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Juridic Review Fulfillment of the Parties' Obligations In Accordance With the Agreements in Law Agreements

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Abstract
In Article 1233 of the Civil Code it is stated that every engagement is born either by agreement or by law, which can be interpreted that the engagement is born because of an agreement or law, in other words, laws and agreements are sources of engagement. - applicable laws, public order, customs and decency. The parties involved in the agreement are expected to carry out the agreements that have been agreed in good faith. The agreement must meet the requirements for the validity of the agreement and the general principles or principles contained in the law of the agreement. According to Article 1313 of the Civil Code, the meaning of an agreement is an act by which one or more persons bind themselves to one or more other persons. From the formulation of the article, it can be concluded that what is meant by an agreement in that article is an agreement that gives rise to an engagement (verbintenisscheppende overeenkomst) or an obligatory agreement. The parties to the engagement become the subject of the engagement. There are two parties to the engagement, namely the debtor and the creditor. The debtor is the party who has the obligation to carry out an achievement, while the creditor is the party who has the right to fulfill an achievement from the debtor. Creditors are said to have claims against their debtors, namely claims for achievements from their debtors, whose object does not have to be a certain amount of money, but can also be in the form of an obligation to do something or not to do something, even if there is an obligation to give something the object does not have to be a sum of money. One very basic principle or principle in contract law is the principle of protection of the parties, especially the injured party. If one of the parties does not carry out the performance in accordance with what was agreed upon, it must bear the consequences of the demands of the opposing party. However, in practice it often does not work well and even causes conflicts. The problems that arise are related to the implementation of the rights and obligations of the parties and regarding the implementation of the law of the agreement in providing legal protection for the parties. The study discusses: How to regulate the rights and obligations of the parties in contract law and how to implement contract law in providing legal protection for the parties. The method used is normative juridical. To overcome these problems, a solution is needed in order to create what is the purpose of making an agreement, namely justice for the parties. If there is a dispute regarding the agreement, it should be resolved by taking into account the protection of the parties. The existence of the law is very necessary to be respected and the principles of the law are upheld.

Keywords: *Agreement, Legal Protection, Rights and Obligations*

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I. INTRODUCTION

In Article 1233 of the Civil Code it is stated that every engagement is born either by agreement or by law, which can be interpreted that the engagement is born out of an agreement or law, in other words, laws and agreements are the source of the engagement. (J. Satrio: 2001)

According to Article 1313 of the Civil Code, the meaning of an agreement is an act by which one or more persons bind themselves to one or more other persons. From the formulation of the article, it can be concluded that what is meant by an agreement in that article is an agreement that gives rise to an engagement (verbintenisscheppende overeenkomst) or an obligatory agreement.

Abdulkadir Muhammad: (Abdulkadir Muhammad: 2000) in his book entitled "Indonesian Civil Law" argues that the definition of agreement formulated in Article 1313 of the Civil Code has several weaknesses, namely:

a. It's only one-sided. This can be seen from the formulation of the verb "to bind" which is only coming from one party, not from both parties. The formula should have been "bind together", so that there is a consensus between the two parties;

b. The word deed includes also without consensus. In the sense of "deeds" including actions to organize interests (zaakwarneming), actions against the law (onrechtmatige daad) that do not contain a consensus, so the term "approval" should be used;

c. The definition of agreement is too broad. The definition of an agreement also includes a marriage agreement which is regulated in the field of family law, even though what is meant is the relationship between debtors and creditors regarding assets. Agreements regulated in Book III of the Civil Code actually only include agreements that are material, not personal;
d. Without mentioning goals or having unclear goals. In the formulation of Article 1313 of the Civil Code, there is no mention of the purpose of entering into an agreement, so it is not clear what the parties are binding themselves for. According to Subekti, an engagement is defined as a legal relationship (regarding property assets) between two or more people in which the party one has the right to demand something from the other party and which gives the right to one party to demand something from the other party and the other is obliged to fulfill that demand.

According to R. Setiawan (R. Setiawan: 1999) the formulation contained in Article 1313 of the Civil Code is not only incomplete but also very broad. The formulation is said to be incomplete because it only concerns the approval of "deeds" so it includes voluntary representation (zaakwaarneming) and unlawful acts (onrechtmatigedaad). In this regard, he proposes to make improvements regarding the definition of the agreement, namely to become:
a. The act must be interpreted as a legal act, namely the act of a legal subject aimed at causing legal consequences that are intentionally desired by the legal subject.
b. Adding the words "or more bind themselves" in Article 1313 of the Civil Code.
Based on the weaknesses contained in the provisions of Article 1313 of the Civil Code, several legal experts have tried to formulate a more complete understanding of the agreement, including: some of them (the debtor or debtors) commit themselves to demanding certain ways towards other parties, who are entitled to such an attitude. Then by quoting Pitlo's opinion. (Ridwan Khairandy: 2012)
Article 1320 of the Civil Code has regulated the conditions for the validity of an agreement, including:
1. Agree on those who bind themselves
2. The ability to make an engagement
3. A certain thing
4. A lawful cause

The Civil Code, i.e. there is no valid agreement if the agreement was given by mistake, or obtained by coercion or fraud.. Abdulkadir Muhammad used the term agreement of will between the parties who made the agreement (consensus) for the terms of this agreement. Consent of the will is an agreement, according to the agreement between the parties regarding the subject matter of the agreement, what is desired by one party is also desired by the other party. Prior to an agreement, usually the parties hold negotiations (negotiation) in which one party informs the other party about the object of the agreement and its conditions, then the other party also states his will so that an agreement is reached.

The will can be expressed either freely or tacitly, but the intent is to agree with what the parties want. The consent of the will is free, meaning that there is no coercion and pressure from any party and is based on the voluntary will of the parties.

In terms of consent, the will also includes the absence of mistakes and deception. Based on the provisions of Article 1324 of the Civil Code, it is explained that there is no coercion if the person who commits the act is not under threat, either by physical violence or by means of intimidation, for example, will reveal a secret so that the person is forced to agree. agreement. The legal consequence of the absence of an agreement of will (because of coercion, oversight, or fraud) is that the agreement can be requested for its cancellation to the Judge.

According to the provisions of Article 1454 of the Civil Code, that cancellation can be requested within a grace period of 5 (five) years, in the case of coercion it is calculated from the day the coercion stops, and in the case of an oversight and fraud, it is calculated from the day the error and fraud is discovered. . The legal consequence of the absence of an agreement of will (because of coercion, oversight, or fraud) is that the agreement can be requested for its cancellation to the Judge. (R. Subekti: 1986)

In the business world, the agreement has a very important role as a guide, guide, evidence for the parties. In general, the agreement is: The agreement of the parties on something that gives birth to a legal engagement / relationship, gives rise to rights and obligations, if it is not carried out as agreed, there will be sanctions. Engagement is a legal relationship between two people or two parties based on which one party has the right to demand something from the other party and the other party is obliged to fulfill that claim. Thus an agreement in the form of an agreement is essentially binding. Generally, an agreement begins with a difference or unequal interest between the parties, and the formulation of the contractual relationship generally begins with a negotiation process between the parties. So that with the existence of an agreement, these differences are accommodated and then framed with legal instruments so that they are binding on both parties.

The agreement must not conflict with applicable laws, public order, customs and decency. Article 1320 of the Civil Code, conditions for a valid agreement: Agree of the parties, the skills of the parties, certain objects and lawful causes. Terms 1 and 2 are called subjective conditions, because they involve the subject making the agreement. If these conditions are not met, the result is that the agreement can be canceled (vernietigbaar), by the parties concerned. Conditions 3 and 4 are called objective conditions, which relate to the object of the agreement. Consequence

If the objective conditions are not met, then the agreement is null and void, meaning that the agreement was deemed to have never existed from the start. For example, if the agreement is contrary to the law, public order and decency. (Wirjono Projodikoro: 1991)

In an agreement, besides having to pay attention to the legal requirements of an agreement, it must also be based on several general principles or principles contained in contract law, namely: the principle of freedom of contract, the principle of consensualism, the principle of pacta sunt servanda, the principle of good faith, the principle of personality (personality), the principle of trust. , the principle of legal equality, the principle of balance, the principle of morality, the principle of propriety, the principle of habit, the principle of protection, and others. Before an agreement is signed, it generally begins with a negotiation process between the parties. In making an agreement there are several things that must be considered: Understanding of the legal provisions of the agreement, the expertise of the parties in making the agreement, the arrangement of rights and obligations, the consequences that arise in an agreement. In contract law the principles of contract law must be applied, this is necessary in order to avoid disputes or disputes in the future. (Salim H.S: 2003)

The agreement gives birth to an engagement that has legal consequences for the parties. The legal consequences are in the form of reciprocal rights and obligations between the parties. One source of contract law in Indonesia is the Civil Code. Article 1338 paragraph 1 of the Civil Code which reads: "All agreements made legally apply as law for those who make them". This shows that the contract law system in Indonesia adheres to an open system. An open system means that the parties are free to enter into an agreement with anyone, determine the terms, its implementation, or in written or oral form, etc.

With the agreement will give rise to rights and obligations for each party who makes the agreement. The parties will be bound to comply with the contents of the agreement that has been made. In the business world, the agreement is very important as a guide, guide, evidence for the parties. With a good agreement, it is expected to prevent disputes from occurring, in the future, because everything is clearly regulated. If there is a dispute in the future, it can help in resolving it. The agreement can provide guarantees and legal certainty for the parties. With the agreement, it is hoped that the parties involved in it can carry out in accordance with the agreed agreements, doing so in good faith.

The benchmark for the implementation of an agreement can be seen the extent to which the parties carry out their rights and obligations properly. However, in practice it often does not work well and even causes conflicts. The problems that arise relate to the rights and obligations of the parties and regarding the implementation of the law of the agreement in providing legal protection for the parties. The parties often do not carry out their respective rights and obligations. This kind of thing requires legal means to solve it. The existence of the law is very necessary to be respected and the principles of the law are upheld.

To overcome these problems, a solution is needed in order to create what is the purpose of making an agreement, namely justice for the parties. By implementing the rights and obligations of the parties, it means that the substance of the agreement has been carried out based on a firm belief or belief. With the background described above, the authors want to know and discuss more deeply about: How to regulate the rights and obligations of the parties in the law of the agreement and how to implement the law of the agreement in providing legal protection for the parties.

II. Research Method

This research uses a normative juridical approach, namely by taking an inventory, reviewing and analyzing and understanding the law as a set of regulations or positive norms in the legal system that regulates human life1. Specifications This research is a descriptive analytical research which is a research to describe the flow of scientific communication.

III. Research Results and Discussion

1. Making a valid contract according to the Civil Code

Contracts made legally between the parties must of course be in accordance with the applicable legal provisions, so that the contract can be implemented in accordance with the objectives of the parties in making the contract and the contract is binding as law for the parties. Article 1338 paragraph (1) of the Civil Code states that all agreements made legally apply as law for those who make them. An agreement cannot be withdrawn other than by agreement of both parties, or for reasons that are stated by law to be sufficient for that. An agreement must be carried out in good faith.

Article 1339: An agreement is not only binding for things that are expressly stated in it, but also for everything which according to the nature of the agreement, is required by propriety, custom or law.

Making contracts must be based on the principle of good faith and promises must be kept so that the contract can be implemented by taking into account the rights and obligations of the parties and providing mutual benefits and advantages. Legal certainty in the contract is a manifestation of an agreement to mutually keep promises that have been mutually agreed upon. The good faith of the parties before making a contract is a very principle thing to prevent disputes due to between the parties who do not carry out their obligations.

A contract begins with a difference or dissimilarity of interest between the parties. The formulation of the contractual relationship generally begins with a negotiation process between the parties. Through negotiations, the parties seek to create forms of agreement to bring together what they want (interests through the bargaining process). (Agus Yudha Hernoko: 2008)

In general, business contracts actually start from different interests that are tried to be reconciled through contracts. Through the contract, these differences are accommodated and then framed with legal instruments so that they are binding on the parties. In a business contract, questions regarding the issue of certainty and justice will actually be achieved if the differences that exist between the parties are accommodated through a contractual relationship mechanism that works proportionally. (7Lukman Santoso: 20212)

The agreement in the contract is actually based on the idea that there is a need for legal certainty and legal protection of rights between the parties that must be fulfilled through the implementation of obligations. Legal action to make an agreement in a contract is carried out to ensure fair treatment for all parties bound in the contract made.

An important legal principle related to the validity of the agreement (contract) is the principle of freedom of contract. This means that the parties are free to make any agreement, whether there is an arrangement or there is no regulation and are free to determine the contents of the agreement themselves, but this freedom is not absolute because there are limitations, namely it must not conflict with the law, public order and morality. (Rachmadi Usman: 2012)

The legal arrangement of the engagement has an open system, meaning that a person can hold other individual rights (personlijk recht), other than those regulated by law. With this open system, everyone is free or can enter into an engagement or agreement that can lead to a legal relationship, whether or not it has been regulated by law. This means that the number of individual rights is not limited to what has been stated in the law, where everyone can exercise individual rights based on mutual agreement, as long as they do not conflict with the law (law), public order, decency and decency.

The nature of the openness of the law of engagement brings the understanding that everyone can exercise individual rights based on the principles of consensuality and freedom of contract, even though the individual rights created by him have not been regulated in law. Individual rights are relative, therefore their fulfillment can be regulated differently by each person, different from what is regulated in law.

2. Fulfillment of Contract Rights and Obligations

The fulfillment of rights as the implementation of obligations according to the agreement of the parties in the contract must be adhered to, considering that in making a contract the parties do it on the basis of the principle of freedom of contract, good faith and promises must be kept. The contract gives birth to an engagement that gives rise to legal consequences, the agreement of the parties is binding and this needs to be realized reciprocally between the parties to carry out their obligations as a legal act to fulfill the rights of each party.

The contract gives birth to rights and obligations because it is based on Article 1338 of the Civil Code and fulfills the requirements in Article 1320, so that the agreement made is a law or binding law for the parties to be implemented. If the parties do not carry out their obligations, the other party can be sued for breaking their promise to the contract made. Fulfillment of rights carried out as fulfillment of obligations according to the agreement of the parties in the contract is a legal act that can be accounted for because the contract is made by the party according to the agreement and the parties who make the contract are parties who are capable of carrying out legal actions including contracts made limited to certain things and the purpose of making a legal contract is based on good faith, namely for lawful causes.

If the parties do not carry out their obligations according to the contract made, Book III of the Civil Code regulates the compensation resulting from the breach of promise as regulated in Article 1243 of the Civil Code to Article 1252 of the Civil Code. Compensation for losses due to unlawful acts is regulated in Article 1365 of the Civil Code.

Civil procedura l law is a legal regulation that regulates how to ensure compliance with material civil law with the judge's order. It can also be said that civil procedural law is a legal regulation that determines how to guarantee the implementation of material civil law. More firmly it is said that civil procedural law is the law

that regulates how to submit and implement the decision. To file a claim for rights means to ask for legal protection for rights that have been violated by others. (Yulies Tiena Masriani: 2009)
Claims for rights are divided into two, namely:
1. The claim for rights based on the dispute that occurred, called a lawsuit in this kind of claim, there are at least two folded parties, namely the plaintiff (who filed a claim for rights) and the defendant (the person being sued), and
2. A claim for rights that does not contain a dispute is usually called an application in the second claim for rights, where there is only one party.

Civil procedural law includes three stages of action, namely as follows:
1. The preliminary stage, is the preparation leading to the determination or implementation.
2. In the determination stage, an examination of the event is held and at the same time the evidence and decision.
3. Implementation stage, the stage of holding the implementation of the decision.

The law that the event aims to protect a person's rights. Protection of a person's rights is provided by civil procedural law through civil courts. In a civil trial, the judge will determine what is true and which is not true after the examination and proof is complete. With this trial, of course, someone who controls or takes someone's rights against the law will be decided as the wrong party, therefore he is obliged to give back what has been controlled, to the legal right holder according to law. Thus, what is contained in material civil law can be carried out properly.

In addition to aiming to protect a person's rights, there is another goal which is the ultimate goal of civil procedural law, namely maintaining material law. In order to maintain material civil law, the civil procedural law functions to regulate how a person can file a claim for his rights, how the state through its apparatus gives and decides on civil cases that are brought to him. In other words, it can be stated that the function of civil procedural law is as a means to claim and defend one's rights.

Civil law, in essence, is a law that regulates the interests of one individual citizen with another individual citizen
The legal consequences due to a broken promise in carrying out obligations as the fulfillment of rights according to the agreement of the parties in the contract include things as described:

IV. RESPONSIBILITY

sue; to sue, means (1) to accuse; complain (case); (2) demand (promise and so on); resurrect the things that have been; (3) rebuke loudly; refute. The term responsibility in the sense of liability can be interpreted as liability which is a translation of aansprakelijkheid and is a specific form of legal responsibility according to civil law. Liability refers to the position of a person or legal entity that is deemed to have to pay a compensation or compensation after a legal event.

V. UNLAWFUL ACTS

Acts against the law in Indonesia normatively always refer to the provisions of Article 1365 of the Civil Code. The formulation of norms in this article is unique, unlike the provisions of other articles. The formulation of the norms of Article 1365 of the Civil Code is more of a normative structure than the substance of a complete legal provision. Therefore, the substance of the provisions of Article 1365 of the Civil Code requires materialization outside the Civil Code. Seen from the dimension of time.

This provision will "eternal" because it is only a structure. In other words, as a figure of speech that we already know, Article 1365 of the Civil Code is "unbreakable by heat, not weathered by rain". Acts against the law (onrechtmatigedaad) are the same as acts against the law (onwetmatigedaad). Acts against Indonesian law originating from Continental Europe are regulated in Article 1365 of the Civil Code to 1380 of the Civil Code.

These articles regulate the form of responsibility for unlawful acts which are divided into: First, responsibility not only for unlawful acts committed by oneself but also with regard to unlawful acts of other people and goods under their supervision. Article 1367 paragraph (1) of the Civil Code states: "a person is not only responsible for losses caused by his own actions but also due to the actions of people who are his dependents or caused by goods under his control. Second, unlawful acts against the human body and soul. Article 1370 of the Civil Code states that in the event of intentional murder or negligence, the husband or wife, children, parents of the victim, who usually earn a living from the victim's work, have the right to claim compensation which must be assessed according to the circumstances and wealth of both parties. Third, acts against the law against the good name.

The matter of humiliation in Article 1372 to Article 1380 of the Civil Code. Article 1372 states that claims for insults are aimed at obtaining compensation and restoring good names, in accordance with the positions and circumstances of the parties.

VI. COMPENSATION

Compensation, namely compensation for losses suffered (a debtor who is in default must pay compensation to the creditor), this is regulated in the Civil Code, namely: Article 1248: "reimbursement of compensation costs and interest due to non-fulfillment of an agreement, then it becomes obligatory if the debtor after being declared negligent in fulfilling his commitment, continues to neglect it or if something that must be given or made can only be given or made within the time limit that has been passed. Article 1244: "if there is a reason for that, the debtor must be punished to compensate for costs, losses and interest if he cannot prove at the right time that the engagement was carried out, because due to an unexpected thing he cannot be held accountable to him all of that even if it is in bad faith. is not on his side.

There are two reasons for the occurrence of compensation, namely compensation due to default and compensation due to unlawful acts. Compensation due to default is regulated in book III of the Civil Code, which starts from Article 1243 of the Civil Code to Article 1252 of the Civil Code, while compensation for losses due to unlawful acts is regulated in Article 1365 of the Civil Code. Compensation that is charged to the person who has caused the wrongdoing to the party who has been harmed. The compensation arises because of an error, not because of an agreement

VII. DISPUTE RESOLUTION

The more complex human interests in a civilization raises the potential for disputes that occur between individuals and between groups in certain social populations. Efforts made by humans to maintain social harmony are by accelerating the resolution of the dispute, through methods that are simpler, more accurate and more focused. (D.Y. Witanto: 2011)

1. Disputes in a broad sense can be divided into two major groups, namely: social disputes;
2. Legal disputes.

Social disputes are usually related to ethics, karma or morals that live and develop in certain social circles. Violations of customary rules are included in the category of social disputes because customary law is not part of a positive legal system so that the sanctions applied are only internal sanctions.

A legal dispute is a dispute that has legal consequences, either because of a violation of the rules of positive law or because of a conflict with a person's rights and obligations regulated by positive legal provisions. The distinctive feature of legal disputes is that their fulfillment (settlement) can be prosecuted before state legal institutions (courts/other law enforcement institutions). Legal disputes are broadly divided into several groups, including:

1. Criminal law disputes;
2. Civil law disputes;
3. State administrative law disputes;
4. International legal disputes.

Disputes that arise between the parties are not always negative, so the resolution must be managed properly to lead to the best settlement for the interests of both parties. Therefore, dispute resolution is one of the important legal aspects in a country based on law, for the creation of order and peace. In order for order and peace to be properly maintained, the law must be in accordance with the legal ideals of the people of the country.

In its development according to social dynamics, recognizing the process of resolving civil disputes not only through formal processes (courts) but also through non-formal processes (outside the court). Law Number 48 of 2009 concerning Judicial Power. Chapter XII, regulates the Settlement of Disputes outside the Court. Article 58 states: “Efforts to settle civil disputes can be carried out outside the state court through arbitration or alternative dispute resolution.

Law of the Republic of Indonesia Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Chapter II. Alternative Dispute Resolution. Article 6 paragraph (1) states: "Civil disputes or differences of opinion can be resolved by the parties through alternative dispute resolutions based on good faith by setting aside litigation in the District Court."

According to the description, it can be understood that if the parties who are bound by the contract according to the agreement that has been made, a dispute occurs because it is caused by a default, then the parties can resolve the dispute through litigation, namely through court or non-litigation, namely outside the court.

The parties can choose and determine according to the agreement between the parties and of course, according to the considerations for the settlement of the case, efforts are made in a short time and of course the case decision, both through litigation and non-litigation, can provide legal certainty and justice for the parties to the dispute, so that the rights of the parties to the dispute parties to the contract get legal protection.

VIII. CONCLUSION

1. The making of a valid contract according to the Civil Code (KUHPerdata) is required to be implemented and obeyed by the parties who wish to make a contract in accordance with the principle of good faith and promises must be fulfilled. This is to provide legal certainty for the parties regarding the rights and obligations according to the agreement in the contract made.
2. Fulfillment of rights and obligations according to the agreement of the parties in the contract is a form of legal protection for the rights of the parties, according to the agreement in the contract has binding force to be obeyed. The fulfillment of the rights of the parties is the implementation of obligations guaranteed by the provisions of the applicable civil law. Denial of obligations can lead to legal consequences, namely civil liability, namely compensation for causing losses to other parties.

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