Lentera Hukum, Volume 6 Issue 1 (2019), pp. 133-140
ISSN 2355-4673 (Print) 2621-3710 (Online)
https://doi.org/10.19184/ ejlh.v6i1.9833
Published by the University of Jember, Indonesia
Available online 28 April 2019

Goods Selling-Buying Agreement and Legal Protection for Sellers

Fransiska Novita Eleanora
Bhayangkara University, Jakarta
vita_eleanor@yahoo.com

Andang Sari
Bhayangkara University, Jakarta
andangsari29@yahoo.co.id

ABSTRACT
The concept of the agreement according to the provisions of article 1313 of Civil Law, namely the Book of Laws, hereinafter abbreviated as KUHPdt, that what is said as an act is an agreement with one person with another person and can be said more and in mutual binding. The scope of the agreement is too broad, including the marriage agreement regulated in the field of family law. Even though the creditor and the debtor also have a relationship that can also be called material. This is stipulated in the Criminal Procedure Code in the provisions of Book III which actually only covers individual agreements. A unilateral agreement is an agreement that is not allowed which is indeed not only coming or popping up from various parties or parties, and also not permitted between the two or the other parties. In the agreement there should be an element of binding to each other, meaning that the party from the other agreement maker can always tie themselves to the other party and the other party also binds themselves to those who are different or different. Without stating the purpose in an agreement by the parties that make the agreement and for what the agreement was made, moreover the contents of the agreement are unclear and prohibited by law. This study uses a research method that is literature study where by referring to literature or books and the rules of existing or normative legislation. And the results achieved are then it can be said that the agreement is null and void. So based on these reasons, the concept of agreement can be formulated with an agreement in which in the field called assets occurs something or things and material things that are mutual to always bind themselves from the seller or buyer to implement the agreement. Agreements that have been implemented must be carried out in accordance with the rights and obligations of each party and there is negligence in carrying out their obligations so that they can be said to have good intentions in the agreement.

KEYWORDS: Legal Protection, Seller, Good Faith.

HOW TO CITE:
Eleanora, Fransiska Novita. "*Goods Selling-Buying Agreement and Legal Protection for Sellers*" (2019) 6:1 Lentera Hukum 133–140.

Submitted: February 22, 2019 **Revised:** February 23, 2019 **Accepted:** February 28, 2019

I. INTRODUCTION

It cannot or is separated from the life and needs of the community to buy and sell Protection of the law will always be given fairly and thoroughly if there is honesty and / or good faith in the implementation of the sale and purchase because how it is also a very important factor, while those who do not have good intentions do not need to get a legal agreement. Buying and selling according to KUHPdt is a reciprocal agreement between which various parties between the one who are considered to sell their goods (the seller) in this case to mutually promise to be able to surrender the right to his property will be from an object or property, and the party from one or the other in this case (the buyer) also promises to keep paying out of all price provisions which do consist of a price or money over or as a form of compensation for the acquisition of ownership rights, and goods and objects which are always considered to be an object on the occurrence of a sale and purchase in an agreement and must have an existence or existence at the time of occurrence and at the start of a or will be handed over to his property and rights to the buyer.

Sometimes buying and selling is done by trial or tried first. Buying and selling like this must be made with strong conditions (article 1463 KUHPdt). For example, if someone is going to buy a television set, even though the goods and prices have been approved, buying and selling will occur if the item is tried and satisfactory[1]. Buying and selling is a consensual agreement that can be determined in the formulation of article 1458 of the Criminal Code. or both parties have considered the sale and purchase, an agreement has been reached and there is an agreement between the parties specifically regarding the price of the goods and the means of payment, even though the price has not been paid to the seller and the goods have not been delivered to the buyer.

From this explanation, an assumption can be taken that basically it can be said that every acceptance will always be realized in the form of various statements where it can be done orally and in writing to indicate the existence or birth of an agreement that occurs and will always bind the parties there is. An agreement made by someone with someone else or more will give rise to a legal relationship called engagement. So it can be said that the agreement is the source of an agreement.

II. LITERATURE REVIEW

According to article 1320 KUHPdt an agreement must fulfill the legal requirements of the agreement, namely the existence of an agreement, the existence of skills (mature and sane), the existence of certain rights, and existence or due to something that is very lawful cause. Thus something 4 (four) will be fulfilled from the conditions for the validity of the contents of the binding agreement, the agreement is considered valid and binding on the parties who have made it because that is the reason for the existence of the law and consequently the meaning of the agreement. Legal problems can arise, for example if there is still a negotiation and in the process before the agreement is binding

[1] R. Subekti, *Aneka Perjanjian*, PT Citra Aditya Bakti, Bandung, 2014, at 1-2.

and legitimate among the parties, there is money borrowing which means that it occurs from one of the parties doing something that has legal consequences, even though the agreement and business The negotiation has not yet reached a final agreement between those who have agreed.

This can happen because of the wrong and one from the very party and so confident and trustworthy and will put hope in the promises that have been given to or by various partners and businesses. If in the end the negotiations are unsuccessful and no agreement is reached, for example in terms of the cost of not reaching an agreement, then in this case neither can be given and demanded for compensation and loss covering all things including the costs already and already given and submitted to his business or colleagues. Similarly from the promise of and from the existence of the developer listed in the brochures circulated as advertisements, according to the theory the contract law cannot be held accountable, because the promise is a form of very pre and contract promises and which are not listed with and in the presence of a binding sale and purchase. In the provisions of contract law and its theory where housing and consumers cannot do or request even demand compensation and compensation.

In the contract law there will be a principle and which is fulfilled by various parties, among others, namely the existence of principles and freedoms in making contracts or and principles that are of good faith, namely the will of each party which will always be realized in the sense agreement or agreement is where is the basic form of binding on an agreement procedure in an existing legal and contractual provisions. As a result of the law that has been binding on the parties, it is stated verbally and in writing.

According to article 1338 paragraph 1 Civil Law or the Book of Laws, hereinafter abbreviated as KUHPdt, the principle of freedom and contract is made legally that is the meaning of the agreement, and is very binding for as of the law between parties and or who have made it. Furthermore, Article 1338 paragraph 3 of the Civil Code states that good faith must always be there if it is to carry out any or any agreement. The interest of the debtor is the concern of the creditor in carrying out his rights and in certain situations and conditions. Do not let a creditor ask and demand his rights in a difficult time for a debtor or maybe even a creditor and can or can be considered to carry out and carry out the existence of a contract but with the assumption that there is a bad faith or legal defect. Thus, if a sense of justice is considered violated because it creates an imbalance due to the implementation of the contents of the agreement, then in this case it can be done or will make adjustments regarding the obligations and rights that have been stated in the contract and this is the judge's duty. In practice, the term is good not at the time of the implementation of the agreement, but at the time the agreement was made or signed[2].

[2] Suharnoko, *Hukum Perjanjian (Teori dan Analisa Kasus)*, Kencana, Jakarta, 2008, at 1-4.

III. DISCUSSION

In the theory of contract law, good faith from a principle can indeed be applied in certain situations when the agreement in question has been fulfilled certain things or conditions, for example the parties have agreed, the result of this teaching is not providing a protection for certainty from the party making the agreement if it turns out that there is a loss, in the stage or negotiation or pre and contract because the provisions of the terms of the agreement have not been fulfilled. We can see in the following case example, a lawsuit filed by consumers who read the residential advertisement of Narogong Indah Park managed by the defendant.

In the advertisement brochure, the developer promises a fishing and recreation facility with an area of approximately 1.2 hectares whose location and boundaries are mentioned in the advertising brochure. Because it was affected by reading the advertisement, consumers bought a house in Narogong Indah Park through a House Ownership Credit facility from Bank Tabungan Negara (KPR BTN). Because he felt lied to by the defendant, the consumers (plaintiffs) filed material and immaterial compensation claims. In this case the District Court rejected the plaintiff's claim with legal considerations that from the plans to be built that were approved by the regional government there was never a plan to build fishing and recreational facilities because these suggestions were not public facilities so developers were not obliged to build them.

However, the District Court in its consideration stated that the methods of excessive promotion which apparently had not been fulfilled from the start so that consumers (buyers) were expecting the fishing facilities. However, the District Court did not grant the immaterial compensation claim because the plaintiff did not give the details of the disappointment. Thus, the District Court actually acknowledged that consumers' expectations of the promises contained in the advertising brochure should be protected. The basis of the claim filed by the plaintiff is default (broken promise) because the advertising brochure is considered an inseparable part of the home purchase agreement.

Judging from the theory of treaty law, the District Court's decision still adheres to the classical theory, because the promise to build fishing and recreational facilities is only listed in the advertising brochure and regarding the sale and purchase and not attached, so that pre-contract promises are not bind the developer. Only permitted and valid when the occurrence and implementation of the implementation or signing of this contract according to good faith from the classical theory.

On the contrary, the promise of pre and occurrence of a very modern contract must always be based on good intentions from the perspective of contract theory, so that developers who break promises can be required to pay compensation based on illegal acts, so that compensation is only a real loss, namely the price have been paid by the plaintiffs or buyers to choose a house in the Narogong Indah Park. The rationale is that the plaintiffs as consumers bought the house because of the great trust and accompanied by putting hope in those who gave promises of the pre-contract and

which was included in the advertising brochure. So the developer should return a portion of the consumer's money as a buyer according to developer calculations. The important thing to consider in the legislation relating to children is the consequence of its application associated with various factors such as economic conditions, socio-cultural societies.

According to Article 9 of 1999 Number 8 concerning the Law concerning consumer protection, business actors must provide correct and clear information regarding the availability of existing goods and services that have been and will be advertised. Even violations of this provision, according to article 62 of the Consumer Protection Act can be subject to criminal sanctions for a maximum period of five years and also a fine of two billion rupiah at most. Civilly speaking, according to article 19 the business actor must also be responsible for the loss of the consumer for buying the traded goods. So actually, implicitly the Consumer Protection Law has acknowledged that good faith must be in place before the signing of the agreement, so that pre-contract promises can be held in the form of compensation if the promises are denied.

Therefore, legal protection for the losers due to the denial of the pre-contract promises lies in the second written principle of good faith in the provisions of article 1338 of the Civil Code, which should be applied not only at the time of signing and implementation of the agreement, but it can also be done before the agreement is signed. The law that applies to parties can be carried out by interpretation which aims to fill the legal vacuum, which is carried out by the court aimed at finding a law made by the parties involved in the agreement[3]. The Civil Code in his third book is considered to have openness to its nature which means that the provisions can be set aside, so that it functions to regulate it[4].

This open nature can be seen in paragraph 1 of the Civil Code in article 1338 of the Civil Code which is considered to have meaning that there is free contract because part of the principle means that in determining the form and content of the agreement anyone is free, as long as it does not violate or contrary to the enactment of a regulation and legislation, namely order and public, morality, and must always pay attention to the terms of the agreement as contained in article 1320 of the Civil Code which states that the terms of an agreement are as follows the agreement of the parties; both parties must be competent, mature, sane; there is something agreed upon; and the object of the object of the agreement must be halal.

Agreement means that there is an agreement of the wishes of certain parties who will indeed make an agreement, meaning that there is no compulsion in making negotiations or agreements, mistakes, and fraud. Furthermore, the legal part of the agreement is the existence of skills and law, meaning that the parties that carry out and make the contents of the agreement must be mature according to the marriage law: 19-year-old male and 16-year-old female. Meanwhile according to the Civil Code, men and women are 21 years old, mentally healthy and allowed by the Act.

---

[3] Suharnoko, *supra* note 2, at 5, 7, 8 & 12.

[4] Gunawan Widjaja dan Kartini Muljadi, *Jual Beli*, PT Raja Grafindo Persada, Jakarta, 2003, at 359.

If anyone wants to make an agreement it must be considered a person in the adult category, if it is not yet mature then a representative can be made by his parents or guardian.Next about the conditions for something that is agreed upon, this relates to the object of the agreement, meaning the object of the agreement must be clear, and can also be considered decisive about its type and even the amount, if it is permitted, and can be implemented by the law. party. The last condition is the object of the object to be promised must be halal, meaning that the agreement must be made in good faith, meaning that the agreement must be made in good faith.

Regarding the agreement of the parties that exist and due to the existence of skills and skills of the parties is a legitimate requirement for a subjective agreement. If both conditions are deemed not fulfilled, the agreement is canceled. While the existence of something that is agreed upon and the object of the agreement must be halal which is a valid condition of an objective agreement. If these two conditions are not fulfilled, then it can be called for the legal law of the agreement, meaning that from the beginning the agreement was deemed to have never existed.

A. Sale and Purchase Agreement and Goodwill Party

The existence of a law and its relationship because of issuing the agreement is also not only sourced from the agreement or even other sources, namely the Law. A very good intention in perceptions that are considered subjective is where a person does a law and an act is based on honesty, then it is good to have an objective in an object where the implementation of an agreement must always be based on the community, namely the existence of propriety or norms[5].

B. Legal Protection for Sellers of Good Intention

In buying and selling, for example, buying and selling houses, of course there are things that must be considered such as the seller must complete the necessary documents in the sale and purchase of the house, including the Land and Building Tax must be paid off annually Building (IMB), as well as certificates from the house. In addition to these matters, it must also be considered, such as the legal status of the house, whether in dispute or under guarantee. In essence the transfer of ownership of an object right in the agreement and selling is indeed intended, where the party considered as a seller in this case is obliged to and must submit the object that is sold to the party called the buyer, while the party called the buyer is obliged to pay the item to the seller. Legal protection for sellers with good intentions must also provide as complete a hearing as possible so as not to disappoint the buyer.

Protection of the law for and for parties in the agreement if the sale and purchase of an agreement is made in the presence of a notary. With the agreement made in the form of a notary deed, the agreement already has the power of legal protection and returns to the provisions of article 1338 of the Civil Code which for parties or others is

---

[5] Nur Muliadi, *Asas Kebebasan Berkontrak dalam Kaitannya dengan Perjanjian Baku*, www.pojokhukum.com , downloaded at 4 Desember 2018, 13.50 WIB.

considered as applicable law[6] Another definition of legal protection is the existence of a form of protection that is indeed given and aimed at the existence of the subject of the law in a set of laws which are indeed preventive and or repressive, a formation of legislation is a form of preventive protection, because it prevents disputes. Preventive protection for sellers who have good intentions towards buyers who are deemed not to have good intentions by presenting witnesses in the agreement, this can at least minimize the occurrence of risks. Witness information can later be used as evidence in the trial, because this provision is indeed regulated in the rules of the IV book of the Civil Code. Whereas repressive protection aims to resolve the sale and purchase dispute, which can be carried out by a civil suit to the District Court, where it is also to prevent or avoid vigilante acts.

The meaning of the agreement is very broad and can also be done in the field of trade, namely trade using patents, all of which must be done with good intentions, because it relates to intellectual property rights, namely patents, trademarks and copyrights[7]. Because the extent of the agreement is also directed to the facts and various names, depending on whether the agreement was carried out or carried out by taking into account the impact in the future, fulfillment of the agreement made, how to make the profit, there should be no harm and the agreement in the partnership[8] carried out with responsibility and good faith, of course

IV. CONCLUSION

Legal protection for a good seller and having an intention in a sale and purchase agreement, the implementation of which is from the pre-agreement and after the agreement must be protected as stipulated in the provisions of article 1341, article 1491, and article 1492 of the Civil Code. Judges in their legal considerations have not yet understood the meaning of good faith in the agreement (Article 1338 paragraph 3 of the Civil Code).

There must be a standard used by law enforcers, namely judges in assessing the existence of good faith in a case of a sale and purchase dispute is an objective standard where this standard refers to the behavior of the party implementing the agreement and the assessment must also be based on rationality and propriety. The parties making the agreement at least have a good intention so that the agreement can be carried out with the principle of propriety, justice and legal certainty.

---

6 Satjipto Rahardjo, *Ilmu Hukum* , PT Citra Aditya Bakti, Bandung, 2000, at 54.

7 O'Reagan, Douglas. *Know-How in Postwar Business and Law*, Technology and Culture; Baltimore Vol. 58, Iss. 1, (Jan 2017), at 125.

8 Keenan, J C; Kemp, D L; Ramsay, R B. *Company-Community Agreements, Gender and Development*, Journal of Business Ethics: JBE; Dordrecht Vol. 135, Iss. 4, (Jun 2016), at 608.

REFERENCES

Gunawan Widjaja dan Kartini Muljadi, *Jual Beli*, (PT Raja Grafindo Persada, Jakarta, 2003)

Keenan, J C; Kemp, D L; Ramsay, R B. *Company-Community Agreements, Gender and Development*, Journal of Business Ethics: JBE; Dordrecht Vol. 135, Iss. 4, (Jun 2016)

Nur Muliadi, *Asas Kebebasan Berkontrak dalam Kaitannya dengan Perjanjian Baku*, www.pojokhukum.com, downloaded at 04 Desember 2018.

O'Reagan, Douglas. *Know-How in Postwar Business and Law*, Technology and Culture; Baltimore Vol. 58, Iss. 1, (Jan 2017)

R. Subekti, *Aneka Perjanjian*, (PT Citra Aditya Bakti, Bandung, 2014)

Suharnoko, *Hukum Perjanjian (Teori dan Analisa Kasus)*, (Kencana, Jakarta, 2008) Satjipto Rahardjo, *Ilmu Hukum*, (PT Citra Aditya Bakti, Bandung, 2000)