

Legal Consequences Due To Items Containing Hidden Defects in Laptop Credit Purchase Transactions

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ABSTRACT

Buying and selling is an activity carried out by two or more people to produce a mutual agreement, but there is often a sale and purchase which causes various problems. The existence of buying and selling with object agreements contain hidden defects. The situation is actually known consciously by the seller, but did not inform the buyer about it, so the buyer feels disadvantaged. Such events occur because of bad intentions or dishonest attitudes about information and the condition of an item. As a result of dishonest acts, the interests of one party have been violated. The problem raised in this paper is what the legal consequences are for parties who have no good intentions in the buying and selling process and what are the factors causing the parties to set aside good faith in the buying and selling process. This type of research is normative juridical research, library research with the problem approach used in writing this thesis is the statute approach. The results showed that with the enactment of legislation governing the buying and selling process of parties who do not have good intentions will cause legal consequences, namely the agreement becomes invalid and null and void and compensates for damages. But the reality on the ground, that the replacement of losses can be done if the parties agree. The factor causing the parties to set aside good faith in the buying and selling process is the lack of careful buyer or consumer to look for more detailed information related to the items they want to buy. While the seller or business actor, because of the opportunity to have bad intentions, in addition to that because of dishonesty.

KEYWORDS: Legal Consequences, Not in Good Intention, Buying and Selling.

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I. INTRODUCTION

Advances in science and technology in electronic goods, especially laptops, are growing rapidly, this is marked by the frequent emergence of various types of laptops by providing affordable prices and having good quality. Laptops offer high convenience, portability, flexibility, and have more value than a typical computer. With the advantages that laptops have, laptop users are not only teenagers but also parents and even children. This triggers the flow of trade in goods and/or services to expand, causing an increasing number of goods and/or services circulating in the market [1].

Along with the emergence of various types of laptops, the competition between companies is getting tougher because they will compete to attract consumers by continuing to look for markets or consumers so that they are not abandoned by consumers and can achieve targets. Of course, through various transaction methods that make it easier for consumers, one of which is credit transactions. In the past, transactions only recognized one method, namely the direct method between the owner of the goods and the consumer. However, in this day and age, credit has developed, and purchasing a laptop on credit is one that often occurs, this makes it easier for consumers to have a laptop in installments.

Seeing the various realities of life in the community, buying and selling often occurs which causes various problems. As is the case in the practice of buying and selling laptops. The purchase took place and after the goods were received, it turned out that when the laptop was used, there was damage to the goods. "It is cases like this that give rise to hidden defects in the laptop, and are not known to the buyer [2].

In general, a seller will offer, as well as show the goods to potential buyers. Thus, prospective buyers can observe carefully the goods to be purchased. Sometimes even though it has been observed, the buyer cannot be fully observant if the item to be purchased has a defect. "Then, under the pretext that the seller has given the freedom to see and check the merchandise that contains hidden defects [1]. In fact, every sale and purchase must be carried out in good faith. Based on Article 1338 paragraph (3) of the Civil Code, it is stated that "all agreements must be carried out in good faith." This article is the basis of the principle of good faith. The principle of good faith implies an inner state of the parties in making and carrying out the agreement to be honest, open and trusting each other [3].

This of course creates problems for buying laptops on credit. When the laptop is damaged and the buyer is still obliged to pay the installments. The seller basically has two main obligations, including delivering

the merchandise and being responsible for the merchandise. In this case, it can be concluded that business actors are required to bear the hidden defects (verborgen gebreken) in the goods they sell which make the goods unusable for the intended purpose or reduce the use [4]. So, if the buyer knows these defects, he will not buy the item at all or will not buy it other than at a lower price.

Based on this, this research wants to examine the responsibility of business actors for goods containing hidden defects in laptop credit purchase transactions and the legal consequences that arise against business actors who sell goods containing hidden defects in laptop credit purchase transactions in Samarinda City. This research is a normative legal research that uses legislation and literature books as the basis for research [5].

II. RESEARCH METHOD

2.1 Time and place

The research was carried out from January 2022 to March 2022 in Samarinda City, East Kalimantan Province.

2.2 Research methods

The method used in the research is normative juridical and the problem approach uses the Legislative approach

2.3 Legal Materials Collection and Processing Techniques

The technique of collecting and processing legal materials is literature study.

2.4 Legal Material Analysis

The analysis of legal materials used is descriptive, interpretation, Legal Reasoning.

III. THEORY OF LEGAL RESULTS, RESULTS AND DISCUSSION

3.1. Legal Event

In the Big Indonesian Dictionary, an event is defined as an event, so in the language of a legal event, it can be interpreted as an event that gives rise to a law that can apply or an event related to law. The rule of law consists of the events and consequences to which the rule of law is linked. Such events are referred to as legal events and the consequences arising from these events are legal consequences.

According to Van Apeldoorn, a legal event is an event based on law that creates or nullifies rights. With a more easily understood meaning, legal events or legal events or rechtsfeit are social events whose consequences are regulated by law. This legal event is an event in society that moves a certain legal regulation so that the provisions contained therein are then realized. [6] Legal events can be classified or divided into two types, namely:

- 1) Legal events due to the actions of legal subjects (human actions) are actions carried out by humans or legal entities that can cause legal consequences, such as buying and selling and others.
- 2) Legal events that are not acts of legal subjects (events that are not human actions). For example, natural death.

3.2. Legal Action

According to R. Soeroso, a legal act is every act of a legal subject (human or legal entity) whose consequences are regulated by law and because of these consequences can be considered as the will of those who carry out the law [7]. As according to ChainurArrasjid, which means that a legal act is any action whose consequences are regulated by law and the result it is desired by the person doing the deed [6].

Based on this, it can be stated that a legal act is an act carried out by a legal subject (human or legal entity) which will later lead to a desired result by the person doing it. If the action is not desired by the person who did it or one of the people who did it, then the act is not a legal act. Therefore, the will of the legal subject (human or legal entity) who commits the act becomes the main element of the act.

3.3. Act against the law

An unlawful act according to Article 1365 of the Civil Code is any unlawful act that brings harm to another person, obliging the person because of his mistake in issuing the loss to compensate for the loss. Meanwhile, the definition of unlawful acts according to WiryonoProdjodikoro is an act that causes shocks in social life and this shock is not only found in social life if the legal rules in a society are violated (directly). Therefore, depending on the magnitude of the shock. Even though it is directly related to the rules of decency, religion or manners, it must be strictly prevented, such as preventing an act that is directly against the law.

So to be able to say that an act is an unlawful act, the elements of an unlawful act must be fulfilled [8], namely:

- 1) There is an act that is done. An act against the law begins with an act of the perpetrator. The act here is an active act (doing something) or passive (not doing something), but legally the person is required to obey the law, decency and order in society.

- 2) The act is against the law if the perpetrator does not carry out what is required by law, public order and morality, then the act of the perpetrator in this case can be considered to have violated the law, so that it has its own consequences that can be prosecuted by other parties who feel they have been harmed. .
- 3) It can be said to be an unlawful act if there is a loss for the victim. What is meant by loss in this case, consists of loss of a material nature and loss of an immaterial nature. The result of an unlawful act must cause a loss on the part of the victim, so this proves the existence of an unlawful act.
- 4) There is a causal relationship (cause and effect) between actions and losses. Causal relationship is one of the main characteristics of an unlawful act. Actions against the law in this case must be seen materially. It is said to be seen materially because the nature of the act against the law must be seen as a unit regarding the consequences caused by it to the victim.

Thus the understanding of legal consequences is the result of an action taken to obtain a result desired by the perpetrator and regulated by law. an example of legal consequences, namely the existence of rights and obligations for buyers and sellers as a result of legal actions of buying and selling between the two parties.

3.4. Definition of Hidden Disability

A hidden defect is a condition where the goods or objects of the agreement are not in a state or not as expected by the party who wants the goods or objects. As for goods that can be said to contain defects if they meet the following criteria: (1) product defects are defects that are not in accordance with consumer expectations in purchasing goods; (2) warning defects are defects found in an item that is not equipped with a warning for certain uses that can endanger consumers, and (3) design defects are defects that occur when an item is in the preparation process such as when designing and constructing [9].

7 As a result of this situation, it is a loss. There is no definition that explicitly defines hidden defects, but as regulated in Article 1504 of the Civil Code that: "The seller must bear the goods against hidden defects, which are such that the goods cannot be used for the intended purpose, or so reduce usage, so that if the buyer had known the defect, he would not have bought it at all or would not have bought it for a lesser price."

The word bear in the article is one of the main obligations of a seller or business actor. He is obliged to bear the hidden defects in the goods or objects of sale and purchase. In addition, the seller or business actor is required to guarantee against hidden defects, even though he is not aware of the hidden defects. This is regulated in Article 1506 of the Civil Code which states that "He must guarantee the goods against hidden defects, even though he himself is not aware of the defect, unless in the case that he has asked for an agreement that he is not obliged to bear anything. ."

The seller is not obligated to bear any visible defects or circumstances in which the buyer can actually see such defects. This provision can be seen in Article 1505 of the Civil Code. If the defect can be seen by the buyer, it can be considered that the buyer accepts and does not object to the existence of the defect. And of course the price has been adjusted to the presence of these defects. Then from the word "hidden" it must be interpreted that the condition of the defect is not easily known by a normal buyer, it is another case if the buyer is very careful, so that he is able to see or know something that is defective.

The buyer in the cases specified in Article 1504 and Article 1505 of the Civil Code, he can choose whether he will return the goods to the seller while demanding the purchase price back, or whether he will continue to own the goods while demanding a refund of a part of the price. goods, as will be determined by the Judge, after hearing the experts on the matter. This can be seen in the provisions of Article 1507 of the Civil Code.

The seller in the case specified in Article 1508 and Article 1509 of the Civil Code, if the seller is aware of defects in an item, in addition to being required to return the purchase price he has received from the buyer, he is also required to compensate all losses suffered by the seller. buyer. And if the seller himself is not aware of a defect in the goods, then he is only required to return the purchase price and replace to the buyer the costs that have been incurred for maintenance and delivery, only those that have been paid by the buyer. In the event that the goods containing hidden defects are destroyed due to these defects, the seller shall bear the loss suffered by the buyer with the obligation to refund the purchase price and compensate for any other losses. However, losses caused by unintentional events, the consequences must be borne by the buyer.

According to the provisions in Article 1511 of the Civil Code, that a claim based on the existence of a hidden defect that causes the cancellation of the purchase, must be submitted by the buyer in a short period of time, according to the nature of the defect by always observing the customs at the place of agreement. made. The issue of hidden defects is not only regulated in the Civil Code, but Law Number 9 of 1999 concerning Consumer Protection, also prohibits business actors from offering, producing, advertising an item and as if the item does not contain hidden defects. . In addition, business actors are prohibited from trading damaged, defective or used, and polluted goods without clear, complete, and correct information on the goods. [10] states that other than business actors are prohibited from marketing an item as if the item does not contain hidden defects. If the consumer feels aggrieved, the consumer has the right to get compensation to restore a condition

that has become damaged due to the use of goods that do not meet consumer expectations due to negligence caused by business actors..

3.5. Business Actor's Responsibility for Goods Containing Hidden Defects in Laptop Credit Purchase Transactions in Samarinda City

The process of buying and selling all parties are required to be in good faith starting from the stage of making the agreement to the stage of implementing the sale and purchase. Because in good faith reflects the existence of legal certainty and a sense of justice for the parties who bind themselves in the agreement. Although it is possible, in the practice of buying and selling there are parties who do not have good intentions.

An agreement that binds the parties, of course, will provide legal consequences for each party who agrees. The legal consequences in an agreement can be divided into two. The first is the legal effect of a valid agreement because it has fulfilled all the conditions that make the agreement valid in the eyes of the law. Based on Article 1338 of the Civil Code, making the legal agreement valid as law for those who made it, the agreement cannot be withdrawn unilaterally, and the implementation of the agreement is in good faith. The second is the legal consequences of an invalid agreement, namely:

- 1) An agreement that can be canceled if it does not meet the subjective requirements in Article 1320 of the Civil Code, which is related to reaching an agreement which should not be caused by mistake, coercion, and fraud. Then related to the ability to make an engagement. With respect to an agreement that can be canceled, it means that one of the interested parties can apply to the court to cancel the agreement he has agreed on, but if neither of the parties has any objections, then the agreement is still considered valid.
- 2) An agreement that is null and void if it does not meet the objective requirements in Article 1320 of the Civil Code, which is related to a certain matter, means that the agreement must determine the type of object to be agreed upon. In addition, regarding a lawful cause or cause, the agreement made must not conflict with the legislation, decency, and public order. An agreement that is null and void means that from the beginning it was considered never valid and it was deemed that there had never been an agreement born, without having to be canceled in court.

Not having good intentions in the buying and selling process means that in the implementation of the sale and purchase agreement one of the parties is harmed because the agreement is not implemented by heeding the norms of decency and decency. For example, in a sale and purchase agreement, an item contains a hidden defect. Where the seller deliberately does not notify the buyer of the defective condition of the goods. If this happens, the buyer will feel disadvantaged. Whereas the seller is obliged to provide information regarding the condition of the goods correctly, clearly and honestly. Because the information obtained is the right of the buyer and the information becomes the basis for his consideration to agree on the price of the goods and makes the buyer feel safe, comfortable, and confident to buy the goods.

The circumstances described above, of course, cause the agreement to be legally invalid, this is because an agreement whose object contains a hidden defect does not meet the requirements of a lawful cause as the conditions for a valid agreement where the object of the agreement contains a defect so that it is contrary to Article 1337 of the Law. - Civil Law Law, so that the agreement can be declared invalid. And causing the legal consequences of the agreement to be null and void because it does not meet the objective requirements of the legal requirements of an agreement in accordance with the provisions of Article 1320 of the Civil Code. In addition, the injured party can claim compensation based on the applicable legal provisions.

Regulations in the case of consumers who do not have good intentions are also contained in the Consumer Protection Law where the rights of business actors in Article 6 letter (b) say that "The right to obtain legal protection from consumer actions with bad intentions". In particular, the Consumer Protection Law stipulates that both consumers and business actors have an obligation to have good intentions, as regulated in Article 5 letter (b) and Article 7 letter (a). For parties who are harmed in the buying and selling process of Article 19 of the Consumer Protection Act, business actors are responsible for providing compensation for damage, pollution, and or consumer losses due to consuming goods and or services produced or traded. The provision of compensation does not eliminate the possibility of criminal prosecution based on further evidence regarding the element of error. Compensation is given within a grace period of seven days after the transaction. Compensation does not apply if the business actor can prove that the error is the consumer's fault. Dispute resolution can be done outside the court or through the court.

The Civil Code also regulates this matter, as in Article 1504 of the Civil Code explains that the Seller must bear the goods for hidden defects, in such a way that the goods cannot be used for the intended purpose, or in such a way as to reduce their use, so that if the buyer knows the defect, he will not buy it at all or will not buy it other than at a lower price.

In this case, the seller must still guarantee the goods against hidden defects of the goods unless there has been an agreement that he will not bear any defects beforehand. In relation to this, Article 1507 of the Civil Code emphasizes that in the cases referred to in Articles 1504 and 1505, the buyer can choose to return the

goods while demanding the purchase price money back or will continue to own the goods while demanding a return of part of the purchase price. , as determined by the judge after hearing the expert about it.

Therefore, the problem of defects in the purchased used goods can be resolved through a family way first, namely by submitting complaints and demands to the seller about how the damage to the goods he bought is clearly and asking for a good settlement in this case, but if by If this family relationship cannot produce results, consumers can take legal action, namely by filing a claim for compensation to the seller in accordance with applicable regulations.

Based on the results of interviews with Mr. Rizal as the owner of the Arena Computer store on February 12, 2022 at 17:45 WITA. The informant said that when there was an act that resulted in losses for the parties in the process of buying and selling laptops in cash or credit, due to bad faith, especially in hidden defective items issued by the store, the store would first check the problems complained of by the store consumer. The point here is that the store will first determine whether this hidden defect is caused by the distributor, the shop or from the buyer himself.

In general, defective goods are divided into 3 possibilities:

1) Production Error,

Production errors can be divided into 2 parts, namely the first is errors including production failures, product installation, failures in inspection facilities, whether due to human negligence or machine errors. Second, are products that are in accordance with the design and specifications intended by the manufacturer, but are proven to be unsafe in normal use.

2) Design Defect

This design flaw meant the level of production preparation. In this case, it consists of the model of the goods and the quality of the materials.

3) Insufficient Information

This inadequate information relates to when marketing a product, where product safety is determined by information provided to consumers such as guarantees, how to use, certain risk warnings that are not appropriate, so that the guarantees of these products do not fit properly.

Mr. Rizal explained that what often happens in the implementation of buying and selling laptops for cash or credit for hidden defects is production errors and inaccurate information conveyed. In this case, a production error that often occurs is that the shop receives the goods from the distributor, the laptop is still complete in the box, when there is a buyer, the shop opens the laptop, this is done by the shop as proof to the buyer that this laptop is new and sealed which of course will make consumers feel safe in this way the goods are still sealed. However, the reality is that not all sealed items are in perfect condition. What often happens is the hardware and software on laptops such as random access memory (RAM).

The presence of damage to the RAM is usually indicated as a blue laptop screen (blue screen), the screen is dark but the laptop engine is on, the laptop gets hot easily, the laptop often restarts by itself. Damages like this usually occur from the distributor. As the seller, Mr. Rizal will explain first the reason for the damage to the laptop and after that will suggest a warranty claim if the warranty period is still valid and the estimated warranty claim usually takes 7 to 10 days to replace the product.

Furthermore, Mr. Rizal explained that hidden defects that also often occur are the information given to consumers is inaccurate, such as how to use and guarantee. Based on consumer complaints, when consumers are asking for opinions from our shop employees and our employees do not provide information according to the specifications of the laptop. For example, a laptop with specifications can only be used for light work, for presentations and just using the internet, but our employees say the laptop is capable of running heavy applications such as playing games, video editing, of course this will make the laptop damaged quickly. In addition to the warranty, currently generally laptops that are sold only provide a 1 year warranty, not like before, which is 2 years and the intended warranty also has a category. So, the warranty category only includes mistakes from the distributor, not from human error or consumer error. Human error here is meant such as a laptop being exposed to water, a laptop falling, a laptop screen breaking, and so on which are caused by errors from consumers.

This misinformation often makes consumers feel disappointed, because it doesn't match what they expect. Based on what Rizal said, he will be responsible for this. Basically the store provides a warranty for 3 x 24 hours and the 1 year warranty is a warranty from the distributor. If the damage is 3 x 24 hours, the shop will check first and check what parts are damaged. After identifying the problem, the store will decide whether to give a discount, compensate for the laptop, or replace the unit. For example, when installing laptop software, the shop will usually provide compensation or reinstall it at no cost, besides the example of replacing the unit, namely when the laptop is completely dead or cannot be turned on, the shop will replace the unit with the type and series of laptop the same one.

3.6. Legal Consequences for Business Actors for Hidden Defective Goods in Laptop Credit Purchase Transactions in Samarinda City

Basically, every buying and selling process must be carried out in good faith in the laptop credit buying process and in the buying and selling process in general. Thus, the form of legal protection for consumers who are harmed in a laptop purchase transaction on credit or cash with an element of hidden defects is a form of violation and consumers are entitled to preventive or repressive legal protection.

This form of preventive legal protection is an effort made by the government to protect the interests and rights of consumers as regulated in Article 4 of Law Number 8 of 1999 concerning consumer protection. Often consumers become objects of fraud by business actors who in the case of buying and selling laptops on credit there are hidden defects in purchases from the laptop shop where the information provided by the shop is not correct.

According to Article 8 of the Consumer Protection Law, several forms of violation of rights against consumers are stated, namely:

- 1) Does not meet or does not comply with the standards required in the provisions of laws and regulations.
- 2) Not in accordance with the net weight, net or net contents, and the amount in the count as stated in the label or label of the item.
- 3) Not in accordance with the size, measure, scale, and amount in the count according to the actual size.
- 4) Not in accordance with the conditions, guarantees, privileges, or advances as stated in the label, label or description of the said goods and or services.
- 5) Not in accordance with the quality, grade, composition, processing process, style, fashion, or certain use as stated in the label or description of the said goods or services.
- 6) Not in accordance with the promises stated in the label, etiquette, description, advertisement or promotion of the sale of goods or services.
- 7) Does not include the expiration date or the period of best use or utilization of the goods.
- 8) Not following the provisions for halal production, as stated in the "halal" statement on the label.
- 9) Not attaching labels or making descriptions of goods containing the name of the goods, size, weight or net or net contents, composition, rules of use, date of manufacture, side effects, names and addresses of business actors as well as other information for use which according to the provisions must be posted, or made.
- 10) Does not include information and or instructions for the use of goods in Indonesian in accordance with statutory provisions.

The form of repressive legal protection is a form of legal protection for consumers when consumers have been harmed by business actors, in this case laptop shop owners, this is regulated in Article 1365 of the Civil Code. Articles 60 to 63 of Law Number 8 of 1999, the rules regarding these sanctions are generally regulated in articles 60 to 63 of the Consumer Protection Act and other laws, covering:

- 1) Civil sanctions for this type of witness are not regulated in the Consumer Protection Law but are regulated in the Civil Code. This sanction is in principle in the law of agreement. In the Civil Code the agreement itself is born when there is an agreement from the parties. If one of the parties violates the agreement, the party violating the agreement will be punished. Basically, the legal relationship between business actors and their consumers is born from an agreement. In the act of violating the law or statutory responsibility, it means that the responsibility is borne by the person who commits an act that violates the law as a result of an unlawful act that is desired or not, which can result in harm to others. This civil sanction is in the form of compensation in the form of: refund, replacement of goods, health care and/or compensation. Compensation is given within 7 days after the transaction date. The main purpose of UUPK is to protect the public in their position as consumers, if civil sanctions are not used to protect consumers.
- 2) Criminal Sanctions There are two kinds of criminal sanctions, namely the main criminal sanctions and additional criminal sanctions. The main criminal sanctions in the UUPK are regulated in article 62 in the form of imprisonment or fines, while additional penalties are regulated in article 63 in the form of confiscation of certain goods, announcements of judges' decisions, payment of compensation and certain termination orders that result in consumer losses. A loss suffered by a consumer due to the actions of a business actor whose consequences are regulated in the Criminal Code, namely someone who commits a crime. So the consequences of his actions must be held criminally responsible.
- 3) Administrative sanctions The provisions regarding administrative sanctions in the UUPK are regulated in article 60 of the UUPK article 1 which states that the authority in imposing administrative sanctions is the BPSK which is formed to settle consumer disputes outside the court through mediation, arbitration, or conciliation by forming an assembly which will later provide binding decision. The administrative sanction regulated in this UUPK is in the form of compensation of Rp. 200,000,000 if it violates Article 19 paragraph

(2) and paragraph (3), Article 20, Article 25 and Article 26. The procedure for applying this administrative sanction as referred to in paragraph 1 further regulated in the legislation.

IV. CONCLUSION

The responsibility of business actors for hidden defective laptops, of course, returns to the forms of agreements that have been agreed at the beginning which are given to consumers, namely regarding guarantees, repairs, compensation, returns of goods, price cuts, and so on. The sale and purchase agreement is based on the principle of consensualism, which means an agreement on goods and prices, once the parties agree, a legitimate sale and purchase is born. This principle animates the rules in civil law.

Business actors must have good intentions in running their business; provide correct information about the goods they sell, and provide compensation for damaged merchandise. Based on Article 8 paragraph (2) of the Consumer Protection Law, it is explained that business actors are prohibited from trading damaged, hidden, and polluted goods without providing complete and correct information on the goods in question. If this is violated, the business actor may be subject to criminal sanctions, namely imprisonment of 5 (five) years or a maximum fine of 2 (two) billion rupiahs as described in Article 62 paragraph (1) of the Consumer Protection Act and this is also a repressive legal remedy from the Consumer Protection Act itself. In the Civil Code Article 1507 of the Civil Code, it is stated that the buyer can choose to return the goods while demanding the purchase price money back or will continue to own the goods while demanding a return of part of the purchase price.

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