

Legal Analysis of the Sales Cooperation Agreement Between the Principal and Distributor from a Business Law Perspective (Study on the Cooperation Agreement between PT KI and PT DPS)

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Abstract

A sales cooperation agreement between a principal and a distributor is the backbone of goods distribution in modern business practice, yet it is not specifically regulated as a nominate contract under the Indonesian Civil Code, raising concerns over the certainty of its regulation and the legal protection of the parties in the event of imbalanced clauses, breach of contract, or unilateral termination. This article aims to analyze the conformity of the legal regulation of sales cooperation agreements between principals and distributors with the principles of contract law in Indonesia, and to describe the forms of legal protection and dispute settlement available to the parties, using the cooperation agreement between PT KI (principal) and PT DPS (distributor) as a sample of analysis. This is a normative legal study of a descriptive-analytical nature, employing statutory and conceptual approaches, using primary, secondary, and tertiary legal materials analyzed qualitatively through deductive reasoning. The results show that the sales cooperation agreement constitutes an innominate contract that is valid under the open system of Book III of the Civil Code and receives sectoral regulation through Law Number 7 of 2014, Government Regulation Number 29 of 2021, and Minister of Trade Regulation Number 24 of 2021, and that it normatively conforms with the principles of contract law, although such conformity is formal in nature due to the unequal bargaining position of the parties. Legal protection is available preventively through the requirement of a written agreement and registration of the distribution engagement, and repressively through actions for breach of contract, tort claims against unilateral termination, and the annulment of unlawful clauses, while disputes may be settled through negotiation, litigation, or arbitration.

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1. INTRODUCTION

Trading and distribution of goods are key pillars of business development and the national economy. In modern business practices, the legal relationship between business actors is often manifested in a sales cooperation agreement between a principal and a distributor, an agreement that authorizes the distributor to market and sell the principal's products within a specific area based on agreed-upon terms (Sardjono et al., 2016). This agreement plays a crucial role in ensuring smooth distribution of goods, but in practice, the legal relationship between the principal and distributor is not always balanced, as the principal generally has a stronger bargaining position in determining agreement clauses,

distribution areas, sales targets, payment systems, and even termination mechanisms (Achmad & Indradewi, 2021).

From a business law perspective, sales cooperation agreements must comply with the legal principles of agreements as stipulated in the Civil Code (KUHPERdata), particularly regarding the requirements for the validity of the agreement, the principle of freedom of contract, the principle of good faith, and the principle of legal certainty. Freedom of contract remains limited by the provisions of laws and regulations, public order, and morality, while in reality many sales cooperation agreements are made in the form of standard contracts drawn up unilaterally by the principal, so that distributors only have the option to accept or reject the agreement (Miru, 2013). This condition creates the risk of default, disputes due to differences in the interpretation of clauses, and unilateral termination of cooperation, which are recurring legal issues in the practice of goods distribution.

Previous research on distribution cooperation has been conducted, including studies on the implementation of consignment agreements between business actors, default in franchise agreements (Farida, 2024), and the implementation of agency agreements in the distribution of subsidized goods (Zahera, 2022), which generally highlight the importance of clear division of responsibilities and legal protection for parties with a weaker bargaining position in business cooperation relationships. These studies are generally still normative-abstract in nature and have not directly tested the legal provisions for distribution contract clauses actually used in consumer goods business practices. This article differs from previous research because it uses a sales cooperation agreement that is actually used in the practice of distributing consumer goods (fast-moving consumer goods) in Indonesia, namely the agreement between PT KI as the principal and PT DPS as the distributor, as an analysis sample. Thus, the study of legal regulations, the conformity of the principles of the agreement, and legal protection for the parties are tested directly against the actual clauses used, rather than merely presented in a normative-abstract manner. The names of the two companies have been changed to respect confidentiality clauses in the agreements and legal research ethics.

At a glance, the sample agreement shows the characteristics of a standard agreement drafted unilaterally by the principal as a template for its entire distributor network, with several clauses that place the distributor in a weaker position, including the obligation of a bank guarantee whose value can be increased at any time according to the principal's assessment, sales targets that can be adjusted unilaterally, the principal's right to stop supply or terminate the agreement unilaterally based on his own evaluation, the absence of compensation for the distributor when the agreement ends, and the waiver of Article 1266 of the Civil Code so that termination of the agreement does not require a court decision. Based on this description, this article aims to: (1) analyze the suitability of the sales cooperation agreement between PT KI and PT DPS with the legal regulations and principles of agreement law in Indonesia from a business law perspective; and (2) analyze the form of legal protection and dispute resolution for the parties in the event of an imbalance in clauses, default, or unilateral termination of the agreement.

2. RESEARCH METHOD

This research uses a normative legal research method (normative juridical) which is descriptive analytical, namely research that examines legal norms, legal principles, and legal doctrines to answer the legal issues studied, to then analyze their conformity with the principles of contract law and business law principles applicable in Indonesia (Marzuki, 2010). The approach used includes a statutory approach, namely examining laws and

regulations related to contract law and distribution of goods, as well as a conceptual approach to understand the concepts of freedom of contract, consensualism, good faith, balance, and proportionality in business contracts.

The data used are secondary in the form of primary legal materials (Civil Code, Commercial Code, Law Number 7 of 2014 concerning Trade, Law Number 8 of 1999 concerning Consumer Protection, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Government Regulation Number 29 of 2021, and Regulation of the Minister of Trade Number 24 of 2021), secondary legal materials in the form of books, scientific journals, and related research results, as well as tertiary legal materials in the form of legal dictionaries. As material for empirical analysis, a text of a sales cooperation agreement between PT KI and PT DPS was also used as a sample contract representing consumer goods distribution practices in Indonesia.

The data collection technique was carried out through library research, namely inventory, classification, and systematization of legal materials relevant to the research problem. The collected data were analyzed using qualitative methods, namely systematically and logically describing the data, then conclusions were drawn using deductive thinking methods, namely connecting legal norms, legal principles, and legal doctrines as major premises with the concrete problems of the sales cooperation agreement between PT KI and PT DPS as minor premises. The analysis of legal provisions also used grammatical and systematic interpretation methods to obtain a complete understanding of the regulations on sales cooperation agreements from a business law perspective.

3. RESULTS AND DISCUSSION

A. Compliance of Sales Cooperation Agreement with Legal Arrangements and Legal Principles of the Agreement

The results of research on primary legal materials show that the sales cooperation agreement between the principal and distributor is not specifically regulated as a named agreement in the Civil Code or Commercial Code, so it is qualified as an unnamed agreement (*innominaat*) as permitted by Article 1319 of the Civil Code. Its validity rests on the open system of Book III of the Civil Code which provides the freedom to make agreements in any form and content as long as they do not conflict with the law, morality and public order (Article 1337 of the Civil Code), so that the agreement binds the parties as a law based on Article 1338 paragraph (1) of the Civil Code (Subekti, 1983). Doctrinally, a distribution agreement has a mixed character between elements of repeated sales and marketing rights, so it is classified as a business contract that grows from the principle of freedom of contract (Fuady, 2015), and is different from classic trade intermediary institutions in the Commercial Code such as brokers and commissioners, as well as from agencies and franchises, because the distributor buys the goods outright and bears the marketing risk himself (Suharnoko, 2013).

The gap in specific regulations in the Civil Code is filled by sectoral regulations in the trade sector. Law Number 7 of 2014 concerning Trade affirms distributors as one of the main actors in the national distribution chain, while Minister of Trade Regulation Number 24 of 2021 requires that the relationship between principal and distributor be outlined in a written agreement in Indonesian and registered to obtain a Registration Certificate (STP), with minimum contents including the identity of the parties, the purpose and status of the distributor, the type of goods and marketing area, rights and obligations, time period, method of termination, and method of dispute resolution. An examination of the sample

agreements of PT KI and PT DPS shows that all minimum contents have been fulfilled, and the four valid requirements of Article 1320 of the Civil Code are formally fulfilled: the agreement is realized through signing; the capacity is fulfilled because it is signed by authorized directors; the specific object is the distribution of the principal's products according to the attachment; and the cause is lawful because the cooperation in the distribution of consumer goods does not conflict with the law.

Although formally valid and complete, the sample agreement exhibits the character of a unilateral standard agreement drafted by the principal as a standard template for its entire distributor network, with the distributor's negotiation space practically limited to the commercial amounts in the appendix. Several clauses leave the content of obligations to the principal's unilateral judgment, such as increasing the value of the bank guarantee "if in the First Party's sole judgment" the guarantee is no longer sufficient, adjusting sales targets at any time, and qualifying for breach of contract that is dependent on the principal's unilateral judgment. Thus, the sample agreement's compliance with the principles of freedom of contract, consensualism, and legal certainty is formal, because the resulting certainty operates in an unbalanced manner: certain for the principal, but not entirely certain for the distributor. Analyzed using Radbruch's theory of legal certainty, which requires clear, non-conflicting, and enforceable laws (Rahardjo, 2000), the two-tier arrangement (the Civil Code and sectoral trade regulations) has provided adequate normative certainty, but certainty at the contractual level in the sample agreement is asymmetrical because the scope of the distributor's performance can only be determined after the principal has exercised his or her discretion.

B. Legal Protection and Dispute Resolution for the Parties

The results of the study indicate that the structural imbalance between the principal and the distributor gives rise to one-sided clauses, including exoneration clauses that free the principal from responsibility for late supplies, sales target clauses that can be changed unilaterally with the threat of termination, termination clauses without compensation and without a reasonable notice period, the obligation of the distributor to bear the risk of unsold goods without the right of return, and a prohibition on marketing similar products without a reasonable time limit. This kind of standard agreement is included in the category of one-sided standard agreements whose contents are determined by the party with a strong economic position (Badrulzaman, 1994), but judicial doctrine and practice do not reject the validity of the standard agreement itself; the focus of the test lies in the contents of the clause and how it is enforced against the weaker party. Regarding such clauses, Indonesian contract law provides corrective instruments in the form of prohibitions on causes that are contrary to law, morality or public order (Article 1337 of the Civil Code), the principle of good faith and propriety (Article 1338 paragraph (3) and Article 1339 of the Civil Code), as well as the doctrine of abuse of circumstances (*misbruik van omstandigheden*) (Khairandy, 2004).

Default in a sales cooperation agreement can be committed by the distributor, for example by not paying the price of goods or not reaching the minimum purchase target, or by the principal, for example by not supplying goods according to the agreed quantity and time. The determination of default is generally preceded by a warning letter (Article 1238 of the Civil Code), and the legal consequences are regulated in Articles 1243 to 1252 of the Civil Code in the form of the right to demand fulfillment, compensation, or cancellation of the agreement accompanied by compensation that includes actual costs, losses suffered, and profits that should have been obtained (Muhammad, 2014). In connection with unilateral termination of the agreement, the sample agreement overrides Article 1266 of

the Civil Code so that termination does not require a court decision; such a waiver is in principle valid, but its implementation remains subject to a test of good faith and propriety, including the obligation to issue a warning letter and the opportunity for appropriate improvement, in line with the permanent jurisprudential rules of the Supreme Court regarding unilateral termination of agreements (Supreme Court of the Republic of Indonesia, 2018). Immediate termination that relies solely on the principal's unilateral evaluation, without reasonable opportunity for improvement, risks being deemed contrary to propriety and opens up the possibility of a lawsuit for unlawful acts based on Article 1365 of the Civil Code (Agustina, 2003; Supreme Court of the Republic of Indonesia, 2014).

The dispute resolution mechanism in the sample agreement is regulated in stages: deliberation by consensus within thirty days, and if this fails, resolution is pursued through an agreed district court, subject to Indonesian law. This arrangement meets the minimum requirements of Minister of Trade Regulation No. 24 of 2021, but the chosen forum is located at the principal's domicile, thus hindering access for regional distributors. The agreement does not include a mediation or arbitration option, which are commonly used in distribution disputes to maintain confidentiality and the continuity of business relationships (Winarta, 2012; Margono, 2000). Analyzed using Philipus M. Hadjon's legal protection theory, which distinguishes between preventive and repressive protection (Hadjon, 1987), preventive protection for the parties is realized through the obligation of a written agreement and registration of the agreement, but these instruments operate at the administrative level and do not yet reach the substance of the balance clause. Repressive protection is explicitly available through lawsuits for breach of contract and unlawful acts, but its nature only comes into play after the loss has occurred. Tested with the theory of balance and the principle of proportionality, the six groups of imbalanced clauses found in the sample agreements indicate that the equilibrium of rights and obligations has not been realized, because the business risks are mostly shifted to the distributor while the authority to assess, change, and terminate the legal relationship is centralized on the principal, so that the design of a proportional contract from the stage of forming the agreement is the most important form of preventive legal protection for both parties.

4. CONCLUSION

Based on the research and discussion results, two conclusions can be drawn. First, the legal regulation of sales cooperation agreements between principals and distributors rests on two layers of regulation: the general provisions of Book III of the Civil Code, which establish them as valid innominate agreements, and the sectoral trade regulations (Law Number 7 of 2014, Government Regulation Number 29 of 2021, and Regulation of the Minister of Trade Number 24 of 2021), which require written agreements, registration of the agreement, and certain minimum contents. An examination of the sample agreement between PT KI and PT DPS shows that the agreement is valid because it meets the requirements of Article 1320 of the Civil Code and the minimum contents of Regulation of the Minister of Trade Number 24 of 2021. However, its compliance with the legal principles of agreements is formal, as its standard character causes freedom of contract, consensualism, and legal certainty to work unequally in the interests of the principal.

Second, legal protection for the parties is available in preventive forms, through the obligation of written agreements, registration of contracts, and careful assessment of clauses before entering into a contract, as well as repressive forms, through lawsuits for breach of contract, lawsuits for unlawful acts for unilateral termination in accordance with the rules

of permanent Supreme Court jurisprudence, and cancellation of clauses that conflict with the law. Dispute resolution in the sample agreement is carried out in stages through deliberation and district courts, which are valid but can still be strengthened by mediation or arbitration. Existing preventive instruments do not yet reach the substance of the balance of clauses, so that restoration of contractual balance can only be achieved through repressive means after losses have occurred. Therefore, more specific regulations are needed regarding the balance of clauses in contracts between business actors whose bargaining positions are unequal, as well as the design of proportional distribution contracts from the agreement formation stage as the most important form of preventive legal protection for principals and distributors.

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