



Legal Actions Against Default in the Delivery of Goods Agreement at PT On Time Express Branch Office Bali

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ABSTRACT - PT. On Time Express is a foreign investment company engaged in land, sea and air transportation services. Also called financing companies for goods delivery services, namely business entities outside banks and non-bank financial institutions that are specifically for carrying out economic activities in delivering goods and services. The work contract system is implemented based on the principle of trust as a service provider, a standard agreement is written based on the principle of freedom of employment contract made by PT. OnTime Express. That is, both parties, both service providers and consumers, together and agree to make a work contract agreement. But in reality, the work contract agreement as a service provider in its operations is not uncommon for problems that arise due to unexpected results between the parties. The consumer is unable to fulfill the contents of the agreement as agreed in the initial agreement resulting in a breach of contract. This must be resolved to maintain a good relationship and balance between rights and obligations according to the mutually agreed agreement. The aim of this research is to provide accountability for consumers and understanding in resolving violations of employment contract issues. This research was written using empirical methods and data analysis techniques that are descriptive analytical. Based on research on the contract of delivery of goods, there are still many contract violations in PT. On Time Express by consumers. Most of the breaches of contract issues are resolved by non-litigation methods, which are negotiation and mediation.

Keywords: Agreement, Default and Compensation at PT. On Time Express

I. INTRODUCTION

The development and economic growth of the world community in this sophisticated era of globalization has undergone tremendous changes, as well as in the business world. Every company has a goal to achieve maximum profit (Royan, 2004). Increasingly, attractive, dynamic, very prospective and full of competition and knows no boundaries of regions and countries. Business relations between one region to another have easy accessibility, even between countries. Various efforts are made to achieve the goal of anticipating things that are not desirable, businessmen and people who want to be directly involved in the business world should first know and understand business law in detail so that the business they are engaged in runs well and provides benefits for themselves and improve the welfare of society in general (Naihasy, 2005). How to achieve the goals of every business, in a company directing its business activities to produce productivity that is very

satisfying to consumers, so that every business gets the expected profit. Starting from this, sharing a cooperation agreement between business actors and consumers with the aim of obtaining maximum profit.

The agreement in the Civil Code (KUHPerdata) in Article 1313 is an act in which one or more people bind themselves to one or more other people and the conditions for the validity of an agreement. Article 1319 of the Civil Code (KUHPerdata) mentions two groups of agreements, namely agreements that are given a particular name by a law called named agreements (become or nominated contractor) and agreements that are not known by law by a specific name. called an unnamed agreement (onbenoemde or innominaat contracten) (Hatta, 2000).

Cooperation contract agreements, the development of which is widely applied by business actors, both small, medium, and even large companies. According to Abdul R. Saliman, Business Law is the entirety of legal regulations, both written and unwritten, that regulate rights and obligations arising from agreements and engagements that occur in business practice (Saliman, 2005). This theory is widely used in the freight forwarding business.

As the executor of the delivery of goods, the shipping company is responsible for the goods entrusted to him by the shipper to be delivered according to the agreement. The company's responsibilities are contained in Articles 19 to 28 of Law Number 8 of 1999 concerning Consumer Protection. In particular, the expeditor's responsibilities are contained in Article 87 and Article 88 of the Commercial Code, in the future referred to as KUHD, and Article 14 of Ministerial Regulation Number 5 of 2005 concerning Custodian Service Providers and Law Number 38 of 2009 concerning Post. In practice, shipping companies also become carriers, so they will have difficulty implementing the regulations.

Article 87 of the KUHD (Book of the Commercial Law) reads, "He must guarantee the neat and prompt delivery of the merchandise and goods he has received for that purpose, taking into account all the means he can take to ensure suitable delivery". Article 88 of the KUHD (Book of the Commercial Law) reads, "He must also bear the damage or loss of merchandise and goods after delivery due to his mistake or negligence. The article explains that the expeditor has the right to use all forms of transportation to ensure no delay in goods delivery. However, there is no explanation when all methods have been carried out properly by the expeditor, and the carrier is causing the delay. The forwarder is obliged to send the goods from the sender (consumer) to the consignee on time and in good condition. Before sending the goods, the forwarder will check the type of goods, the weight of the goods, the size of the goods, and the addresses of the sender and recipient. This information is included in the shipping document and signed by the shipper. This results in that the sender of the goods has agreed to all the terms of delivery of the goods. The rapid development of technology has brought progress to almost all aspects of human life (Sastrawidjaja, 2002). One of the companies in Bali which is engaged in goods delivery services is PT. On Time Express.

PT. On-Time Express is a foreign investment company engaged in land, sea, and air transportation services. PT. On-Time Express is a free financing company for goods delivery services, namely business entities outside banks and non-bank financial institutions specifically established to carry out economic activities in delivering goods services.

Law No. 3 of 1982 concerning Mandatory Company Registration and Law No. 1 of 1995 concerning Limited Liability Companies.

PT. On-Time Express in Indonesia has six offices located on the islands of Java and Bali. Of the six offices, one of them is in Jakarta as the head office for the head office, and five branch offices as office stations, namely in Cengkareng, Cikarang, Bandung, Surabaya, and Bali. In this case, it is PT. On-time Express Bali branch was established on January 11, 2011, with the Deed of Business Establishment No. 61 and Limited Liability Company Registration Certificate No.22.09.1.52.00361 with a Decree of the Minister of Law and Human Rights of the Republic of Indonesia, PT. In running its business, On-Time Express uses a work contract system that is implemented based on the principle of trust as a service

provider, which is stated in a standard agreement based on the principle of freedom of work contracts made by PT. On-Time Express, namely both parties, both service providers and consumers themselves, must be together and agree to make a work contract agreement.

Work contract agreement at PT. On-Time Express as a service provider in its operations, it is not uncommon for problems to arise due to unexpected situations between the parties. The consumer in the employment contract cannot fulfill the contents of the agreement. PT. On-Time Express as a service provider, the delivery of these goods using invoices through the delivery service is ignored by consumers. The consumer does not fulfill the PT. On-Time Express, which was agreed at the time of the initial agreement as stated in the "Credit Account Application Form" consumer credit application form that is clearly stated in Article 2 states: "Customers shall pay within 30 days of the date of your debit notes and time is of the essence in this respect." is the customer must pay within 30 days from the date the debit note or invoice is issued to the consumer and regarding this grace period it is imperative to adhere to, and consumers often ignore this.

PT. On-Time Express sends consumer goods by the SOP (Standard Operations Procedure). The invoice for the bill regarding the rights to the obligation is not by what was agreed in Article 2 in the SOP. In the case of consumers not fulfilling their obligations, there are two things: externally and internally. Externally, the buyers have not paid the services and value of their goods. And internally, the consumer's character as a bad payer.

Thus, it needs to be studied more deeply related to the legal consequences on consumers who default at PT. On-Time Express Bali branch office and the legal remedies for the settlement of consumer default on the cooperation contract agreement. Therefore, the aim of this research is to provide accountability for consumers and understanding in resolving violations of employment contract issues.

II. METHOD

The research method used in this research is empirical juridical. The types of data used are primary data and secondary data. The sampling method used is interviews with informants from PT. On-Time Express and the respondent from the consumer side who defaulted.

III. RESULT AND DISCUSSION

3.1. Legal Consequences on Consumers Defaulting at PT. On-Time Express

The cooperation contract for the delivery of goods is an agreement in which one party acts as a delivery service provider and the other party as a service user, namely the consumer. PT made the cooperation agreement. On-Time Express is based on the principle of freedom of contract, where the law gives freedom to anyone who will agree, as long as it does not conflict with the law, morality, and public order.

Many people have different understandings of contracts and agreements. Dogmatically, the Civil Code as a legal product of the Dutch colonial legacy uses the terms "overeenkomst" and "contract" for the same meaning (Syaifuddin, 2012). Contracts and agreements have the same meaning because each engagement is born out of contracts and laws as long as they do not conflict.

Contract law is a set of laws (which include fundamental values, concepts, and norms), both written (in favorable legal rules) and unwritten (in the form of habit and propriety in business law practice in particular), which functions to accommodate, facilitate and protect the legal process of the exchange of interests, rights and obligations of the parties (mainly business actors) in the context of the transfer of wealth (in the form of money and movable or immovable, tangible or intangible objects that have economic value and can be valued in money). and can be transferred and can be controlled with property rights) These are formulated in contracts in a fair, definite, and efficient manner, both at the preparation stage for contract formation (pre-contractual) and at the stage of contracting (post-contractual) as a product of a rational and formal business law system (Syaifuddin, 2012).

In the Indonesian legal system, engagement is placed in Book III Het Burgerlijk Wetboek voor Indonesie (translated into Indonesian into the Civil Code) concerning

engagement (van verbintenis) (Khairandy, 2013). Here are regulated engagements born from agreements (contracts) and engagements born due to law, such as unlawful acts, voluntary representation, and unpaid payments.

The principle of law is the broadest basis for the birth of regulations. Legal principles as the basis for norms become a test tool for existing legal norms that cannot be separated because of their existence. Performing legal actions to make contracts/agreements must understand the principles in contract law, namely as follows (Muhtarom, 2014):

1) The principle of consensual

The principle of consensual means that the agreement occurs since there is an agreement between the parties regarding the subject matter of the agreement. This principle is strengthened by Article 1320 of the Civil Code and the principle of consensual agreement, which was initially carried out not formally. However, with an agreement between the two parties, an agreement would later contain rights and obligations.

2) The principle of freedom of contract (freedom of contract)

The provisions of Article 1338 of the Civil Code states that "All agreements made legally apply as law for those who make them". The principle of freedom of contract according to Indonesian contract law covers the following scopes:

- (1) The freedom to make or not make an agreement, namely an agreement, generally occurs when someone has the same goal when it is not by the objectives to be achieved, then the agreement will not occur.
- (2) Freedom to choose the party with whom to agree. It is free to choose with whom to agree but freely as long as it does not conflict with the Law.
- (3) The freedom to determine or choose the power of the agreement to be made, namely the power, is usually given to a trusted person.
- (4) Freedom to determine the object of the agreement, namely the object to be agreed upon, contains rights and obligations when it has been agreed upon.
- (5) Freedom to determine the form of an agreement.
- (6) Freedom to accept or deviate from the optional provisions of the Law.

The principle of freedom of contract often referred to as an open system, is the broadest possible freedom given as a law to the public to enter into agreements about anything, as long as it does not conflict with laws and regulations propriety public order.18 The principle of freedom of contract becomes freedom for the parties to make the desired agreement by not closing the possibility of freedom of will outside the limits of the wishes of both parties.

3) The principle of the binding power of agreement (pacta sunt servanda)

The principle of pacta sunt servanda is based on Article 1338 paragraph (1) of the Civil Code applies as law, meaning that the parties now must respect the substance of the contents contained in the contract and/or agreement and may not interfere with the substance of the contract and/or the agreement.

4) Good Faith Principle

Article 1338 of the Civil Code has always been the basis for every principle in the law of engagement, especially regarding agreements made by the parties. The provisions of Article 1338 of the Civil Code states that "the agreement must be carried out in good faith" because the principle of good faith is interpreted in two senses, namely:

- (1) On good faith in a subjective sense, namely good faith at the time of making an agreement which means honesty and fairness of the parties.
- (2) The principle of good faith in an objective sense, namely good faith in the implementation stage, which means the appropriateness of a good assessment of the behavior of one of the parties in carrying out the agreement.

Applying the principle of good faith is limited to the concept above because, in the end, the parties also focus more on the time of the agreement. After all, it is considered a good start for drafting the agreement.

5) Proper Principle

The principle of propriety, which is a reflection of the provisions of Article 1339 of the Civil Code, states that “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”.

Article 1320 of the Civil Code, the conditions for the validity of an agreement or agreement are:

1) The Agreement of Those Who Bind Themselves

The agreement that was agreed upon by the parties who agreed would, of course, go through negotiations to get an agreement that would later be poured into the agreement. The parties realize how an agreement will later be implemented. Of course, it is not as easy as saying agree or disagree, but in this case. Bargaining is a way that must be prioritized before being poured into the agreement.

2) Ability to Make a Bond

What is meant by competence is that everyone has the right to make agreements unless they are said to be incompetent in that matter. The provisions of Article 1330 of the Civil Code states that “Those who are not capable of making agreements are:”

- (1) an immature child
- (2) people who are put under pardon
- (3) Women who have been married in matters determined by law, and in general, all people prohibited by law from making certain agreements.

3) A Specific Subject

The provisions of Article 1333 of the Civil Code states, “An agreement must have a principal in the form of an item of at least a specified type”. The amount of goods does not need to be specific, as long as the amount can then be determined or calculated. For example, the object used in the sale and purchase of land is determined by the expansion price of the land area being sold.

4) An Unforbidden Cause

The agreement stated in the agreement does not conflict with the law. Article 1335 of the Civil Code states, “An agreement without a cause, or made based on a false or prohibited cause, has no power” therefore, the agreement that is poured must follow the conditions, namely subjective conditions, and objective conditions.

The first and second conditions are called subjective terms because they relate to the subject who agreed. At the same time, the third and fourth are called objective conditions because they relate to the object in the agreement. Everyone has the right to enter into an agreement that contains any matters that he/she wants to describe, as long as the agreement is made legally and in good faith and does not conflict with the law on morality and public order, this is guaranteed by the existence of the principle of freedom of contract.

Default cases that occurred at PT. On-Time Express, namely the case that the delivery of goods is by what was agreed upon, but the service user/consumer ignores what has been stated in the work contract, which results in a loss on the part of the service provider. The total invoice for delivery of goods should have been repaid, even to the point that some consumers did it intentionally to turn their funds around so that they were not paid in the wrong payor category; this happened at PT. On-Time Express Bali branch office¹.

The following case of default is the receipt of invoices. Consumers often ignore invoices via e-mail from the credit team at the PT. On-Time Express and reluctant not to sign an electronic signature for consumers that the bill has been received correctly. The bill has a billing schedule when the date is written 30 days from issuance—implementation of administration at PT. On-Time Express cannot run properly if the consumer does not sign the proof of delivery of the invoice. There are several reasons on the part of consumers who cause them not to sign, namely the first element of intent that by not putting an electronic

signature, is the reason that the invoice is not received. Likely, the credit bill 30 days from the issuance of the billing note will be postponed after it is received by consumers.

The subpoena has a close relationship with default. Default is negligence or failure to fulfill obligations, as specified in the agreement between the creditor and the debtor (Marbun, 2011). In the restatement of the law of contracts (United States), breach of contract is divided into two types, namely total breaches and partial breaches. Total breaches mean that it is impossible to implement the contract, while partial breaches mean it is still possible to implement the agreement. If the creditor or bailiff has given him a summons, a new debtor is in default. The creditor or bailiff has carried out this subpoena at least three times. If the subpoena is not heeded, the creditor has the right to take the matter to court. Moreover, the court will decide if the debtor defaults or not (Salim H.S., 2014). The consequences arising from the debtor (consumer party) who default in a work contract agreement for delivery of goods where the debtor does not fulfill his obligations or do things outside his rights as a consumer is not being able to fulfill the contents of the agreement or not carrying out the contents of the agreement properly which causes the creditor (PT. On Time Express) did not get the fulfillment of their rights that should have been obtained by the work contract agreement that had been made. Creditors who do not get the fulfillment of their rights, result in creditors experiencing losses. Therefore, debtors who do not carry out their obligations must be responsible for these losses. Losses suffered by PT. On Time Express was caused by a default on the part of the consumer.

If the debtor does not do what he promised, he has committed a "default". He is negligent or "negligent" or broken promises. Alternatively, also he violates the agreement, if he does or does something that he is not allowed to do.

There are four consequences of default, which are as follows:

1. The engagement remains

The creditor can still sue the debtor for the implementation of the achievement if he is late in fulfilling the achievement. In addition, creditors have the right to demand compensation due to delays in carrying out their achievements. This is because the creditor will benefit if the debtor performs the performance on time.

2. The debtor must pay compensation to the creditor (Article 1243 of the Civil Code).

3. He risk burden is transferred to the debtor's loss if the obstacle arises after the debtor is in default unless there is an intentional or significant mistake on the part of the creditor. Therefore, the debtor is not justified in adhering to coercive circumstances.

4. If the engagement is born out of a reciprocal agreement, the creditor can absolve himself of his obligation to provide counter-performance by using article 1266 of the Civil Code.

The creditor may sue the debtor who has made the *waprestasi* with the following matters (Salim H.S., 2014):

1. Creditors may request fulfillment of achievements only from the debtor.

2. Creditors can claim achievements accompanied by compensation to the debtor (Article 1267 of the Civil Code)

3. Creditors can sue and ask for compensation, only possible losses due to delays.

4. The creditor can demand the cancellation of the agreement.

5. Creditors can demand cancellation accompanied by compensation to the debtor. The compensation is in the form of payment of a fine.

There are two reasons for the emergence of compensation: compensation due to Default and unlawful acts. Compensation due to Default is regulated in Book III of the Civil Code, starting with Article 124 of the Civil Code to Article 1252 of the Civil Code. Meanwhile, compensation for violating the law is a form of compensation charged to the person who has caused the wrongdoing to the party who has harmed him. The compensation arises because of an error, not because of an agreement (Salim H.S., 2014).

R. Subekti stated that the Default is negligence or negligence, which can be in the form of 4 kinds, namely (Khairandy, 2014):

1. Not doing what he was promised to do
2. Carry out what has been promised, but not as promised
3. Doing what was promised but too late
4. Doing an act that cannot be done according to the agreement.

According to Subekti's opinion regarding Default, if it is related to the case at PT. On-Time Express consumers do not carry out what has been promised. This is very clear where the consumer is in Default because he does not follow and obey the regulations that apply at PT On-Time Express, causing circumstances beyond the parties' expectations, such as wrong credit invoices.

The compensation that the creditor can claim to the debtor is as follows:

1. Losses that have been suffered, namely in the form of costs and losses.
2. The profit originally to be obtained (Article 1246 of the Civil Code) is intended for interest.

What is meant by costs (costs), namely costs incurred by the creditor to take care of the object of the agreement Loss is a decrease in assets caused by damage or loss. At the same time, the interest is the advantage that creditors will enjoy. The reimbursement of costs, losses, and interest must be a direct result of the default and can be predicted at the time before the agreement is concluded. Article 1249 of the Civil Code determines that compensation for losses caused by default is only determined in the form of money.

According to Abdulkadir Muhammad, the theory of responsibility in violating the law (tort liability) is divided into several theories, including:

1. Responsibility as a result of unlawful acts committed intentionally (intentional tort liability), the defendant must have committed such an act that it harmed the plaintiff or knew that what the defendant did would result in a loss.
2. Liability due to unlawful acts committed to negligence (negligence tort liability) is based on the concept of fault related to intermingled morals and law (intermingled).
3. Absolute responsibility as a result of violating the law without questioning the fault (strict liability) is based on acts that are intentionally or unintentionally, meaning that even though it is not his fault, he is still responsible for the losses that arise as a result of his actions (Muhammad, 2010).

The legal consequence of default is the obligation for the party in default to pay compensation. In the event of a default, one of the other parties can demand the cancellation of the agreement or the fulfillment of the agreement (Agustina et al., 2012). The party who has the right to demand something is called the creditor or the debtor, while the party obliged to fulfill the claim is called the debtor or the debtor. Suppose the debtor or debtor does not fulfill his obligations properly, and he does not fulfill that obligation because there is an element of wrongdoing with him. In that case, there are legal consequences that can befall him.

The act of violating the law (tort liability) in the theory of legal responsibility, according to (Muhammad, 2010), if it is associated with the existing case, namely the consumer is not in order with the regulations of the consignment agreement so that it dramatically hampers the administrative system and financial turnover due to the consumer not complying with the applicable regulations. In principle, the responsibility of consumers as users of goods delivery services at PT. On-Time Express must follow the applicable SOP (Company Operational Standard). The responsibility in question is to comply with existing regulations to help expedite the system of transaction activities carried out at PT. On-Time Express is like paying invoices for delivery on time without causing chaos in the administrative system. There will likely be losses and even bankruptcy. If we talk about legal liability, then we must also talk about whether or not there is a loss that a party has suffered as a result of the irregularity of the previously agreed regulations. PT suffered the loss. On-Time Express in the form of delays in payment of invoices by consumers who should be responsible, so that PT. On-Time Express experienced something unexpected where PT. On-Time Express benefits from the delivery of goods but, in this case, suffers a loss.

So referring to the provisions of Article 1365 of the Civil Code, consumers should also provide compensation to service providers, both material compensation in the form of money or new goods or immaterial compensation in the form of an apology, and will follow the consignment system by applicable regulations.

3.2. Legal Efforts to Settle Consumer Default Against PT. On Time Express

Efforts to resolve default disputes that occur with consumers at PT. On-Time Express, if viewed based on the Goods Delivery Contract Agreement, if a dispute occurs, it will take litigation. However, the parties are free to choose litigation or non-litigation based on the principle of freedom of contract—dispute resolution at PT. On-Time Express, together with the consumers, initially conducted negotiations to reach an agreement in doing business. By making efforts to negotiate, the parties hope to find a way out of the problems they face together at the time of negotiation the PT. On-Time Express, together with consumers, carries out negotiations to resolve the problems. When the negotiations took place, the PT. On-Time Express faced difficulties getting a meeting point with the consumer, PT. On-Time Express hopes for good faith on the part of consumers. So that the PT. On-Time Express and consumers are trying to involve a neutral third party by choosing a mediation route assisted by a mediator from one of the legal institutions in Denpasar Bali, Indonesia. The stages of the mediation process carried out are:

1. PT. On-Time Express still collects the cost of shipping goods by the work contract that has been agreed upon in the previously promised agreement, which cannot be changed because the parties agreed at the beginning of the agreement.
2. The consumer must carry out the obligation to pay bills arising from the delivery contract because of PT. On-Time Express is by the SOP / Standard Operational Procedure agreement in shipping goods.

IV. CONCLUSIONS

Based on the discussion in the chapter above, the following conclusions can be drawn:

1. The legal consequences for consumers who default are compensation to the company PT. On-Time Express, both material compensation in the form of money or new goods and immaterial compensation in an apology and following the contract agreement system by the applicable regulations.
2. Legal efforts to settle consumer defaults used by PT. On-Time Express in resolving default cases carried out by consumers is dispute resolution through non-litigation channels, namely at the beginning of the dispute between the parties through negotiation. However, it is not reached in the negotiation process. Then the parties try to resolve the dispute through mediation.

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