writing.

The object of the sale and purchase agreement is the assets (objects) belonging to the parties. What can be objects in buying and selling are all movable and immovable objects, both according to their stack, weight, size and scales. The main element in the sale and purchase agreement for existing goods is tobacco that is still on the tree at a price determined by the parties. Article 1320 of the Civil Code—hereafter referred to as the Civil Code—states that an agreement's object must be certain, which means that it must at least be able to be identified by its type, weight, quantity, and tradeability. The term "buying and selling" refers to a group of agreements that are referred to as "named agreements," which indicates that the law has given this agreement its own name and has formulated specific rules for it. Named understanding plans can be directed in the Common Code and Business Code. The deal and buy arrangement are directed in Articles 1457-1540 of the Common Code. As indicated by Article 1457 of the Common Code, trading is an understanding that ties the merchant to vow to give up a thing/object, and another party going about as the purchaser ties himself and vows to follow through on the cost.

According to Article 1 point 17 of the Information and Electronic Transactions (ITE) Law, an electronic contract, which refers to an agreement that is carried out electronically and is contained in electronic documents or other electronic media, is the legal relationship that is outlined by the parties involved in online buying and selling. Electronically offered goods and services must include accurate and complete information about manufacturers, products, and contract terms. In light of the definition over, a few components of Online business can be drawn, specifically:

1. There is a deal to do business.
2. Electronic media are used to sign the contract.
3. Actual presence of the gatherings isn't needed.
4. A public network is where the contract takes place.
5. The framework is open, to be specific the web or WWW
6. The agreement is autonomous of boundaries, public ward

There are two entertainers in a Web based business understanding, specifically the trader/business entertainer who makes the deal and the purchaser/client/customer who goes about as the purchaser. Aside from business entertainers and shoppers, trading exchanges through web media likewise include suppliers as web access suppliers and banks as method for installment.

Because e-commerce transactions cover a wide range of subjects, it is necessary to classify them into distinct categories. The kinds of exchanges from a Web based business action are as per the following:

1. Business to Business (B2B)

Exchanges that happen between organizations for this situation, the two purchasers and merchants are organizations and not people. Most of the time, they do this because they already know each other, and the purchase and sale are done to get the companies to work together.

2. Business to Consumer (B2C)

Transactions between businesses and individuals or customers. Customers take the initiative to complete transactions in this kind of transaction, which involves transactions being distributed to the public. Producers need to be prepared to hear from customers. A web-based system is typically used because it is widely used by the general public.

3. Consumer to Consumer (C2C)

Transactions involving the purchase and sale of goods between individuals and between individuals who will sell goods to one another.

4. Buyer to Business (C2B) transactions that let people sell goods to a business.

5. Non-Business electronic Trade

6. Intrabusiness (Organizational) Electronic Commerce

3. METHODS

The research method used in this study is Normative Juridical, in which statutory regulations, literature, and books related to the subject at hand are cited. Standardizing juridical exploration is research completed by looking at regulations which are conceptualized as standards or decides that apply in the public eye, and become a reference for everybody's way of behaving. In regulating juridical exploration, library materials which are the premise utilized in research are delegated auxiliary information. Primary, secondary, and tertiary legal materials make up the secondary data.

4. RESULTS AND DISCUSSION

In an agreement there are two (2) conditions for the validity of an agreement, namely: subjective conditions and objective conditions. Subjective requirements themselves include agreement and skills.

1. Agreement

Understanding is one of the principal conditions in settling on an arrangement, which with the state of arrangement the two players will have an accord on what is directed by the agreement. In regulation it has been acknowledged on the hypothesis of arrangement that the will exists in the event that one of the accompanying components doesn't happen: 1) Compulsion (dwang, coercion), 2) Misrepresentation (bedrog, extortion), 3) Mix-up (dwaling, botch). As in article 1321 of the Common Code, it is resolved that the understanding will be invalid on the off chance that the party concerned settles on a concurrence with a misstep or got from a component of pressure or misrepresentation.

2. Skills

Competence is defined by law as someone who has reached the legal age of adulthood, also known as the age that can indicate that someone is an adult, such as someone who is married and not under guardianship or has reached the age of 21. As in article 1330 in regards to uncouth individuals, specifically: a) group who are not yet grown-ups, b) the people who are under guardianship, c) wedded ladies. This arrangement was eliminated with the order of Regulation no. 1 of 1974 concerning marriage. Because this law's article 31 states that husband and wife have the same rights and positions, and that both can sue.

But in an agreement, children who make an agreement are still considered valid if it does not harm both parties. As an explanation, in conventional buying and selling, an elementary school child who buys an item is considered valid if it does not harm both parties. Likewise, in online

transactions, a child can also buy an item or service offered by a trader because the buyer and seller do not meet. directly. The objective conditions themselves cover a specific matter and a halal reason.

1. A certain thing

What is meant about a particular matter, means that what will be agreed must be clear and detailed (type, quantity and price) or information about the object, the rights and obligations of each party are known, so that there is no dispute between the parties. Examples of selling clothes in the marketplace that provide very clear information about Brand, Motif/Details, Type of Warranty, Warranty Period, Dress Style, Sleeve Type, Long Sleeve, Dress Length, Clothing Material in accordance with the Law.

2. A legitimate reason

Because the agreement's terms must not conflict with the law, morality, or the public interest, they are permissible. due to the fact that halal requires agreements to be made in good faith. The principle of good faith must be adhered to in online agreements. It must be connected to Article 1335 of the Civil Code, which states that "if an agreement is made without a legal cause or reason, then it is deemed to have never existed," as intended by Article 1320 of the Civil Code.

Because e-commerce is a new way of doing business that doesn't bring sellers and buyers together, it's hard to tell exactly when an agreement was made. Aside from that, the lack of a face-to-face meeting between the seller and the buyer casts doubt on the competence of both parties. As a result, it is impossible to determine whether or not both parties are legally competent [9]. Normally what is by and large found for this situation is that the method for managing it is that business entertainers on their site express the age classification or are permitted to enter the site or in the enlistment of purchasers individual information is incorporated, for example, their KTP or identification number, as most would consider to be normal to ensure a buyer's abilities in making exchanges. Concerning halal reason, it is likewise an issue in trading exchanges by means of the web. Since what is halal in the law is that it doesn't disregard respectability and public request [10].

The issue is that the goods that are traded online vary, and some goods are traded in one country while others cannot be traded in other countries. The solution to this issue is to pass laws that make it illegal to trade in goods that are in accordance with Indonesia's positive law, or to make an international agreement about what goods can be traded online.

Compared to starting a business in the real world, starting a company – also known as an online buying and selling account in cyberspace – that sells online stores is very simple. In the real world, establishing a business necessitates approval from the appropriate authorities. Notwithstanding, in setting up or building a web-based shop in the internet, simply lease a spot in the internet and make a website architecture for the internet based shop with a Network access Supplier (ISP), then, at that point, this internet based shop can work like a shop in reality. Customers who wish to make purchases from an online store face a challenge due to the ease with which the store can be set up. There are expanding instances of misrepresentation against shoppers, for example, made up internet based shops, robbery of Visa numbers, etc. This issue can be overwhelmed by making an organization whose capability is to ensure the authenticity of online stores and give working grants to them to work.

Exchange security issues are connected with certifications of lawful assurance. The growth of online selling has been viewed as having both positive and negative effects. The positive angle is that exchanging on the web by means of online organizations can expand the job and capability of exchanging while at the same time giving productivity impacts. The negative aspect is the problem of security in e-commerce media transactions, which is also related legally to ensuring legal certainty. The confidentiality of the message, how to ensure that the message reaches the recipient in its

entirety, the legitimacy of the transaction actor, and the authenticity of the message so that it can be used as evidence are the security concerns in this aspect. The presence of shoppers who are not obviously envisioned, taking into account that there are exchanges done in the internet, there is plausible that the party completing the exchange might be a party who isn't lawfully allowed to make a legitimate move. For instance, the consumer who completes the transaction is younger than the age specified in the terms and conditions, or both parties have reached an agreement and the fictitious consumer can be located. Variety with respect to existing regulations and lawful locales that tight spot the two players. Both parties involved in business or transaction are bound by existing laws and legal jurisdiction. Where there are parties who think or are of the assessment that the exchange happened in the internet, then the regulations that apply in the internet don't make a difference despite the fact that at times there are arrangements that can be forced in the internet. So, individuals imagine that the regulations in the internet and in reality are unique, despite the fact that truth be told the internet guidelines come from regular daily existence which is normally controlled by guidelines [11]–[13].

A failure to perform a duty in accordance with the agreement is a default. Non-satisfaction of commitments by the debt holder is brought about by two potential reasons, to be specific: because of the indebted person's shortcoming, either purposefully not satisfying the commitment or because of carelessness and because of convincing conditions (*overmacht* or *force majeure*), so it is past the debt holder's capacity.

The results of the Law of Default are "Each act that disregards the law, which carries misfortune to someone else, requires the individual who, through his issue, influenced the misfortune, to make up for the misfortune." Article 1365 BW So an unlawful demonstration basically requires remuneration for misfortunes because of bad behavior. There are three types of consequences for default, namely:

- a. Paying losses (compensation) includes three elements, namely: costs, losses, interest
- b. Cancellation of Agreement or Termination of Agreement
- c. Risk transfer

On the off chance that a legitimate subject isn't mindful and commits a default on a Web based business exchange, then, at that point, the person can make a lawful move as controlled in articles 38 and 39 of the ITE Regulation concerning debate goal. That is, by documenting a claim as per the legal guidelines overseeing this demonstration, to be specific in the Common Code, common claims are separated into two kinds, in particular claims for break of agreement and claims illegal. The legitimate reason for break of agreement is in the arrangements of Book III Article 1243 of the Common Code and for claims illegal under Article 1365 of the Common Code. The Shopper Security Regulation purposes purchaser debates through the courts and resolves customers outside the courts. "Every person intentionally and without right spreads false and misleading news which results in consumer losses in electronic transactions," reads the entirety of Article 28 paragraph 1 of the ITE Law. Activities as depicted in Article 28 passage (1) of the ITE Regulation are compromised with detainment for a limit of 6 (six) years as well as a fine of a limit of IDR 1 billion (Article 45 section [2] of the ITE Regulation). Aside from that, he can likewise answer to the specialists (criminal course) that the activity is a crook demonstration of misrepresentation. The components that should be satisfied assuming that a common case as a break of agreement can be criminally detailed in the event that the understanding has been made utilizing a bogus name, misleading poise, misdirection or a progression of falsehoods.

CONCLUSION

Based on the results of the analysis of the discussions carried out in writing this law, the following conclusions can be drawn:

As long as it can be demonstrated and satisfies the requirements of Article 1320 BW, the validity of an online sale and purchase agreement must be comparable to that of a conventional agreement. The agreement is considered valid if both parties are in agreement, there is written agreement between the buyer and seller regarding the offer of goods and the selection of the desired goods, and both parties have agreed that there is an agreement. Legitimacy itself happens during the installment cycle in the understanding where the installment can be paid straightforwardly or addressed in stages from the concurred cost. Article 1320 BW states that an online sale and purchase agreement must also meet the requirements for the agreement's validity, which can be proven or not.

If one party is harmed in an online sales and purchase agreement, the legal consequences of default include the ability to seek compensation for the default because the default has harmed the other party. Compensation for a breach of contract can come in the form of the agreement being fulfilled, the agreement being cancelled with compensation, or both the agreement being fulfilled and compensation. In accordance with Civil Code article 1243, non-fulfillment of an obligation result in compensation.



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