

APPLICATION OF THE PRINCIPLE OF GOOD FAITH OF BUSINESS ASSOCIATIONS AS A REALIZATION OF CONSUMER RIGHTS IN AGREEMENTS BUY AND BUY ONLINE VIA TIKTOK SHOP ACCOUNT

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Abstract:

The principle of good faith can be interpreted as meaning that each party in an agreement to be agreed has an obligation to provide as complete information or information as possible which can influence the other party's decision regarding whether to agree to the agreement or not. Article 9 of Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) also requires business actors to provide complete and correct information. However, until now there are still many online business people who do not know about their obligations as business actors. There are still many online shops such as Tik Tok Shop that do not include addresses as a form of information to consumers and have unclear descriptions of the goods on offer, which could potentially cause losses for consumers when purchasing them. The purpose of writing this article is to find out how the Principle of Good Faith of Business Actors is implemented in Online Buying and Selling Agreements Reasons for Not Fulfilling the Principle of Good Faith in Implementing Online Sales and Purchase Agreements via Tiktok Shop Accounts. This type of research is normative legal research. The data source comes from secondary data which is divided into three types of data, namely primary legal materials, secondary legal materials and tertiary legal materials.

Keywords: Principle of Good Faith, Business Actors, Online Sale and Purchase Agreement

I. Introduction

The modernization of the times and advances in technology have had a big impact on people's lifestyles, such as the way they socialize, socialize, and

even carry out routine business activities both on a local, regional and global scale, and nowadays, with the advancement of the times, this has an impact on Due to the emergence of the

internet, all forms of business activities of business actors and consumers no longer require a physical meeting between business actors and consumers/buyers. This is enough to take advantage of current technological advances, so that you can carry out business activities supported by media such as computers and smartphones (HP) so that everyone can freely access them without time and place restrictions.¹

Business actors no longer need to meet face to face with buyers in carrying out their business activities, but simply make offers, requests or accept offers via a computer system connected to the Internet.²

The use of trading activities that use internet media is known as Electronic Trading. Likewise, electronic commerce also has the function of explaining goods or services using internet media. One of the most popular models of Electronic Commerce today is the place of business, which acts as an intermediary between sellers and buyers. In carrying out business activities through the marketplace, sellers only need to serve purchases, all other business activities in managing

the entire buying and selling website are the responsibility of the business actor³.

Some examples of business places that are popular among the public/consumers today are Bukalapak, Tokopedia, Blibli, Shopee, Lazada and Tiktok Shop.

One social media account that is very easy to use as an online buying and selling forum is the Tik Tok account application, this is because it is easy to display advertisements for goods offered by business actors, apart from that, this Tik Tok account can also be used for free to display goods. merchandise sold online. However, it cannot be denied that even though the Tik Tok application has many conveniences regarding the goods being sold, this account still raises several very vulnerable problems. between business actors and buyers/consumers, this is because in the implementation of online buying and selling, through the Tik Tok application, where the seller and buyer do not meet directly (face to face) but only through online media, so that in some cases the It often happens that the goods sold and those purchased and which reach the consumer do not match as described when the business actor is broadcasting live on his Tik Tok account, and this is of course due to the bad intentions of the business actor in

¹ Erly Pangestuti, et.al: Legal Protection for Victims of Online Buying and Selling Transactions in Indonesia, Yustitiabelen Journal, Volume 8 Number 2 August 2022, p. 168

² Abdul Rahman: Default in Online Buying and Selling Transactions Using the Cash On Delivery Feature in the Marketplace Application, Legal Research Journal, Volume 31 Number 2 August 2022, p. 111

³ Putu Sri Bintang Sidhi Adnyani, and I made a Bachelor, Legal Accidents of Default in Online Transactions using the Cash On Delivery method on the Shopee Application, Jurnal Kertha Semaya 8 July 2021, p. 1532

carrying out online buying and selling via Tik Tok account. This of course has the potential to cause losses to buyers/consumers.

The principle of good faith is very important in carrying out online sales and purchase agreements, because basically the buyer or consumer needs to get a complete explanation regarding the goods being offered in the Tik Tok account of the Business Actor which is broadcasting live and the Business Actor should have good faith in explaining in detail about the goods being sold. to buyers during live broadcasts. This of course aims to eliminate misunderstandings or disputes between business actors and consumers regarding goods that consumers want to buy and sell by business actors⁴.

So it can be said that the principle of good faith has a very important role in implementing online sale and purchase agreements via the Tik Tok account application. By implementing good faith between the parties, the possibility of fraud/default in online buying and selling transactions can be minimized.

The principle of good faith is contained in article 1338 of the Civil Code which states "All agreements made according to law are valid as law

for those who make them. This agreement may not be withdrawn other than with the agreement of both parties, or for reasons determined by law⁵.

This agreement must be implemented in good faith." So if you look at the provisions of the article above, good faith is a principle that must be fulfilled by the parties entering into an agreement⁶. The definition of good faith has 2 (two) meanings, including:

1. Objectively, the agreement made must be implemented with due regard to the norms of propriety and decency.
2. Subjectively, the meaning of good faith lies in a person's inner attitude.

The purpose of implementing an agreement in good faith is so that the parties entering into the agreement have an obligation not to do anything that is unreasonable, that is, it does not conflict with the norms of decency and decency, so that justice will be created for both parties and will not harm either party. . Apart from that, the principle of good faith also lies in a person's inner attitude and this is very necessary to prevent default or fraud by parties when implementing an agreement, especially in online sales and purchase agreements,

⁴Jevlim Solim, et.al: Efforts to overcome criminal acts of fraud on online buying and selling sites in Indonesia, Samudra Perempuan Law Journal, Volume 4 Number 1 January 2019, p. 103

⁵Cleoptra Martina Hauliani, et.al: Factors that cause defaults in e-commerce transactions, Private Law Journal Volume 10 Number 2 December 2022, p. 219

⁶R.Subekti, Principles of Civil Law, PT. Intermedia, Jakarta, 2016, p. 41.

because the parties cannot meet directly (face to face).).

The principle of good faith can also be interpreted that each party in an agreement that will be approved has an obligation to provide as complete information or information as can influence the decision of the other party in terms of agreeing to the agreement or not.⁷

Law no. 11 of 2008 concerning Information and Electronic Transactions (UU ITE) also requires every business actor to provide complete and correct information. This obligation is contained in Article 9 of Law no. 11 of 2008 concerning Information and Electronic Transactions (UU ITE) which states: "Business actors who offer goods and services through electronic systems must provide complete and truthful information relating to contract terms, manufacturers and products offered"⁸

In the explanation, it is stated that what is meant by "complete and correct information" includes:

1. Information containing the identity and status of legal subjects and their competence, whether to Suppliers, Producers, organizers or intermediaries;

2. Other information that explains certain things that are conditions for the validity of an agreement and explains the goods and/or services offered, such as name, address and description of goods and services⁹.

Until now, there are still many business actors who do not know their obligations as business actors. This is because there are still online Tik Tok accounts that do not include a clear address as a form of information to consumers and unclear information about the goods being offered, thus causing losses to buyers.

Based on the description above, it is clear that the principle of good faith is a very important principle and needs to be possessed by parties in implementing agreements, including in online sales and purchase agreements carried out via electronic media using the Tik Tok account application. Therefore the author really it is necessary to answer problems related to the application of the principle of good faith by business actors as an embodiment of consumer rights in online sales and purchase agreements via Tik Tok accounts as well as the causes of non-fulfillment of the principle of good faith in the implementation of online sales and

⁷Satrio Budi Pramono, et.al: Consumer Legal Protection in Online Goods Buying and Selling Transactions in Indonesia, Journal of Law Education and Business, Volume 1 Number 2 October 2023, p. 171

⁸ Ramadhan Wardhana, et.al: Consumer Protection for Online Buying and Selling Masks on Facebook Market Place, Journal of Legal Sciences and Humanities, Volume 8 Number 5 February 2021, p. 1260

⁹ Razzaq Atalarik, et.al: Consumer legal protection in online Reptile buying and selling transactions in Surakarta, Legal Communication Journal, Volume 8 Number 2 August 2022, p. 471

purchase agreements via TikTok shop accounts.

II. Legal Materials and Methods

This research is normative legal research with a statutory approach and a conceptual approach. This legislative approach looks at the structure of norms in the embodiment of the hierarchy of statutory regulations by examining statutory regulations and linking legislative issues in this research. Meanwhile, the conceptual approach is the basic principle, point of view and doctrine raised in law. The analysis technique uses prescriptive techniques. This prescriptive technique is an analytical technique that provides an explanation of the arguments for the results of the study that has been carried out. These arguments are used to provide prescriptions or judgments regarding right, wrong, or what is appropriate according to law regarding facts or legal events from research results.¹⁰.

¹⁰ Made Pasek Diantha, Normative Legal Research Methods in Justifying Legal Theory, Prenada Media Group, Jakarta, 2016, p. 19

III. Results and Discussion

A. APPLICATION OF THE PRINCIPLE OF GOOD FAITH OF BUSINESSES AS A REPRESENTATION OF CONSUMER RIGHTS IN ONLINE SALE AND PURCHASE AGREEMENTS VIA TIKTOK ACCOUNT

When implementing an agreement, it should be carried out in good faith, as stated in article 1338 of the Civil Code regarding the principle of Good Faith which states that: "Agreements must be executed in good faith. When implementing an online buying and selling agreement, also known as the Internet, it must be done in good faith, so that the entire series of online buying and selling processes can run smoothly and not harm any of the parties involved in the online buying and selling agreement.¹¹.

Good faith in every agreement, whatever it is, must exist from the time the agreement is formed and mutually agreed upon, meaning that good faith exists from the time the agreement is negotiated, good faith exists before the agreement occurs and at the time of implementation of the agreement until the agreement is fulfilled.¹².

The good faith of the parties to the agreement has been manifested since the pre-contract phase where the

¹¹R.Subekti, Op.Cit, p. 5

¹²I Ketut Oka Setiawan, Contract Law, Sinar Graphics, East Jakarta, 2016, p. 60

parties started from negotiating until reaching an agreement and the contract implementation phase. But in essence a person's good faith is very difficult to know, because a person's good faith is a human condition that cannot be seen with the naked eye.¹³.

In the conventional buying and selling process, the buying and selling process is carried out directly, and it is much easier to know whether the parties really have good faith in entering into the agreement. Meanwhile, in online buying and selling, the seller or business actor carries out activities by showing/explaining the goods to be sold online via the seller's or business actor's TikTok shop account.

The principle of good faith can also be interpreted as meaning that each party to an agreement that will be agreed upon has an obligation to provide as complete information or information as possible which may influence the other party's decision whether to agree to the agreement or not.

Law no. 11 of 2008 as revised to Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE) also requires business actors to provide complete and correct information about goods or services sold online. This obligation is contained

¹³ Sriayu Aritha Panggabean, et.al: Online Buying and Selling from the Perspective of Islamic Law and State Law, Journal of Sharia Economics and Economics, Volume 5 Number 2 June 2022, p. 1507

in Article 9, namely "Business actors who offer products through electronic systems must provide complete information relating to contract terms, producers and products.."

Trade transactions via electronic media are often referred to as Electronic Commerce or E-Commerce which means trade that uses electronic facilities where the trade transaction model is, both buying and selling are done via electronic media on the internet network.¹⁴

Online buying and selling transactions via E-Commerce usually start with a sales offer, purchase offer and sales acceptance or purchase acceptance. Before that it was possible to offer online, for example via internet web pages such as Facebook, Whatsapp and Instagram. Transactions via this web page are usually carried out for those who carry out transactions without knowing each other¹⁵.

Transaction capital through media

This electronic network means that the seller provides a list or catalog of the goods being sold which is accompanied by

¹⁴Trion PB, Getting to Know E-Commers and Business in the Cyber World, Argo Publisher, Yogyakarta, 2019, p. 4

¹⁵ Salwa Noviana Putri, et.al: Liability of Business Actors Giving Fake Discounts in the Practice of Buying and Selling E-Commerce Twin Date Events, Journal of Legal Interpretation, Volume 4 Number 3 December 2023, p. 538

with the product description that has been made by the seller.

Buying and selling is regulated in Book III chapter V starting from article 1457 of the Civil Code which states "Buying and selling is an agreement whereby one party binds himself to give up an item, and the other party to pay the promised price"¹⁶. In general, sales and purchase agreements may only be entered into by sellers and buyers in a certain place to be able to carry out direct transactions related to goods that are the object of conventional buying and selling or buying and selling.

The increasingly rapid advances in technology really help people determine a way to make buying and selling transactions easier because they can carry out transactions wherever and whenever they can, and the sophistication of this technology cannot be denied. assist in online buying and selling activities. The definition of Information Technology according to Article 1 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions is "Electronic Transactions are legal acts carried out using computers, computer networks and/or other electronic media."¹⁷

¹⁶ Sulasi Rongiyati: Consumer Protection Through Trade Transactions Via Electronic Systems, *Journal of the State of Law*, Volume 10 Number 1 June 2019, p. 3

¹⁷ Saprida, et.al: Legality of Online Buying and Selling Transactions in Indonesia, *Journal of Sharia Economic Thought and Development*, Volume 8 Number 2 February 2023, p. 316

As an example of a case that the author personally experienced, where at that time, precisely in January 2024, the author experienced a loss due to purchasing goods online in the form of a hand bag. The author bought the hand bag from one of the Tik Tok Shop accounts via an application on a smartphone with a cash payment system via a BCA Bank virtual account. After a few days later, the goods that the author bought arrived and how disappointed the author was that the hand bag did not match what was described by the business actor who was currently live on his Tik Tok shop account. From this case, business actors should be able to act fairly by applying the principle of good faith and not harm the author as a consumer in online buying and selling transactions using a Tik Tok Shop account.

The principle of good faith can be interpreted as meaning that each party in an agreement to be agreed is obliged to provide complete information or information that can influence another person's decision whether to agree to the agreement or not. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law) also requires business actors to provide complete and correct information.¹⁸ This obligation is contained in Article 9

¹⁸ Gilang Bagaskara, et.al: Consumer Protection for Errors in Delivery of Goods in Online Buying and Selling Transactions on Shopee, *Wahana Pendidikan Scientific Journal*, March 2023, p. 239

which reads "Business actors who offer products through electronic systems must provide complete and correct information relating to the terms of the validity of the agreement, the manufacturer and the products being offered."

The case example above shows a form of violation that is contrary to the principle of good faith committed by business actors in online buying and selling in fulfilling achievements in an agreement as previously agreed. However, it is not uncommon for consumers to carry out the principle of good faith in online buying and selling transactions, such as canceling the purchase of goods that have been ordered, even though an agreement has been reached between the parties. This not only violates the principle of good faith but also violates the principle of consensualism (agreement) as regulated in Article 20 of Law Number 11 of 2008 concerning Information and Electronic Transactions.¹⁹

Currently, there are many business actors in online buying and selling transactions who do not know about their obligations as business actors, and ultimately cause losses to consumers/buyers. The provisions above clearly show that the principle of good faith is a very important principle

and must be possessed by parties when making agreements, including in online sales and purchase agreements made via electronic media.

B. CAUSES OF NOT FULFILLING THE PRINCIPLE OF GOOD FAITH IN IMPLEMENTING ONLINE SALE AND PURCHASE AGREEMENTS VIA TIKTOK SHOP ACCOUNT

The role of the principle of good faith is very important in making an online sales and purchase agreement. The principle of good faith is important in making online sales and purchase agreements, because basically the consumer must receive as clear information as possible regarding the goods offered by the business actor and the business actor must act in good faith by explaining the condition of the goods in detail and the actual condition of the goods. Likewise, consumers must also act in good faith by paying the price of the goods they have ordered and providing their complete address to the business actor. This principle of good faith has a very important role in making a decision agreements, including online buying and selling agreements because they can minimize the possibility of fraudulent practices in online buying and selling transactions. However, there are several factors that cause the principle of good faith in online buying and selling to not

¹⁹Zulaikah, et.al: The Urgency of Determining Islamic Business Ethics in Online Buying and Selling, Cahaya Mandalika Journal, Volume 1 Number 2 June 2023, p. 539

be fulfilledcausative factor failure to fulfill the principle of good faith in implementing online sales and purchase agreements via a TikTok shop accountincluding:

1. Juridical factors

- a. The validity of the agreement according to Article 1320 of the Civil Code states that there are four conditions for the validity of an agreement, namely: that everything related to the agreement must fulfill 4 things that constitute the validity of an agreement where the agreement of both parties is to bind themselves, the ability to make an agreement , certain objects and lawful causes.

E-Commerce is a modern trading method that brings together sellers and buyers, so for an agreement to occur, it is difficult to know clearly when the agreement between the two parties occurred.²⁰

- b. Law Number 8 of 1999 concerning Consumer Protection in the provisions of Article 19 paragraph (3) where there are still weaknesses, where compensation is provided within a period of 7 (seven) days after the

transaction and when consumers who consume goods on the eighth day after the transaction do not will receive compensation for losses from the business actor. If this provision is maintained then the consumer concerned will clearly suffer a loss.²¹

- c. The lack of effectiveness of Article 9 of Law Number 11 of 2008 concerning Electronic Information and Transactions which explains that business actors who offer products through electronic systems must provide complete and correct information relating to contract terms, producers and products offered, this is still It often happens in the field that business actors do not include complete information regarding online sales. And article 10 paragraph (1) of the Information and Electronic Transactions Law states that business actors whocarrying out electronic transactions must be certified by a reliability certification agency. The application of this article is also less effective because there are still many online business

²⁰ Suhaila Zulkifli, et.al: Consumer Legal Protection for Lost or Damaged Goods in Online Buying and Selling Applications, Legal Interpretation Journal, Volume 4 Number 2 August 2023, p. 259

²¹ Resha Alifiona, et.al: Legal Protection for Consumers Due to Default in E-Commerce, Sultan Agung Scientific Journal, September 2023, p. 302

actors who set up a business without a certificate from a reliability certification body.

2. Non-juridical factors

a. Security in transactions

Security in transactions is very necessary to ensure consumer security regarding their personal data as well as credit card numbers, password numbers, from misuse by unauthorized people. From the results of online shops in Indonesia, the security system is less adequate compared to merchants abroad. Information security is a very important part of the E-Commerce system. The level of information security received in E-commerce is absolutely necessary. In the era of the Internet, all needs and desires can be received quickly, easily and safely. So that is why the role of information security technology is really needed. Information security systems have 4 very basic objectives, namely:

- 1) Confidentially
- 2) Integrity
- 3) Availability
- 4) Legitimate Use²²

b. Most dispute resolutions regarding online buying and

selling defaults are resolved outside of court. If a problem occurs and the consumer experiences a loss of valuables worth Rp. 200,000 (two hundred thousand rupiah) will be difficult for the Indonesian Consumers Agency to resolve which will process business actors to court due to lack of funds, whereas if processing a problem to court requires quite a lot of money, so the method chosen by the Indonesian Consumers Agency uses alternative methods of dispute resolution. This alternative dispute resolution is more efficient than going through court.

c. Consumer knowledge of the Consumer Protection Law regarding consumer rights, especially the right to obtain compensation, compensation and/or replacement if the goods and/or services received are not in accordance with the actual ones. This is influenced by the low level of public education, therefore the Consumer Protection Law is intended to be a strong legal basis for YLKI as well as the government and related agencies in efforts to empower and foster community education, considering that this empowerment is very

²² Kristianto Dwi Estijayandono, et.al: Online Buying and Selling Business Ethics in an Islamic Perspective, Journal of Sharia Economic Law, Volume 3 Number 1 January 2019, p. 56

important, because it is not easy. If you only hope for awareness from business actors, which basically has the business principle of getting multiple profits with limited capital, the maximum with little capital will certainly harm consumers directly.

- d. Limited information is an obstacle that many consumers face, especially correct information regarding the products and services being sold. even though the consumer's right to obtain information or the right to know is the most essential thing or right the most important.

- e. Lack of enforcement efforts
There is a lack of efforts to empower consumer education carried out by the Government, especially regarding consumer protection itself for ordinary people.

IV. Conclusion and Suggestions

The application of the principle of good faith is very important in making an agreement, including online agreements. Because basically consumers must get as clear information as possible regarding the goods offered by online business actors who are obliged to have good faith to explain clearly.

details/details regarding the goods that consumers will buy. This principle of good faith has a very important role (principle) in making an agreement, including an online sales and purchase agreement to minimize the possibility of fraudulent practices and defaults in online buying and selling transactions. Whereas the cause of not fulfilling the principle of good faith in implementing online sales and purchase agreements via TikTok shop accounts that implementing the principle of good faith in online buying and selling transactions is caused by 2 (two) factors, namely: a. Juridical factors include: The validity of the agreement according to Article 1320 of the Civil Code which states that there are four conditions for the validity of an agreement, there are still weaknesses in the consumer protection law as in the provisions of Article 19 paragraph (3) which stipulates that compensation is given within 7 (seven) periods. days after the transaction, Article 9 of Law Number 11 of 2008 concerning Electronic Information and Transactions was less effective, explaining that business actors who offer products via electronic systems must provide complete and correct information relating to the terms of the contract, manufacturer and products offered. b. Non-juridical factors include: Security in transactions, most dispute resolution in cases of default in online buying and selling are resolved outside of court, Knowledge of the Consumer Protection Law (UUPK)

regarding consumer rights, especially the right to obtain compensation, redress and /or replacement if the goods and/or services received are not as they should be, limited information is an obstacle that many consumers face, especially correct information about the products and services being sold, lack of efforts to empower consumer education carried out by the government, and the Government lack of consistency in implementing legal provisions governing online buying and selling transactions.

Acknowledgment (optional)

1. For parties who enter into online sales and purchase agreements, it is best to prioritize the principle of good faith in fulfilling the agreement, because the principle of good faith is very important to implement so as not to cause losses to the parties in the future, both in terms of information disclosure and in terms of delivery and payment. ordered goods, in this way there will be no more problems faced by the parties agreeing to an online sales and purchase agreement.
2. The government needs to provide clarity and certainty regarding benchmarks for the principle of good faith in statutory regulations, especially regarding legal agreements in online agreements and it would be a good idea for law enforcement officials to also issue a black list for business actors in online agreements that have been proven to be

detrimental. on the consumer side and this aims to provide a deterrent effect for business actors who do not have good faith in online buying and selling agreements.

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