

## Legal Protection for Online Shopping Business Receiving Fictive Orders with A Payment System on The Site or Cash on Delivery (Case study of Shopee & J&T Express)

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### Abstract

The implementation of buying and selling online provides many benefits to streamline time so that everyone can make buying and selling transactions wherever and whenever. However, in practice it raises several problems, such as on the Shopee shopping site with a payment system using the Cash on Delivery (COD) feature, there are obstacles that are detrimental to the seller. This obstacle is caused by consumers who do not have good intentions by disappearing suddenly when the goods arrive at the buyer's address so that the goods are not paid for and are forced to be sent back to the seller. This is clearly detrimental to the seller both in terms of material and immaterial. The focus of research in this thesis is to analyze the concept of consumer protection for Shopee sellers who implement the COD payment system. This study uses empirical juridical research methods using primary data located in Purwokerto. Data analysis techniques using qualitative methods. The results of the study show that good faith as a form of business actor's obligation to the Shopee Marketplace has been fulfilled, but there is an imbalance in the position of unilaterally canceling so that the business actor does not get his rights in the form of payment for goods. so the seller must bear the risk and the goods must be returned, and for the safety of the seller must

bear the cost of resend so that COD becomes more expensive. This is referred to as the risk borne by the seller.

**Keywords:** Cash on Delivery, Seller Shopee, Consumer Protection.

### **Introduction**

E-Commerce is a business process using electronic technology that connects companies, consumers and the public in the form of electronic transactions. In principle, business with E-Commerce is a paperless business/trade (Andadari, 2019). Using electronic transactions makes it easier for businesses and consumers to buy and sell, especially in buying and selling online.

Buying and selling is an activity in which there are sellers or business actors who trade goods sold and buyers who buy goods sold by business actors and have the goal of mutual benefit. From a linguistic point of view, buying and selling is defined as exchanging, both exchanging goods for one another, for money, or goods for money. However, the object of exchange in buying and selling is limited to objects, because leasing and marriage, whose objects are facilities and enjoyment, are another matter that is different. If you pay attention, the term buying and selling is a combination of two opposite words. This is because trading activities can only be carried out if there are sellers and buyers. The seller is a party that has goods to offer. While the buyer is the party that pays for the goods. If there is one party that is not there, of course buying and selling is impossible to occur (Prospeku, 2021).

In the current era, online buying and selling activities are increasingly widespread, especially since the sites used to make online buying and selling transactions are getting better and more diverse. Buying and selling online is defined as buying and selling of goods and services through electronic media, especially via the internet or online. One example is selling products online via the internet as done by bukalapak.com, berniaga.com, tokobagus.com, lazada.com, kaskus, olx.com, etc (Fitri, 2017).

Online payment methods are a way for customers to pay for goods or services. With the rise of marketplaces and online transactions, payment methods are now very varied. The following are online shopping payment methods: Bank Transfer, Credit Card, Cash Retail, e-Wallet, Cardless Credit, Direct Debit, QR Code, and Cash on Delivery (COD). The method that is often used by customers or consumers is Bank Transfer and COD because it is more convenient in payment. The Bank Transfer method is payment by transferring through a bank account like a transfer between customers. COD is a sale and purchase where the method of payment is made in cash and directly when the order arrives at the buyer's hand. Consumers are safer by using the COD method, maybe it can reduce consumer fraud. If the item does not match, it can be sent back to the seller so that it can be replaced with the product ordered (Sindonews, 2022).

The Indonesian government issued Law Number 8 of 1999 concerning Consumer Protection or UUPK to protect consumers who are often disadvantaged. Given the weak position of consumers in general compared to the stronger position of business actors in many respects. In this case, consumers as parties who need goods and/or services offered by business actors are required to follow the rules set unilaterally by business actors. But the fact is that in online transactions, losses can not only be experienced by consumers. Currently, there are also frequent losses experienced by business actors caused by their consumers. Losses experienced by business actors are caused by non-fulfillment of achievements that should be made by consumers. Even though both parties have not reaped their achievements, the business actor has processed the goods ordered by the consumer using his personal money. When the order is in the hands of the business actor and the consumer does not make a payment, the order will cause a loss because the business actor who is supposed to benefit from the order does not even get it (Ayu Sugesti, 2020).

Based on what has been stated above, the author formulates how legal protection is for Online Shopping Business Actors against fictitious order cases with the COD system on the *Shopee apps*?

This research is an empirical juridical law research. Sources of data in this study consisted of primary data and secondary data. The primary legal data are in the form of laws and regulations and jurisprudence, while the secondary data used are in the form of books, articles, archival data and articles related to this research.

In this study, data were obtained using library research and interview techniques. The library research technique is a data collection technique that is carried out by means of library research, in which the author obtains data related to the object of research study by studying literature, internet searches, and existing documents. And interview techniques are used by researchers to obtain oral information through conversing and face to face with people who can provide information to researchers. This interview is in the form of questions that have been prepared beforehand which will be submitted to the source to be asked for information regarding matters relating to the research in order to obtain the necessary data. Data is presented in a qualitative form, namely the presentation of data in a descriptive-analytical form.

The analysis used is qualitative data analysis, namely data that cannot be measured or assessed by numbers directly. Thus, after the primary data and secondary data in the form of documents are obtained completely, then they are analyzed with regulations related to the problem under study.

## **Result and Discussion**

### **Legal Protection for Online Shopping Business Actors Recipients of Fictitious Orders with a Cash On Delivery System (COD)**

In Law No. 8 of 199 concerning Consumer Protection in Article 1 number (2) a consumer is any user of goods and/services available in society for the benefit of

himself, his family or other living things and not for trading. Meanwhile, business actors according to Law No. 8 of 1999 concerning Consumer Protection are any individual or business entity, whether in the form of a legal entity or not a legal entity, which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either alone or jointly. -sama through agreements to carry out business activities in various economic fields. In the current era, online buying and selling is growing rapidly coupled with the existence of online buying and selling applications such as Shopee, Tokopedia, BliBli, Lazada, Bukalapak, Akulaku, etc. This makes it easier for consumers to shop and this is a place where businesses sell their goods.

Online shopping or buying and selling online needs protection for consumers and business actors. The law of business actors in a broad sense includes civil law, commercial law and civil principles contained in various other laws and regulations, both written and unwritten civil laws. In consumer protection law, consumers are more regulated or protected than business actors, while the reason is because considering the unequal position of consumers with business actors, such as one of the factors in buying goods online where the bargaining power of consumers is still low. In the online shopping system, it is not only consumers who need to be protected by law, but business actors also need to be protected by law due to the large number of fictitious orders that often occur. Fictitious orders are purchases made by someone from an application but these purchases are fake or don't exist, this makes business actors feel disadvantaged, and these orders often occur using the COD (Cash On Delivery) payment system or on-site payments made by J&T Expres or other delivery services. What is meant by COD or pay on the spot is that the buyer pays for his order offline when the order has arrived at the destination address.

Law Number 8 of 1999 concerning Consumer Protection in article 6 states regarding the rights of business actors, where these rights consist of the right to receive payments in accordance with an agreement regarding the conditions and exchange rates of traded goods or services, the right to receive protection the law of bad faith from consumers, the right to defend oneself properly in legal settlements of consumer disputes, the right to rehabilitate one's good name if it is legally proven that the loss suffered by the consumer is not from the goods or services being traded, and the rights regulated in terms of regulations other legislation.

Sanctions against consumers in this case are theoretically repressive legal protection not explained in Law Number 8 of 1999 concerning Consumer Protection, but in this case the consumer commits a default and can be subject to sanctions in the form of paying for losses suffered by business actors, cancellation of agreements, transfer of risks, and pay the costs of the case when it reaches court (Pramono, 2003). *Justitia Jurnal Hukum*, Vol 6, No 2, October 2022

### **Obstacles faced when Business Actors carry out online buying and selling transactions using the Pay on the Spot system (COD)**

The various kinds of facilities and benefits offered payment using the COD system, but in practice so far there have also been several obstacles where these problems have harmed the seller more, especially on the Shopee Marketplace. This is based on the existence of information that states so. For example, there are fake orders or deceptive orders that are detrimental to business actors (sellers) and an error occurs in the COD Shopee system which can make it difficult to disburse funds to sellers.

From interviews conducted by the author to respondents from the business actor (seller), several obstacles were found when carrying out buying and selling transactions using the COD system as follows:

1. The buyer is not there where the goods will be returned.

The COD feature means that the buyer will pay for the goods they ordered when the goods arrive, but sometimes there is a condition where when the courier delivers the package to the buyer's address but there is no one, the package will be returned or returned to the seller.

2. The buyer has no money to pay when the goods arrive.

There are so many buyers who reason when the goods arrive, they told the courier that they had no money at that time. So that goods that cannot be paid for, the goods will automatically be returned to the seller.

3. Buyers do not feel buying (*Fake Order*)

The buyer gets COD goods from the expedition while the buyer does not feel that he ordered it, because of this there is a loss for the Business Actor (Seller). of course the courier from the expedition cannot do much, so the solution taken is to return the package to the seller. Risk of Damage when returned to the Seller. When experiencing the process of returning to the seller, then there is a risk that can be borne by the seller. Such as goods damaged during transit and so on.

If you see that this is a form of unilateral cancellation on the part of the consumer against the seller, it is necessary to review more deeply regarding the protection of business actors or sellers, especially protection from a legal perspective. With the hope that in the future there will be no more arbitrary actions on the part of the consumer so that it harms the seller, both material and immaterial losses. In matters relating to the interests of business actors, legal attention must be paid, because the existence of the national economy is largely determined by business actors (seller). In addition, business actors must also carry out their obligations in accordance with statutory provisions.

In handling the return of goods that fail to be sent because the goods are rejected by the buyer or the buyer does not pay for the COD goods, so the goods must be returned or returned to the seller, the shopee provides its policy, namely in the form of full shipping costs. This fee is used to return the goods from the buyer to the seller. In addition, there is a notification on the status of the delivery of goods in the special

seller's shopee application which provides information that the goods sent were rejected by the recipient of the goods. Even if it disappoints the buyer, the notification can provide information to the seller about the status of the shipment of the goods.

Meanwhile, if the seller is willing to file a lawsuit to court because they feel aggrieved by consumers, he has the right to do so. Moreover, in the Civil Code it is known as the "principle of legitimacy persona", which gives anyone the right to file a lawsuit. This is based on the existence of Article 1365 which states that any unlawful act that causes harm to another person obliges the person due to the mistake of issuing the loss, to compensate for the loss.

According to Article 52 UUPK, those who are domiciled as business actors as well as consumers or Shopee Marketplace users are permitted to submit complaints to the Consumer Dispute Settlement Agency (BPSK) regarding the problems they experience due to unilateral cancellations from consumers who use the Cash On Delivery (COD) feature. One of the authorities of the Consumer Dispute Settlement Agency (BPSK) is to receive complaints, both written and unwritten, from consumers regarding violations of consumer protection. Consumer dispute resolution through BPSK does not need the approval of both parties to choose BPSK as a dispute resolution forum. In relation to the above, Article 45 UUPK does provide that consumer dispute resolution can be reached through out-of-court complaints based on the voluntary choices of the parties to the dispute. However, this does not mean that filing a lawsuit must be approved in advance by the parties, namely the Shopee party as well as the consumer concerned. According to the explanation of this article, it means that in resolving disputes, it does not rule out the possibility of a peaceful settlement by the parties to the dispute. At every stage efforts are made to use a peaceful settlement by both parties to the dispute. So, filing a lawsuit does not have to be agreed upon by the parties, but the parties can agree to choose peace in resolving the dispute.

### **Legal Consequences of Default in Online Buying and Selling Transactions in terms of Law no. 11 of 2008**

Online buying and selling carried out through electronic media was known in Indonesia long before Law no. 11 of 2008 concerning ITE. The law on buying and selling transactions carried out through the Online Shop, if an act of default occurs which can harm other people, can be resolved in accordance with the legal provisions contained in Article 39 of Law No. 11 concerning ITE which reads "Civil lawsuit is carried out in accordance with the provisions of the Laws and Regulations". In this law, criminal provisions have been specifically regulated regarding penalties for parties if they commit criminal acts regarding electronic information and transactions, which can result in imprisonment and fines regulated in Article 45 A of Law No. 19 of 2016

concerning ITE. Furthermore, it is regulated by the Civil Code with the act of default, Article 1243 of the Civil Code states that:

"Reimbursement of costs, losses and interest due to non-fulfillment of an agreement, only then begins to be required, if the debtor, after being declared to have fulfilled the agreement, continues to neglect it, or if something must be given or made, it can only be given or made within the grace period that has passed."

The risks involved in buying and selling transactions carried out using electronic media, especially through the Online Shop, can be seen as follows:

- a. The goods sent can be old goods, or in other words the goods sent are items that have long been on display and are not selling well. For example, a watch that uses battery power, because the clock is old so the battery life on the watch does not last long until it reaches the buyer's hand.
- b. Items sent may be damaged during shipping. Or the goods being sold are not of good quality from the factory, the goods sent have hidden defects in the goods, so that when they are used, it is known that there is damage to the goods.
- c. The goods promised are different from the goods sent, it can be about the type, color, weight, size, or type. For example, the purchase of a jacket that was promised was a jacket material made of leather, but when the buyer received it, it turned out that the material was made of a mixture of parachute.
- d. The last risk that is rife in this case is fraud, goods that have been agreed and paid for do not reach the hands of the buyer.

In buying and selling transactions carried out through electronic media, parties who feel aggrieved as a result of this can be held accountable for compensation regulated in article 1243 of the Civil Code and in Law No. 11 of 2008 concerning ITE contained in article 38 paragraph (1), regarding parties who feel aggrieved can file a lawsuit. With the fact that there is a default that occurs, there is no legal remedy, only in practice the goods purchased must be returned to the business actor.

## **Conclusion**

Legal protection for business actors in this case is based on the rights of business actors in Article 6 of Law Number 8 of 1999 which states the right to receive payments in accordance with the agreement regarding the conditions and exchange rates of goods and/or services traded, the right to receive legal protection from consumer actions with bad intentions, the right to defend oneself properly in the settlement of consumer dispute law, the right to rehabilitate one's good name if it is legally proven that the consumer's loss was not caused by the goods and/or services being traded. In online buying and selling transactions on the Shopee application via Cash on Delivery (COD) default can occur in the event that the business actor does

not get his rights in the form of payment for goods. There is no legal remedy for this settlement, but in practice the goods purchased can be returned to the business actor. This has been previously calculated as a risk where the seller has to bear the resending costs, so COD costs are more expensive than other payment methods. Legal protection for business actors can report losses to the Consumer Dispute Settlement Agency (BPSK) and monitor e-commerce sites.

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