



Legal protection for Consumers who are victims of fraud in online transactions

I Ketut Budiarta

Faculty of Law, Warmadewa University, Indonesia

Abstract

Purchasing products online has become an increasingly popular activity in Indonesia. However, online purchasing often raises issues related to consumer protection. Therefore, the final result of this research is to understand the perspectives of buyers or consumers in Indonesia regarding consumer protection when purchasing goods online. In cases of online fraud, victims often demand material compensation from the perpetrator to obtain their rights due to the losses suffered by the victim and the form of accountability of the online fraud perpetrator. However, this has not been fully realized because there is no legal regulation on how to compensate victims of online fraud. The importance of compensation for victims of online transaction fraud is the realization of victims' rights, which is a form of justice. The results of the study indicate that although laws regulating consumer protection have been passed, there are still legal loopholes that need to be addressed to improve consumer protection in e-commerce transactions. Therefore, better oversight and law enforcement are needed to prevent legal violations that can harm consumers. In both the 2008 and 2016 ITE Laws, there is only one main criminal article and the potential criminal penalties imposed on perpetrators, but neither law fully explains how victims are protected, and what protections they can receive after the case is resolved, with both material and immaterial losses suffered. Compensation for victims who have suffered losses is a legal protection that provides certainty. Victims are not only protected by legal evidence but also by how their rights are achieved afterward.

Keywords: Online buying and selling, fraud, victim protection

Introduction

The presence of globalization in this millennium era has had a major impact on all sectors of human life, including technology and the internet. The development of information technology in the era of globalization has made the world free and has caused various social dynamics to occur directly, continuously, and quickly, so that human life feels easier, as well as freedom in determining choices in life. Technology and the internet have a huge role in supporting all human life activities. The enormous use of digital technology in Indonesia has certainly had an impact on several sectors, one of which is the business sector or business industry which then gave birth to online trading or e-commerce. Trading activities between sellers and buyers using internet media are known as electronic commerce, or e-commerce for short. "The term 'electronic commerce' or 'e-commerce' simply refers to business transacted by electronic means which includes business-to-business and business-to-consumer transactions. The term is a broad concept that encompasses agreements concluded electronically through the exchange of e-mail over websites and the transfer of money by electronic means" ^[1]. The term "e-commerce" or "e-commerce" refers solely to business transactions conducted electronically, including both business-to-business and business-to-consumer transactions. The rapid development of digital technology has brought about significant changes in various aspects of life, including buying and selling. Transactions previously conducted conventionally have now shifted to digital platforms, including marketplaces like Tokopedia, Shopee, Bukalapak, and others. Marketplaces make it easy for consumers to purchase goods from anywhere and at any time without having to meet the seller face-to-face. However, behind this convenience, various legal issues arise

that harm consumers. One of the most common is fraud in online buying and selling transactions ^[2].

Online buying and selling is inseparable from an agreement that arises due to an agreement. The agreement between the seller and buyer via social media is an electronic agreement. Electronic agreements have the same legal force as conventional agreements which bind the parties. Article 18 paragraph 1 of Law No. 11 of 2008 as amended by Law No. 19 of 2016 concerning Electronic Information and Transactions states that "electronic transactions set out in electronic contracts bind the parties." In addition, electronic agreements also apply according to one of the principles of agreements, namely the principle of Pacta Sun Servanda. The principle of Pacta Sun Servanda is contained in the provisions of Article 1338 paragraph (1) of the Civil Code which states "all agreements made legally apply as law for those who make them." "International developments on the electronic commerce front are at a crossroads and raise the problems which may blur the line between the public and private law, the economics of and globalization of commerce and telecommunications and the opening up of electronic commerce trends and services between countries and district parties previously limited in their ability to engage in direct commerce and pushing the need for new legal standards and new concepts of jurisdiction." It can be concluded that international developments in the electronic field raise problems therefore it is necessary to encourage the existence of new legal standards and new concepts of jurisdiction in accordance with the development of the times ^[3].

Consumers are often the most disadvantaged parties, either because they receive goods that do not match the description, goods are not sent, or even because of the existence of fictitious sellers who take advantage of the

security of the marketplace system. Although the government has regulated consumer protection through Law Number 8 of 1999 concerning consumer protection, as well as several regulations related to electronic transactions such as Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE), in practice there are still many cases where consumers do not receive maximum legal protection. The lack of legal understanding among the public and weak supervision of online business actors are obstacles in implementing this legal protection. Therefore, it is important for us to examine what form of legal protection is provided to consumers who become victims of fraud in online buying and selling transactions through the marketplace, as well as the extent to which regulations and the role of related institutions are able to provide a sense of security and justice for consumers. Therefore, this study is important to analyze the extent to which the law in Indonesia is able to protect consumers in online transactions, as well as how the process of digital technology transfer also influences the need for legal updates [4]. This research aims to: (1) identify and analyze the forms of legal protection provided to consumers who are victims of fraud in online buying and selling transactions via the marketplace, and (2) identify the rights of buyers and sellers in online buying and selling.

Method

This paper employs a normative research method through a literature study and a legal approach to the regulations in force in Indonesia (statutory approach), through a review of the laws and regulations related to the issues being discussed. In normative research, one thing is certain: the approach uses statutes (statute approach). In this study, the author uses two approaches

1. Statute Approach. The statute approach is carried out by examining all laws and regulations related to the legal issue being addressed. The statutory approach in normative legal research has both practical and academic uses. For practical research, this statutory approach provides an opportunity for researchers to examine the consistency and conformity between one law and another, or between a law and the constitution, or between regulations and statutes. The results of this review serve as arguments for resolving the issue at hand. For academic research, researchers need to seek the ratio legis and the ontological basis for the law's origin. By studying the ratio legis and ontological basis of a law, researchers are able to uncover the philosophical content behind the law. By understanding the philosophical content behind the law, researchers can conclude whether there is a philosophical conflict between the law and the issue at hand.
2. Conceptual Approach The conceptual approach begins with the views and doctrines developed within legal science. By studying these views and doctrines within legal science, researchers will discover ideas that give rise to legal definitions, legal concepts, and legal principles relevant to the issue at hand. Understanding these views and doctrines serves as a foundation for researchers in developing legal arguments to resolve the issue at hand.

Result and discussion

1. Forms of legal protection provided to consumers who are victims of fraud in online sales transactions.

Weaknesses in online businesses often place consumers in a vulnerable position compared to businesses. There is a lack of awareness of the rights and obligations of all parties arising from electronic transactions, particularly regarding consumer legal protection. In practice, some require consumers to bear the consequences of purchasing goods and services offered by businesses. Electronic transaction mechanisms in Indonesia often result in losses for victims. These losses include defective products, negligence, and even victims being required to bear the loss of money without receiving the goods offered, despite having submitted an obligation to send money for the purchase [5]. In consumer protection, the law provides protection in the form of the right for consumers to exercise their authority, namely requiring businesses to deliver products that have been paid for. In practice, there is an understanding that requires consumers to bear the consequences of their choices, namely purchasing products in the form of goods and/or services offered by businesses. This results in consumers' position being weakened in terms of legal protection [6].

The ITE Law also does not adequately define the concept of "consumer" or "consumer protection." Therefore, regulations are needed to balance the protection of consumer and business interests, thus creating a healthy economy. If a consumer fulfills their obligation to pay for a product ordered, they can exercise their rights, including the authority to demand that the business fulfill its obligation to deliver the product paid for. Businesses have relative rights, namely receiving the agreed-upon payment for products offered online. In addition to these rights, business actors also have obligations, namely delivering the product paid for by the consumer. Rights and obligations arise after an agreement is reached between the consumer and the business actor, and based on this agreement, the business actor has the right to receive payment, which is the consumer's obligation, along with the business actor's obligation to deliver the goods paid for [7].

Consumers who feel their interests have been violated can file a complaint or process their case through legal channels through a legal institution, namely the Consumer Dispute Resolution Agency. Law Number 8 of 1999 concerning Consumer Protection (the Consumer Protection Law) also outlines the rights that consumers should have. According to the Consumer Protection Law, consumer protection is a form of effort that ensures legal certainty and provides protection. In this case, there are four fundamental consumer rights or interests, as follows [8]

1. The right to be safe;
2. The right to get information;
3. The right to choose;
4. The right to be heard.

The mandate of the Consumer Protection Law regarding victims' rights, particularly compensation for losses resulting from criminal acts, remains a mere ideal, with a tendency to fail to materialize. This is because in several decisions regarding online fraud, the Panel of Judges has not even touched on the rights that should be granted to victims of criminal acts, such as compensation, as stipulated in the

Consumer Protection Law. The failure to receive compensation, even though it is stipulated in the Consumer Protection Law, cannot be separated from the consolidation of cases as an option for seeking compensation, as stipulated in the Criminal Procedure Code^[9]. It should also be noted that in addition to consolidating cases, compensation can be sought through a regular civil lawsuit modeled after an unlawful act. However, the weakness of this mechanism is that victims of criminal acts must wait for a court decision that has ruled on the criminal case committed by the perpetrator (defendant)^[10].

2. Rights of Buyers and Sellers in Online Buying and Selling

Consumer Protection Law No. 8 of 1999 outlines eight consumer rights in sales transactions: the right to security, the right to comfort, the right to choose goods or services, the right to honest, clear, and correct information, the right to legal protection, the right to be served without discrimination, and the right to compensation if the purchased goods are damaged. These rights aim to protect consumers in both online and offline sales transactions. For example, the consumer's right to choose a product or service with the promised exchange rate, conditions, and guarantees aims to prevent consumer losses, while the consumer's right to receive correct, clear, and honest information about a product or service aims to instill confidence and trust in consumers. Therefore, it is important for producers and sellers to fulfill consumer rights to prevent violations that harm consumers^[11].

Article 5 paragraph (1) of the Consumer Protection Law states that "business actors have an obligation to provide clear, correct, and non-misleading information regarding the products or services they produce or provide." This aims to enable consumers to make informed decisions based on accurate information and reduce the risk of loss. Article 5 paragraph (2) also stipulates that "business actors must provide guarantees for the products or services they produce or provide and resolve disputes with consumers appropriately and promptly if there are problems with those products or services." Meanwhile, Article 5 paragraph (3) emphasizes that "business actors are obliged to provide services and protection to consumers who purchase or use the products or services they produce or provide, including in the case of returning products or services that are defective or do not meet the promised standards." The principles of consumer protection stated in Article 6, such as fairness, legal certainty, equal rights, transparency, and consumer involvement in decision-making, aim to protect consumer rights and encourage business actors to be responsible for the products or services they produce or provide. In carrying out their business activities, business actors must pay attention to these principles of consumer protection to create a balanced relationship between business actors and consumers in transactions^[12].

Article 8 of the Consumer Protection Law (UUPK) explains actions that are not permitted for business actors, namely "they are not permitted to produce or sell products or services below applicable standards, including information, explanations, measurements, conditions, and quality." Furthermore, businesses are also "prohibited from selling defective, damaged, used, or contaminated goods without providing complete and accurate information about the goods." Finally, "businesses are prohibited from selling

defective, damaged, used, or contaminated pharmaceutical or food products without providing complete and accurate information." If a business violates paragraphs (1) and (2), it must withdraw the product or service from the market. If there is a discrepancy between the advertised product specifications and the product received by the consumer, this is considered a violation and, in accordance with Article 4 letter h of the Consumer Protection Law, "consumers have the right to receive compensation or damages if the product or service received does not match what was promised."^[13] The development of e-commerce or online product purchases has grown rapidly and brought positive aspects, but there are several issues related to consumer protection that are often encountered. One of these is the difficulty of ensuring product authenticity for consumers because purchases are made online, especially for products with well-known brands or high prices. Therefore, consumers are advised to purchase products from official sellers^[14]. Another issue is transaction security, one case of which is when prospective consumers are asked to enter personal information, such as credit card information. Consumers should ensure that the e-commerce site or application they use has a strong and reliable security system to prevent misuse of personal information. Poor after-sales service is also common, with consumers having difficulty contacting the seller or obtaining adequate compensation. Therefore, consumers should ensure that they purchase a product from a reputable seller with a clear warranty^[15]. The government and business actors have an important role in protecting consumers when purchasing products online. The government must create clear regulations and supervise their implementation, while business actors must provide clear and correct information related to products, protect consumers' personal information, and guarantee good after-sales service. According to Article 7 letter g of the Consumer Protection Law (UUPK), business actors have the responsibility to provide compensation, replacement, or restitution if consumers receive products that do not comply with the agreement. If business actors do not fulfill their obligations, they can be subject to criminal sanctions based on Article 62 of the UUPK which states that "business actors who violate the provisions in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2), and Article 18 can be subject to a maximum of 5 years imprisonment and a fine of up to IDR 2,000,000,000.00 (two billion rupiah)"^[16].

Conclusion

The obligation to restitution is limited to certain crimes as stipulated in the Witness and Victim Protection Law. However, restitution for victims can be considered a fulfillment of restorative justice, a concept currently being sought in criminal law reform in Indonesia. Compensation in the form of restitution as an additional penalty is a very logical option to fulfill the rights that victims of criminal acts often do not receive even though legal proceedings against the perpetrators have been carried out. Restitution, which is only an option, and the victims' generally unfamiliar position regarding restitution, requires restitution to be regulated as an additional penalty. Seen from the perspective of restorative justice, a concept already used in several laws and regulations in Indonesia, crime is considered a conflict between individuals. Therefore, the

fulfillment of compensation by the perpetrator to the victim, known as restitution, is mandatory because crimes, as violations, primarily violate individual rights, as well as violating the rights of society (the public interest), the interests of the state, and ultimately the interests of the perpetrators themselves.

The Consumer Protection Law aims to protect consumer rights, including the right to obtain clear, accurate, and correct information about the products and services to be purchased, the right to be protected from harmful products and services, and the right to obtain compensation in the event of damage or defects in the purchased product or service. When purchasing products online, the Consumer Protection Law provides the same protection as purchasing products in a physical location. However, there are several differences that must be considered. For example, consumers must pay attention to the information provided about the product, including the product description, price, stock availability, and estimated delivery time. Consumers must also pay attention to security and privacy in transactions, such as the use of credit cards or personal data. If a dispute arises between consumers and sellers, consumers can resolve the dispute through the procedures stipulated in the Consumer Protection Law.

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