



KE HAN ELECTRONIC SIGNATURE ON THE SALE AND PURCHASE AGREEMENT FROM CIVIL LAW PERSPECTIVE

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ABSTRAK

In the current technological developments, some companies use electronic media to certify documents through digital media. Based on article 1320 of the Civil Code, the agreement will be valid when 2 conditions are met, namely subjective conditions and objective conditions. But on the other hand, the electronic transaction agreement between PT. Fight for Nature with Australian Rural Exports Pty. Ltd. using digital hands is legal and has legal consequences. The focus of the study in this scientific paper is related to the validity of the electronic signature of an agreement in the perspective of civil law and the legal consequences of agreements made online/electronically when one of the parties defaults/breaches promise. The legal research method used in this research is normative juridical.

The results of this study indicate that the process of the occurrence of electronic commerce transactions is carried out with 4 stages of agreement theory, namely offer, acceptance, payment, and delivery. The validity of electronic signatures in an agreement in the perspective of civil law is by referring to the National Electronic Transaction information law and Government Regulations as implementing regulations for Electronic Transactions, which are linked to the principles of agreement in the Civil Code. In addition, the legal consequences of online/electronic engagements when one of the parties is in default/breach of promise is that the judge can request a cancellation of the agreement as a legal consequence or legal consequence of a default in an online sale and purchase agreement..

1. INTRODUCTION

E-commerce is the process of buying and selling a product electronically by consumers and companies through computers or gadgets as a means of business transactions. E-commerce trade transactions can arise when there is a sale and purchase agreement between producers and consumers based on law. If the consumer agrees to the terms and clauses proposed by the seller, then an agreement occurs even though the sale and purchase agreement is agreed through an electronic signature.

The benefits of using e-commerce can be felt by the general public, entrepreneurs and consumers. E-commerce has various advantages such as being more efficient and effective in the buying and selling process because it saves costs and time. However, there are shortcomings in the application of e-commerce, namely technical and non-technical problems. Problems begin to arise when transactions are carried out without face-to-face contact between the two parties. In addition to these factors, electronic buying and selling transactions tend to trust the two parties who transact with each other. This problem can occur because in electronic buying and selling transactions there are direct meetings. The Elucidation of the Electronic Information and Transaction Law states: "Electronic transactions are non-faceted, do not use an original signature (non-sign) and are borderless (a person can conduct electronic transactions with other parties even though they are in a different country). different) by using information technology. Advances in information technology are often not supported by security aspects. Current technological advances must be fenced off with various aspects, such as the security aspect in information, if the information becomes too open/transparent it will have an impact on the risks that must be borne by the people who in this context send, need, or just see it.

In line with the use of electronic information, it utilizes a public network, where all levels of society can find out the electronic information. If one of the parties does not carry out the agreement of any transaction electronically which of course has been agreed upon by the other party, this will certainly harm the interested parties who in this case use information technology for the sale of goods or services.

The focus of the current study is the validity of the electronic signature (scanner) of an agreement in the perspective of civil law and the legal consequences of agreements made online/electronically when one of the parties defaults/breaches promise. The legal research method that will be used in this article is normative juridical. Normative juridical research is research that is theoretical in nature related to concepts, doctrines, principles, and legal regulations related to this research. This research uses a statutory approach (state approach), case approach, historical approach, comparative approach and conceptual approach.

2. RESULTS AND DISCUSSION

1. The Process of the Occurrence of Electronic Trading Transactions (E-commerce).

The use of the internet is chosen by most business actors and consumers because of the convenience provided by the internet network, such as facilitating work in getting information quickly.

There are 3 (three) stages in the implementation of e-commerce transactions, namely as follows:

- a. Pre-Contractual Stage in the Implementation of e-commerce Sales and Purchase Transactions.
- b. Contractual Stage in the Implementation of e-commerce Sales and Purchase Transactions.
- c. Post Contractual Stage in the Implementation of e-commerce Sales and Purchase Transactions.

As a result, the advantages and disadvantages that can be obtained for both parties are as follows:

A. Advantages:

- 1) For a company, being able to shorten the distance, expand the market, expand the network of business partners and effectiveness, simply will speed up a company's service to all customers, and the service will become more responsive, and of course it will also reduce paper-related operations, just like budget for postal mail, printing, reports, and others, so that it will have a positive impact on increasing income.
- 2) Against consumers, of course it will have a more effective and safe impact.

B. Disadvantages:

Reduced solidarity in trading, in trading with the use of electronics, people can transact and get the goods they need without meeting other parties. Even though it sometimes triggers annoyance, what is seen on the advertising screen is different from what is seen in person

2. The validity of the electronic signature of an agreement in the perspective of civil law

Along with the times, it also has an impact on the development of trading practices, such as the use of electronic signatures in an agreement. Electronic signatures are made using cryptography techniques, and public key cryptography and are obtained through a prior agreement transaction, this is based on Article 1320 of the Civil Code. As regulated in Law no. 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the ITE Law) and Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions (hereinafter referred to as PP PSTE), there are requirements for electronic signatures to be legally recognized by law in Indonesia, namely the existence of authenticity (authentication), integrity (integrity), and non-repudiation (non-repudiation).

Digital signatures in business transactions between PT. Fight for Nature with Australian Rural Exports Pty. Ltd is conceptualized using the notion of cryptographic techniques, which are a part of applied mathematics which in this context deals with changing

information into other models that cannot be understood and returned to the original. Digital signing utilizes public key cryptography, in which the algorithm uses 2 keys, the first of which is the key to create a digital signature or like to change the data to another form which in this case cannot be understood. Then the second key is used to verify the digital signature or return the message to its original form. Even then the concept can be remembered as a non-symmetric cryptographic system.

This cryptographic system model uses a secret key, but it will only be remembered by the signer and used to create a digital signature, the public key is used to verify the digital signature. When some people will verify a digital signature issued by a person, then then the public key must be distributed to those people. The private key and the public key are actually mathematically linked. Although the private key cannot be known by using the information obtained from the public key. Digital signature between PT. Fight for Nature with Australian Rural Exports Pty. Ltd. is one way to guarantee the legality of electronic documents and can prevent the sender of the document at one time from denying that he has sent the document. Digital signing uses algorithms and computer techniques that are specific to the application.

The use of digital signatures between PT. Fight for Nature with Australian Rural Exports Pty. Ltd requires a 2-step process, namely from the subject of the signatory and also from the recipient. In detail these two processes can be described as follows:

- a. The generation of a digital signature utilizes the hash value obtained from the file and the predefined private key. In order to lock security against the hash value it must then contain the least probability that the same digital signature can be obtained from 2 (two) documents as well as different private keys.
- b. Verification of digital signatures is the process of validating digital signatures by referring to the original document and the public key that has been given, this step can be concluded whether the digital signature is set for the same document by using a tendentious private key with the public key.

In terms of signing a document between PT. Fight for Nature with Australian Rural Exports Pty. Ltd., in the implication of signature, the main thing is to be comprehensively limited in which part to sign. The separated information is referred to as a message. Furthermore, the digital signature application will create a hash value that becomes a digital signature by referring to the private key. Basically, an electronic signature is included in the document.

However, digital signatures can be sent and stored as separate documents, as long as they can be specified with the document, this can happen because digital signatures are unique to the document, so the separation of digital signatures as described above is a very difficult thing. does not need to be applied. The method of forming and verifying digital signatures must fulfill the important substantial elements required for a legal purpose, namely as follows:

a. Document Signer Authenticity. When a public key pair and a private key partner with a valid and interpreted owner, the digital signature will link to the document with the signer. furthermore the digital signature cannot be forged, except in the event that the signer loses control of the private key.

b. Document Authenticity. Digital signatures can also identify signed documents at a much higher level of certainty and accuracy than typical paper signatures.

c. Document Endorsement. Creating a digital signature requires utilizing the private key of the signer. The method can also emphasize that the signing is an agreement and accountability for the document.

d. Efficiency. The mechanism in making verification of digital signatures presents a high threshold of clarity, that then the signature presented is a valid and even genuine signature of the owner of the private key. Digital signature, there is no need for verification by clearly reviewing (comparing) the signature on the document with an example of the original signature which can be done on manual signature validation.

In connection with the legal terms of the electronic business contract between PT.

Fight for Nature with Australian Rural Exports Pty. Ltd., based on the provisions of Article 1320 of the Civil Code, actually does not question the media case that is used in transactions, or in other words Article 1320 of the Civil Code does not require the form and type of media used in transactions. Therefore, it can be done directly or electronically. However, an agreement can be said to be valid if it has fulfilled the elements as referred to in Article 1320.

3. Legal Consequences of Agreements Made Online When One of the Parties Defaults

Sale and purchase transaction activities carried out by electronic methods by related parties, when the parties do not meet or do not face each other, but this can be implemented via the internet. In general, each group in the context of buying and selling carried out electronically still has rights and obligations, the same as transactions carried out directly. That the seller is the party that offers the product, only the facilities are used with the internet, therefore the seller is obliged to be responsible for providing correct and honest products that are presented to consumers and the seller must also sell products that do not deviate from the applicable laws and regulations. exist in Indonesia. The point is that the goods offered are not goods that are prohibited to be traded, such as organs and narcotics, are not defective, so that the goods offered are goods that are fit for consumption or use.

In addition, the seller is also responsible for product delivery services or for services that have been purchased and paid for by consumers. So that the sale and purchase transaction does not have an impact on the emergence of loss for the parties, especially in this case is the consumer. In line with this, one of the sellers or business actors has the right to get paid from the buyer or consumer from the agreement on the price of the goods sold and has the right to get security from the treatment of buyers who have bad intentions in conducting online buying and selling transactions. Therefore, the buyer is obliged to

give a certain amount of money from the product or service that has been ordered to the seller.

The buyer has an obligation to pay money for the goods that have been ordered from the seller in accordance with the type of goods and the price that has been notified by the seller to the buyer, then write the correct identification data on the receipt form. In addition, a buyer is also entitled to complete information about the goods to be purchased. Buyers also have the right to get legal protection from the actions of sellers or business actors who have bad intentions.

The process of buying and selling online is a legal relationship that is carried out by unifying a network of systems and information. In a reciprocal work, there must be two kinds of legal subjects, each of which has rights and obligations with reciprocity in the agreement they have made. The sale and purchase agreement is a reciprocal agreement, the two legal subjects are consumers and traders, each of which has rights and obligations. In all agreements, which fall into the category of sale and purchase agreements, there is a possibility that one party does not enter into an agreement or does not comply with the contents of the agreement properly and correctly.

If one of the parties does not do something that has been promised or more clearly, what is the obligation according to the contents of the agreement they have made, they can be said that the party has defaulted. Default is not fulfilling or negligent of an achievement in contract law, meaning that something must be carried out as part of an agreement. Perhaps in Indonesian the term implementation of a promise can be used for default. If in an engagement the debtor is caused by a mistake, such as not carrying out what has been agreed and agreed upon, then the act is an act of default.

In addition to linking the seller and the buyer, in the context of buying and selling using internet facilities, online buying and selling transactions will also of course involve internet providers as providers of internet

network service facilities, as well as banking platforms as a means of payment methods. Problems with the rights and obligations of traders/sellers as business actors and buyers as consumers sometimes make people gray in responding, especially if there is a dispute between the two, especially in buying and selling online, such as default in buying and selling.

Contrary to the explanation above, it is often encountered by all levels of society, in the era of globalization related to the rise of dispute cases that are identical to default, to the tendentious problem of fraud in buying and selling transactions with electronic media so far cannot be solved comprehensively. The gap can be caused by the attitude in dealing with a problem by the parties, even though there are still many alternative ways to be able to resolve the problem of default. In the event that there has been an act of default, one of the parties who in this case suffers a loss may choose the following legal options for settlement, namely as follows:

- a. A person who has been harmed can sue so that the agreement is immediately implemented in accordance with what was agreed upon;
- b. A person who has been harmed can sue for compensation;
- c. A person who has been harmed can sue the practice of the agreement and compensate for the loss;
- d. A person who has been harmed can sue for the cancellation of the agreement;
- e. A person who has been harmed can sue for the cancellation of the agreement accompanied by compensation.

Based on this explanation, the writer analyzes that:

- a. The party who has been harmed can demand that the implementation of the agreement be carried out immediately in accordance with what was agreed upon. In the context of an electronic sale and purchase agreement that is approved with an electronic signature and uses the payment method and pays off and fulfills it in full and in full at the time limit determined by the consumer, then the seller sends the agreed goods, but then when the buyer has carried out the excess but the seller does not

carry out the excess accurately, then the buyer can sue for the full sale and purchase agreement to the seller.

b. The party who has been harmed can sue for compensation. An electronic sale and purchase agreement can be approved bahwa pembayaran akan dilunasi secara penuh terlebih dahulu, kemudian penjual baru akan mengirimkan barang yang sudah disetujui oleh konsumen, tetapi dalam kenyataan, biasanya barang yang telah dikirimkan tersebut mendapati cacat hingga berrkurangnya nilai guna / nilai jual atas barang itu, kemudian pihak konsumen bisa mengugat untuk mengganti rugi pada penjual, biasanya seperti dengan apa yang telah disepakati.

c. Pihak yang telah di rugikan dapat loss for the parties, especially in this case is the consumer. In line with this, one of the sellers or business actors has the right to get paid from the buyer or consumer from the agreement on the price of the goods sold and has the right to get security from the treatment of buyers who have bad intentions in conducting online buying and selling transactions. Therefore, the buyer is obliged to give a certain amount of money from the product or service that has been ordered to the seller.

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