



Legal Review of Consumer Dispute Settlement in Cases of Cancelled Property Development (Study Decision Number : 072/ Arbitration /2022/ BPSK.Mdn)

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Abstract Consumer dispute resolution in Indonesia is an increasingly relevant issue, considering the high dynamics of transactions that occur in the goods and services sector, including in the property sector. Consumers, as the weaker party in business transactions, often face problems related to the quality of goods/services received, delays, unilateral cancellations, or even failure in property development. Therefore, resolving consumer disputes is very important and requires adequate legal protection. This type of research is normative juridical research. Normative research is literature research by examining theoretical approaches and concepts that examine consumer disputes. Normative juridical research is legal research that places law as a building system of norms. Problems arise when consumers in good faith have paid all Down Payment obligations, but the business actor actually takes a unilateral decision to cancel the apartment construction project. Consumers who have invested funds amounting to IDR 307,530,900 are trying to get a refund, but the business actor does not show responsiveness and good faith in the refund process. This situation finally forced consumers to take legal action by filing a lawsuit with BPSK Medan City on December 5 2022. This case is a clear example of the application of consumer protection and the importance of BPSK as an alternative for resolving disputes outside of court. This decision also reflects the principles of justice and legal certainty in consumer disputes, where agreed consumers can obtain their rights through an arbitration mechanism.

Keywords: Dispute Resolution, Consumers, BPSK, Property

1. INTRODUCTION

Consumers whose existence is very unlimited with varied social classes causes producers to carry out marketing activities and distribution of goods or services in various ways as effectively as possible in order to reach a very large and wide range of consumers. Other adverse impacts occur, among others, regarding the quality of goods, unclear or even misleading information, counterfeiting and so on.

Consumer protection in Indonesia is regulated in Law Number 8 Year 1999 on Consumer Protection. This law aims to protect the rights of consumers from harmful business practices, as well as to provide legal certainty for consumers in transactions. One of the important points of the Consumer Protection Law is the regulation on dispute resolution between consumers and business actors. In the event of a dispute, the Consumer Dispute Settlement Body (BPSK) is an institution authorized to handle consumer dispute cases. BPSK can resolve disputes through mediation, conciliation, and arbitration. Arbitration, as a form of dispute resolution, is often considered more efficient because it can produce a final and binding decision without having to go through a long and formal judicial process.

Consumer dispute resolution in Indonesia is an increasingly relevant issue, given the high dynamics of transactions that occur in the goods and services sector, including in the

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property sector. Consumers, as the weaker party in business transactions, often face problems related to the quality of goods/services received, delays, unilateral cancellations, or even failures in property development. Therefore, consumer dispute resolution is very important and requires adequate legal protection.

Consumer protection is an integral part of healthy business activities. Healthy business activities create legal protection between consumers and producers. The absence of balanced protection results in consumers being in a weak condition. Losses experienced by consumers can arise as a result of the legal relationship born from the agreement between producers and consumers, as well as a result of unlawful acts committed by producers. Based on the provisions contained in Article 1 point 2 of Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, 'consumers are every person who uses goods and/or services available in the community, both for the benefit of themselves, families, other people and other living things and not for trade.' (Article 1 point 2 of Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection)".

Consumers as users of these goods and/or services have rights and obligations as consumers. In terms of property disputes, such as in the construction of houses or apartments, problems often arise related to building quality, delays in project completion, and unilateral cancellation of contracts by developers. This often causes losses for consumers who have spent large sums of money to buy property that has not been or is not in accordance with the agreement.

One example is a consumer dispute involving Mr Luyan Suharto as a consumer and PT Mandiri Bangun Makmur as a business actor. The substance of the dispute relates to the cancellation of the construction of the Tokyo Skytree PIK2 Apartment located in North Jakarta. The chronology of this dispute stems from the transaction of ordering apartment units made by consumers on 17 December 2018 during a property exhibition at Sun Plaza Medan. At that time, the consumer agreed to the payment terms by paying off the booking fee of IDR 5,000,000 and committed to paying the Down Payment (DP) in stages for 42 months with a nominal value of IDR 7,200,000 per month.

Problem Formulation

1. What is the role of the Consumer Dispute Resolution Agency (BPSK) in consumer disputes?
2. How is the analysis of consumer dispute resolution in the case of cancellation of property development based on Decision Number: 072/Arbitration/2022/ BPSK.Mdn)?

3. What are the strengths and weaknesses of consumer dispute resolution at the Consumer Dispute Resolution Agency (BPSK)?

2. RESEARCH METHODS

This research uses a descriptive-qualitative approach, namely researchers not only collect data in terms of quality, but also want to explore the understanding behind the phenomena that have been obtained and try to describe and interpret something, for example, existing conditions or relationships, developing opinions, ongoing processes, consequences or effects that occur, or about ongoing trends aimed at making a systematic, factual, and accurate description (description) of the facts and characteristics of a particular population or area.

In other words, this qualitative approach is research that produces descriptive data in the form of written or spoken words from people and behavior that can be observed, while the nature of the research is descriptive which is ongoing through literature studies, namely to obtain secondary data, research using literature studies, namely in the form of searching for legal materials related to the problem under study. Data collection techniques obtained by reading, understanding, quoting legislation documents, books, journals, literature and articles related to this research.

This type of research is normative juridical research. Normative research is literature research by examining theoretical approaches, concepts that examine consumer disputes. Normative juridical research is legal research that places the law as a building system of norms. The norm system in question is about the principles, norms, rules of the legislation. This normative juridical research is research on legal systematics, namely research whose main objective is to identify the notions or basis in law.

The data sources in this journal are

1. Primary Data, is data obtained directly from the original source or where the object of research is carried out.
2. Secondary Data, is data obtained not directly from the original source but through books, research results, journals or archives that already exist.

The data obtained from primary and secondary data will be processed and analyzed based on the formulation of the problem so that a clear picture is expected to be obtained. In the process of data analysis, the author uses qualitative methods and is presented descriptively, namely explaining, describing, and describing in accordance with the problems that are closely related to this research, then the author draws conclusions based on the analysis that has been carried out. The data processing is carried out by examining the data collected to ensure the

truth, the data obtained is then analyzed using qualitative descriptive analysis techniques. Descriptive is that the researcher provides a description, description or subject and object of research as the results of the research that has been carried out, while qualitative is a way of analyzing data asked by respondents in writing or orally and real behavior, which is then studied and studied as a whole.

3. RESULTS AND DISCUSSION

The Consumer Dispute Resolution Body (BPSK) is an institution that has the authority to resolve disputes between consumers and business actors. Based on Law No. 8/1999 on Consumer Protection, BPSK plays a role in providing alternative solutions without having to go to court. The dispute resolution mechanism at BPSK can include mediation, arbitration, or conciliation. In the case of property disputes, BPSK has a strategic role in ensuring that the rights of consumers who are harmed by the cancellation of property development remain protected, either in the form of refunds, compensation, or other settlements in accordance with the law. The Consumer Dispute Resolution Agency (BPSK) has an important role in resolving disputes that occur between consumers and businesses in Indonesia. BPSK is tasked with providing fair, fast, and efficient solutions in dealing with consumer disputes, as well as protecting consumer rights in accordance with applicable regulations.

The Consumer Dispute Settlement Body (BPSK) provides protection to consumers by guaranteeing consumer rights so that it functions to ensure that consumer rights stipulated in the Consumer Protection Law (Law No. 8 Year 1999) are properly protected. If consumers feel aggrieved by business actors, BPSK can be a place to fight for these rights. In addition to resolving disputes, BPSK also plays a role in supervising and preventing business practices that are not in accordance with consumer protection provisions. BPSK plays a very important role in protecting consumer rights and creating a more transparent and fair business climate. By providing an effective alternative means of dispute resolution, BPSK can accelerate dispute resolution, reduce the burden on the courts, and increase consumer confidence in business actors.

In Indonesia, consumer dispute resolution through arbitration is regulated by the Consumer Dispute Resolution Agency (BPSK) in accordance with the provisions in Article 45 of the Consumer Protection Law. BPSK has the task of resolving disputes between consumers and the business actors concerned by non-formal means, such as mediation, conciliation, or arbitration. In the context of arbitration, BPSK acts as an institution that facilitates dispute resolution by seeking a final and binding decision based on the decision made by the arbitration

panel. BPSK arbitration involves several stages, starting from the registration of the dispute, the selection of the arbitrator, the trial process, to the arbitration decision. During this process, both the consumer and the business will be given the opportunity to present their evidence and arguments, which will then be decided by the arbitral tribunal based on applicable legal considerations.

This case involved a dispute between a consumer and a property developer regarding the unilateral cancellation of the construction of an ordered property. The consumer felt disadvantaged due to the developer's failure to fulfill the agreement, both in terms of construction time and building quality. This case highlights the importance of dispute resolution mechanisms through arbitration at BPSK as an alternative to dispute resolution without having to involve formal court channels. Settlement through arbitration is expected to result in a fair and quick decision, given the nature of disputes that often involve large amounts of money and are protracted.

Based on the analysis of BPSK Decision Number 072/Arbitration/2022/ BPSK.Mdn . The case is a consumer dispute involving Mr Luyan Suharto as a consumer with PT Mandiri Bangun Makmur as the business actor. The substance of the dispute relates to the cancellation of the construction of the Tokyo Skytree PIK2 Apartment located in North Jakarta. The chronology of this dispute stems from the transaction of ordering apartment units made by consumers on 17 December 2018 during a property exhibition at Sun Plaza Medan. At that time, consumers agreed to payment terms by paying a booking fee of IDR 5,000,000 and committed to pay Down Payment (DP) in stages for 42 months with a nominal value of IDR 7,200,000 per month.

Problems arose when consumers in good faith had paid off all Down Payment obligations, the business actors made a unilateral decision to cancel the apartment construction project. Consumers who had invested IDR 307,530,900 tried to get a refund, but the business did not show responsiveness and good faith in the refund process. This situation eventually forced the consumer to take legal action by filing a lawsuit with BPSK Medan City on 5 December 2022.

During the scheduled hearing, it was revealed that the business did not attend the hearing despite having received an official summons. Referring to the provisions of Kepmenperindag No. 350/MPP/ Kep /12/2001 article 36 paragraph 3, the absence of the business actor at the second hearing resulted in the consumer's lawsuit being granted without the presence of the business actor.

The consideration of the Consumer Dispute Settlement Body (BPSK) was also based on Article 28 of the Consumer Protection Law (UUPK) which stipulates that the burden of proof regarding the presence or absence of elements of fault in a compensation claim is the responsibility of the business actor. The Consumer Dispute Settlement Body (BPSK) of Medan City finally issued a decision obliging the business actor to make full compensation for the funds paid by consumers, although the claim for immaterial losses of Rp. 50,000,000 was not granted due to insufficiency of evidence. This decision is in line with Law no. 8 Year 1999 on Consumer Protection, which provides legal guarantees for consumers to obtain compensation when they suffer losses. Article 28 emphasizes that the burden of evidence lies with the business, so their absence in court actually strengthens the consumer's legal position.

The advantage of BPSK in resolving consumer disputes is the fast and simple process in which BPSK is designed to resolve disputes in a faster and simpler way than litigation. Typically, consumer disputes can be resolved in a relatively short period of time (around 21 days after mediation begins). The informal process allows for more open communication by both parties and there is a legally binding decision made by BPSK that must be implemented by the losing party in the dispute. BPSK is also a tool for consumer protection against harmful business practices, such as defective products, poor service and violation of consumer rights.

The shortcomings of BPSK in resolving consumer disputes are the limited authority of BPSK in handling disputes related to the consumption of goods and services. For legal issues that are more complex or involve other legal interests (eg criminal or civil involving third parties), consumers must seek resolution through the courts. BPSK decisions are final and binding, but there is no appeal mechanism for agreed parties. If there is dissatisfaction with the decision, the losing party cannot file an appeal or cassation, which could potentially lead to injustice.

4. CONCLUSIONS AND SUGGESTIONS

This case is a clear example of the application of consumer protection and the importance of the existence of the Consumer Dispute Resolution Body (BPSK) as an alternative to out-of-court dispute resolution. This decision also reflects the principles of justice and legal certainty in consumer disputes, where agreed consumers can obtain their rights through an arbitration mechanism. From an academic perspective, this case is relevant as a study of the effectiveness of BPSK in protecting consumers and the legal responsibility of business actors to fulfill their promises. Business actors should comply with the principles of

fairness and balance as mandated by the Consumer Protection Law to prevent harm to consumers.

It is recommended that the settlement of consumer disputes related to the cancellation of property development be carried out through more mediative measures, such as mediation and arbitration, which focus on a mutually beneficial settlement. If that is not achieved, more formal legal mechanisms such as a lawsuit through the court or settlement through BPSK can be the last resort. Increased developer transparency and government oversight are also important to prevent similar disputes from occurring in the future.

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