



Resolving Business Disputes between Micro Small Medium Enterprises with Consumers Through Mediation

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Abstract: The aim of this research is to analyze the legal relationship between traders and Micro, Small and Medium Enterprises (MSME) consumers who are in dispute and explore how to resolve MSME business disputes through mediation. This normative juridical research uses a statutory regulatory approach and a conceptual approach. The legal materials used consist of primary law, namely the Civil Code (KUHPer), the Civil Procedure Code (KUHAPer), and Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Secondary Law consists of literature research related to the problem and Tertiary Law consists. The results of this research are that the legal relationship between the parties in an MSME business dispute can be in the form of a sale and purchase agreement, work contract, or compensation agreement between traders, consumers and the causes of MSME business disputes are negligence of contract agreements, negligence of business actors, product quality standards, late delivery, market competition, environmental issues, labor conflicts, changes in government regulations, internal company conflicts, cultural and language differences between regions and also economic turmoil. For MSMEs, mediation is always the main choice for business actors in resolving business disputes because it is simple, fast, low cost and satisfies all parties.

Keywords: Mediation; Business Dispute Resolution; MSMEs

1. Introduction

There are many types of business fields, ranging from trade, commissioners, services and also industry. Micro, small and medium enterprises (MSMEs) are one of the business fields that drive the national economy. This industry is very close to the daily lives of the community. The goods around us are almost all the products of MSMEs. Manufacturing industry and UMKM business dominate the economy in Indonesia. Although the manufacturing industry produces products on a large scale (mass production) and the majority market share of the manufacturing industry comes from within the country (Nugroho & Amiq, 2023). Micro Small and Medium Enterprises are the backbone of the Indonesian economy. Based on the statistics of the Indonesian Chamber of Commerce and Industry 2023, the contribution of Indonesian MSMEs reached 61% of the total Gross Domestic Product of Indonesia in 2023. That means that MSMEs support more than half of the economy in Indonesia.

Along with the development of the era and increasingly sophisticated technology, many kinds of MSME businesses have emerged. That is why, to facilitate MSME actors in Indonesia, until now these productive businesses are divided into 5 types of businesses, namely culinary business, fashion business, beauty business, agribusiness, and automotive business. In addition to the important function of MSMEs, namely fulfilling all the needs of the community quickly while simultaneously revitalizing the economy in the surrounding area, opening up new job opportunities so that unemployment rates are reduced, creating a more equitable economic system for the community, supporting the economy in Indonesia even when faced with an economic crisis, and increasing foreign exchange (Marwiyah, 2010).

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In Indonesia itself, business problems are classic problems that have not been resolved until now. Many policies are detrimental to workers such as workers' salaries below the Provincial Minimum Wage (UMP), outsourcing policies, to cases of Termination of Employment (PHK) carried out by employers unilaterally (Anifowose et al., 2022).

The big challenge in this sector is the lack of knowledge about the law on the part of both business actors and MSME consumers. In general, consumers are not well and completely informed about the products and/or services they wish to consume. Consumers are in a weak position in front of business actors because they do not have sufficient knowledge and bargaining power (Nopriansyah, 2019). The existence of Law Number 8 of 1999 concerning Consumer Protection aims to protect consumers in fulfilling their rights and so that in practice consumers have the same bargaining position as business actors (Boboy et al., 2020).

Business disputes consist of two words, namely "dispute" and "business". Dispute is defined as an incident that causes a dispute, difference of opinion or case (Broński et al., 2024). While business can be interpreted as a profit-oriented effort in the world of commerce, business also means a state of a group of people or someone who does business to get or make a profit (Jayeola et al., 2022). Considering that this business activity occurs in the scope of everyday human life, namely society and the many parties involved, it is not surprising that this activity also requires a legal institution, called a business legal institution, to regulate everything related to it (Durrani et al., 2024).

A major challenge in this sector is the lack of legal knowledge among both MSMEs and consumers. In general, consumers are not well-informed about the goods and/or services they intend to consume. Consumers are in a weak position vis-à-vis businesses due to their lack of knowledge and bargaining power (Munggaran, 2019). This leads to market inequities, creating opportunities for unfair/dishonest business practices and resulting in losses for consumers as a result of violations of consumer rights. Law Number 8 of 1999 concerning Consumer Protection aims to protect consumers in fulfilling their rights and ensure that consumers have an equal bargaining position with businesses (Kusumadewi & Grace, 2022).

Business Law is part of an important aspect in protecting the behavior and business actors in Indonesia. In running a business, business actors always find obstacles such as disputes or one party is in default. In resolving business disputes or defaults, Indonesia has provided several institutions that can be determined by business actors to resolve their problems (Litti, 2023). This means that after the peace efforts are unsuccessful, the judge will continue the examination process of the case in court according to the provisions of the civil procedural law in question (Suadi, 2017).

Suyud Margono is of the opinion that litigation is a lawsuit over a conflict that is ritualized to replace the real conflict, where the parties give a decision maker two conflicting choices (Amriani, 2012). Dispute resolution through non-litigation is much more effective and efficient, which is why in recent times, various dispute resolution methods outside the courts have developed, known as ADR in various forms, namely: Arbitration, Negotiation, Mediation, Conciliation and Expert Assessment. The purpose of this study is to examine or research this problem and to explain the problem of Business Dispute Resolution between Micro, Small and Medium Enterprises and Consumers Through Mediation, namely to analyze the legal relationship between micro,

small and medium enterprises and consumers in dispute and to explore how to resolve business disputes in micro, small and medium enterprises through mediation.

2. Materials and Methods

The type of research used is the type of Normative Juridical legal research. This research is conducted using library materials (secondary materials) or library legal research which is broadly aimed at research on legal principles, research on legal systematics, research on legal synchronization, research on legal history, and research on comparative law.

Research approach used include two types, namely the Statute-based approach and the Conceptual Approach. The legal materials in this study include 1) Primary legal materials (Civil Code (KUHPer), Civil Procedure Code (KUHAPer), and Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. 2) Secondary legal materials are obtained from literature studies that are relevant to the main problem, consisting of literature, as well as opinions or opinions of legal experts and practitioners on the internet and also collections of legal theories from legal experts.

Analysis of legal research materials is carried out normatively. Collection procedure using the method of collecting legal materials through literature studies. Processing legal materials using legal material processing techniques used in this study includes three main types of activities, namely organizing legal materials, presenting legal materials, and drawing conclusions or verification.

3. Results and Discussion

3.1 *Legal Relationship between Micro, Small and Medium Enterprises and Consumers in Dispute*

Legal relations or *rechtsverhouding* are relations that occur between legal subjects. The definition of legal relations according to Peter Mahmud Marzuki is a relationship that is regulated by law. Or in other words, relations that are not regulated by law are not considered as legal relations. Then, according to LJ Van Apeldoorn, legal relations are relations that are regulated by law. What is regulated by this law is relations that arise from social interaction where there are boundaries between rights and obligations.

Furthermore, the definition of legal relations according to R. Soeroso is a relationship between two or more legal subjects in which in this relationship there are rights and obligations of one party that are confronted with the rights and obligations of another party. In order for a legal relationship to be realized, a number of special conditions. The conditions for a legal relationship as explained by H. Ishaq are two, namely (Tambunan et al., 2020): a) There must be a legal basis, namely regulations that govern the relationship; b) Must create a legal relationship.

Conflict in general can take many forms, including legal conflicts. According to Harry C. Bredemeier, one of the roles of the law is to settle disputes in society, specifically (Ali, 2024) : Conflict resolution in an orderly manner is the role of the law. As this suggests, 'the law' (which I will interpret as the judicial system's most obvious model) is implemented following a conflict. Someone alleges that someone else has infringed upon his interests (Krisdiyanto et al., 2025). The court's job is to make a ruling

that will keep the conflict—and all future disputes like it—from interfering with constructive collaboration. Conflicts in commercial or commercial endeavors may arise both before and after the agreement is put into effect, for instance, concerning the agreement's purpose, the cost of the items, and its contents (Emirzon, 2022).

MSME business disputes can involve various parties, depending on the nature and complexity of the dispute. This discussion focuses on the legal relationship between MSME actors and consumers. Because the contesting parties cannot agree, the dispute procedure is initiated. It is possible for a conflict to arise between two parties with opposing viewpoints. People often don't voice opinions that lead to open disagreement. This is because there could be unfavorable outcomes, when a person (either alone or in a group setting) has to deal with a complex circumstance that raises questions and could impact his standing (Menezes et al., 2020).

Business disputes can occur due to a variety of complex factors. Some common factors that can cause business disputes between parties involved in an MSME business are as follows: Interpretation of Contract Agreement, Product Quality, Delay in Delivery, Cultural and Language Differences between Regions. MSME businesses often involve intercultural and interlingual relationships. Differences in culture, communication, or interpretation between regions can lead to misunderstandings and disputes. Economic turmoil, such as a recession or price fluctuations, can have a major impact on MSME businesses and trigger financial disputes.

MSME business disputes can vary in various aspects. Here are some forms of MSME business disputes that often occur: Contract Dispute, Product Quality Dispute, Shipping and Storage Disputes, Payment Dispute, Patent and Intellectual Property Disputes, and Distribution Dispute.

These disputes can be very complex and require careful handling, especially because of their impact on the business operations and reputation of MSMEs. That is why it is important to have an effective dispute resolution procedure and follow the laws and regulations that apply to MSME businesses. The parties have the freedom to make agreements, contracts or agreements to determine the choice of law used and applicable to the contract or agreement made together. The choice of law is only permitted in contract law and is which law is used in making a contract or agreement. The parties have the same rights in making agreements on the pemilihan hukum, pemilihan forum (pemilihan yurisdiksi), dan pemilihan domisili that apply to the agreement made together.

3.2 Business Dispute Resolution Through Mediation

a. Settlement of MSME Business Disputes Through Mediation

In the business world, reputation is a very important element. As stated by a leading Japanese legal sociologist named Takeyosi Kawasima: "bringing a case to court means raising a public challenge and stirring up a quarrel (Silambi, 2012). Basically, disputes with business partners or associates are considered taboo for business people. Disputes that are known by the business community are very detrimental to the reputation of business people and have the potential to reduce the trust of clients, customers, and consumers of the company itself. This is different from environmental and la-

bor disputes, business disputes are generally kept very secret by business people (Litti, 2023).

The occurrence of business disputes needs to be avoided to maintain a good reputation and relationship in the future. Disputes are sometimes unavoidable due to misunderstandings, violations of laws, broken promises, conflicting interests, and/or losses to one party (Bintang, 2020). The common step, which is often done and is the main choice for parties in the UMKM business is mediation. The term Mediation in English is called Mediation according to Munir Fuady explaining that dispute resolution through mediation is a method of resolving disputes through negotiations with an outside party that is objective and neutral. The outside party will work with the disputing parties to find a solution that will satisfy both parties (Naradda Gamage et al., 2020).

Mediation is divided into 2 forms, namely litigation mediation (in court), which has permanent legal force (through the court) and non-litigation mediation (outside the court), which is based on the wishes of the parties in order to find a solution. The mediation process in court takes place as follows: Pre-Mediation Process, Mediation Process, and Final Mediation Process.

The advantages of Mediation are as follows (Astutik & Trisadini, 2020): simpler than settlement through civil procedural law, efficient, short-term, confidential, maintains good relations between the parties, the results of mediation are an agreement, have permanent legal force, and provide broad access for the disputing parties to obtain a sense of justice. In the mediation process there are five stages that must be fulfilled, as follows (Marwiyah, 2010): agree to undergo the mediation process, understand the problems, generate problem-solving options, reach an agreement; and implement the decision. Legal consequences if the plaintiff or defendant does not act in good faith:

a. For the Plaintiff

If a plaintiff does not act in good faith, his lawsuit will be declared inadmissible (NO), The plaintiff is also required to pay mediation costs. The mediator stated that the Plaintiff did not act in good faith in the report on the failure/inability to implement mediation accompanied by recommendations for sanctions and their amounts. The examining judge, based on the mediator's report, holds a trial and issues a verdict. Mediation costs as a sanction are taken from the down payment or separate payment by the Plaintiff and submitted to the Defendant.

b. For the Defendant

Defendants who do not act in good faith will be subject to payment of mediation fees. The mediator stated that the Defendant did not act in good faith in the report on the failure/inability to implement mediation accompanied by recommendations for sanctions and their amounts. The Case Examining Judge, based on the mediator's report, before continuing the case examination, issues a determination regarding not acting in good faith and sentences the Defendant to pay. Payment of mediation costs by the Defendant follows the implementation of the decision which has permanent legal force. Payment from the Defendant was submitted to the Plaintiff through the clerk's office. After mediation is carried out, 4 decisions can be made, namely: (a) Mediation successful, If

mediation is successful, the parties, with the assistance of the mediator, formulate a written Peace Agreement. The Peace Agreement is signed by the parties and the mediator. The Peace Agreement may not contain provisions that: conflict with the law, public order and morality, are detrimental to third parties, or cannot be implemented. If the mediation is represented by an attorney, the Peace Agreement is signed after there is a written statement of agreement from the Parties. The Peace Agreement can be strengthened by a Peace Deed or withdrawal of the lawsuit. The mediator reports the success of the mediation along with the Peace Agreement document. The examining judge will study the Peace Agreement for a maximum of 2 days. If it does not meet the requirements, the Peace Agreement will be returned to the mediator for revision within a maximum of 7 days. No later than 3 days after receiving the revision, the examining judge will read out the Peace Deed. Mediation was partially successful, Mediation failed

Mediation is declared unsuccessful if: The parties did not reach an agreement until the mediation deadline expired. The parties were declared to have no good intentions, because they did not submit or respond to the case summary or did not sign the peace agreement.

c. Mediation cannot be implemented

In principle, MSMEs want their businesses to run smoothly, focus on development and do not want any disputes. However, in reality, business disputes cannot be avoided. To solve a problem, all parties must have the same goal, namely finding a win-win solution. If this is agreed, then mediation is the best option to resolve business disputes.

In many cases, mediation is the first choice in an effort to resolve a dispute. Mediation is a way of resolving a dispute through a negotiation process to obtain an agreement between the parties assisted by a mediator. All are based on the desire for peace and the good faith of the parties in finding a way out. The mediator in this case only helps the parties in reaching a peaceful agreement.

b. Mediation in the Case of Buying and Selling Paintings at Batu Belah Art Space Klungkung

This case began when a consumer wanted to buy a painting painted by a trader engaged in art or activities in Bali. Several transactions occurred and were completed well. On one occasion, the painting would be taken to Jakarta by the buyer with a guarantee of a down payment in advance. Orally, it was stated that payment would be made after the goods were received in Jakarta. However, after the goods were sent and received, payment or payment never came. This mode has resulted in many artists in Bali being deceived because of the binding pattern between the two parties, the trader and the consumer making an oral contract saying that this painting is given a down payment, then the painting is sent, the funds will be paid in full according to the costs that should be after the seller has fulfilled his obligations (Ningsih, 2023). The seller's obligation to send the goods needed by the buyer has been carried out, but after the goods are sent, the buyer does not want to pay what is his obligation. It can be said that in this sales and purchase agreement, the consumer does not want to pay the debt he has. This greatly affects the concept of rights and obligations related to both parties with

the provider. Default committed by the buyer is the buyer's fault so that the obligations that should have been carried out but were not carried out, therefore the seller cannot ask for compensation and is not followed up to the court. As for legal settlement efforts for the parties due to default in the agreement in Article 1238 of the Civil Code, it states that the debtor is declared negligent with a letter of order or a similar deed itself, namely if this agreement results in the debtor being considered negligent by the passage of time that has been determined based on the wording of Article 1238 of the Civil Code, that the article regulates firmly and clearly regarding the legal settlement of the parties due to default (Hadimulyo, 2017). The path that resolves legal problems outside the court is known as alternative dispute resolution, one of which is mediation. From this explanation, it can be concluded that the factor that causes default is the failure to fulfill the agreement that has been agreed upon, namely the buyer does not pay and runs away. It is the buyer's obligation to pay for the painting that has been sent by the seller. The main factor causing this is the negligence of the seller. The second is that there is no legal settlement effort that can be made by the seller because there is no written agreement made by both parties so that the buyer's obligation to pay the seller cannot be carried out properly (Nugroho & Amiq, 2023).

c. Mediation in the Case of a Helmet Washing Service Consumer Who Suffered Losses Due to Negligence of the Business Actor

Nowadays, helmets have become an important thing in people's lives. When riding a two-wheeled vehicle, riders are required to wear a helmet that meets the Indonesian National Standard (SNI) according to positive law. Basically, the requirement to wear a helmet while riding not only has implications for opening up business opportunities for helmet sales in Indonesia but also opens up new business opportunities, namely the provision of helmet washing services (Syaputri & Ivanda, 2023). The increasing number of users of helmet washing services is due to the convenience provided where consumers who use helmet washing services only need to entrust their helmets to helmet washing service providers, then helmet washing service providers set rates based on previously made provisions. In its development, it turned out that there was concern about the existence of a standard clause in the memorandum of agreement for goods and/or helmet washing services. Furthermore, there was also fear if the helmet washing service provider was negligent, namely damaging the consumer's helmet during the washing process. This problem is closely related to legal protection for consumers who use helmet washing services and also the responsibility of business actors in the event of negligence.

Clause etymologically is a separate provision of an agreement in which one of the articles is expanded or limited while Standard is a certain standard or measurement that becomes a benchmark (Wahyuningsih & Deyau, 2024). Every rule, provision, and condition that the business actor has unilaterally prepared beforehand is referred to as a standard clause. Additionally, a standard clause is a statement in a contract or agreement that the customer must abide by. Every rule, provision, and condition that has been prepared and decided unilaterally in advance by the business actor and stated in a document and/or agreement that is binding and must be fulfilled by the

consumer is regulated with regard to standard clauses in positive law under article 1 number 10 of the Consumer Protection Law.

Standard clauses also have their own characteristics. The characteristics of an agreement with a standard clause include its contents being The agreement is drafted and prepared in advance, either individually or in bulk, and is decided unilaterally by the party with a strong (economic) position. The community (debtor) is not involved in determining the agreement's contents, and the debtor is compelled to accept it out of a need to satisfy obligations.

Furthermore, standard clauses also have their own character, namely they are determined unilaterally, are in the form of a form, contain exoneration conditions (conditions from the creditor to avoid responsibility which is their obligation), are printed in small letters, and are presented to consumers as if stating "take it or leave it contract's". The prohibition on the inclusion of standard clauses is regulated in Article 18 paragraph (1) of the Consumer Protection Law.

Based on the research results, it turns out that the inclusion of standard clauses can be declared null and void if it contains something prohibited in Article 18 of the Consumer Protection Law. Protection of consumer rights has been provided through the regulation of business actors' responsibilities. Referring to Article 19, it basically determines the responsibility of business actors to provide compensation for damage to helmets belonging to consumers of helmet washing services (Sassanelli & Terzi, 2023). Legal protection for consumers who experience losses in the form of damage to their helmets due to negligence on the part of helmet washing service providers can demand their rights to obtain compensation. In this case, it is actually related to the rights held by consumers as stipulated in Article 4 letter b of the Consumer Protection Law and in Article 4 letter h. Consumer Protection also determines the existence of business actor obligations as stipulated in Article 7 of the Consumer Protection Law and business actor responsibilities as stipulated in Article 19 of the Consumer Protection Law (Tambunan et al., 2020).

The inclusion of standard clauses in accordance with laws and regulations is something that must be understood together. The government should provide socialization regarding the use of standard clauses to business actors so that later in economic activities between consumers and business actors it will not cause losses, especially to consumers of goods and/or services. When in contact with the community, mediation is at the forefront of resolving business disputes in Indonesia. This is evident in every dispute that arises, mediation is always prioritized, even when the case is submitted to court, mediation is still required beforehand. Mediation in court is regulated by Supreme Court Regulation (PERMA) No. 1 of 2016 which requires a mediation process to be undertaken before the examination of the main civil case with mediators consisting of judges of the District Court who are not handling the case.

In general, the principle of balance means the balance of the positions of the contracting parties. Therefore, if an imbalance occurs between the parties, it will disrupt the contents of the contract, which in certain cases requires the intervention of certain authorities (i.e., the government). Understanding the effectiveness of the principle of balance emphasizes the aspect of the balance of the positions of the

contracting parties. In this context, the principle of balance means "equal equilibrium" and will work to provide balance when the bargaining positions of the parties in determining their will are equal. The goal of the principle of balance is an end result that places the parties in an equal position in determining their rights and obligations. Therefore, in order to balance the positions of the parties, intervention from state authorities (government) is very strong, especially in consumer contracts.

4. Conclusions

MSME business disputes can involve various parties, depending on the nature and complexity of the dispute. The legal relationship between MSME actors and consumers is formed in a sales and purchase agreement and in general, the main factor causing MSME business disputes is default. The forms of MSME business disputes are contract disputes, product quality disputes, shipping and storage disputes, payment disputes, patent and intellectual property disputes, and distribution disputes. Business disputes can be resolved through litigation (court) and non-litigation. Through non-litigation, mediation is always prioritized in resolving business disputes for a win-win solution, saving costs and also saving time. In the case of Buying and Selling Paintings at Batu Belah Art Space Klungkung, mediation was carried out continuously between traders and consumers in the hope of reaching a meeting point. Mediation was also carried out in the case of Consumers of Helmet Washing Services Who Experienced Losses Due to Negligence of Business Actors. Although one party was negligent, mediation was carried out with the aim of avoiding resolving disputes in court. In the legal relationship of the parties, both business actors and consumers, to avoid or resolve business disputes, it is important to have a clear written agreement, a commitment to maintaining product quality and good communication between the parties involved. This is important considering the legal relationship between MSME actors and consumers is a long-term relationship. So the fulfillment of achievements towards each obligation is an important factor in creating a good business relationship between the two parties.

MSMEs and consumers are already familiar with mediation. In some cases, mediation is conducted repeatedly until the disputing parties find a mutually acceptable solution. The key to resolving a dispute is maintaining a cool head, not being emotionally charged. Both parties must have a shared desire to find a win-win solution. The role of a capable mediator is also crucial in resolving disputes. If all these factors are addressed in good faith, common ground will inevitably be found. There's an adage that says "win becomes charcoal, lose becomes ashes." No party benefits from a dispute. Our shared hope is that the role of mediation can be expanded across all disputes in Indonesia. This aligns with our nation's culture of deliberation and consensus, leading to the achievement of the fifth principle of Pancasila, Social Justice for All Indonesians.

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