

Empirical Jurisdictional View Regarding Late Payment For Services Spaylater Online Loans And Spinjam For Shopee E-Commerce Users (Case Study Of Madiun Regency Community)

Ardita Dewi Epriany Puspitasari¹, Sukadi², Irne Sri Krishe Purba³, Eva Zulfa Ariyani⁴, Ni Putu Aris Purnama Dewi⁵, Elsa Teresia Sitopu⁶, Putu Della Prasanthi Fentarani⁷, Ni Ketut Alit Yudi Astuti⁸

ardita.dewi@undiksha.ac.id¹, sukadi.sukadi@undiksha.ac.id², irne@undiksha.ac.id³, eva.zulfa@undiksha.ac.id⁴, aris.purnama@undiksha.ac.id⁵, elsa.teresia@undiksha.ac.id⁶, della.prashanti@undiksha.ac.id⁷, alityudi@undiksha.ac.id⁸

Universitas Pendidikan Ganesha^{1,2,3,4,5,6,7,8}

Abstract. This study investigates late payments on online loan services, particularly the SPayLater and SPinjam features in Madiun Regency, Indonesia. The findings indicate that delays in payments are primarily caused by personal financial issues, poor financial discipline, technical challenges, and external factors like the economic crisis. Users often struggle with managing multiple loans and unexpected expenses. Legal protection is governed by Indonesian Financial Law No. 19/12/PBI/2017, overseen by the Financial Services Authority (OJK), which outlines regulations for loan amounts and interest rates. Debt restructuring options are available for users facing payment difficulties. This research offers recommendations for enhancing consumer protection to support the sustainability of online loan services in Indonesia.

Keywords: Financial Technology, Late Payment, Consumer Protection

1 Introduction

Indonesia is actively advancing development across various sectors. This development involves natural resources, labor, and capital, which all work in synergy. Therefore, sustainable economic growth based on the principles of economic democracy and coexistence is necessary. As the population expands, so do the needs of the community, particularly in terms of financial requirements. Banks are one option to meet these financial needs. However, not everyone views banks as the best solution, citing high interest rates, complicated and unclear lending procedures, and lengthy repayment periods. In the digital era, information technology has transformed many aspects of the world, including financial management. One significant result of this technological advancement is the emergence of online lending. Fintech, a new innovation in finance, has made online banking more accessible. In simple terms, Fintech refers to the financial industry that utilizes information technology to enhance services, especially in the area of lending.

Regarding loan agreements, the regulations are found in Book III, Chapter XIII of the Civil Code. According to Article 1754 of the Civil Code, borrowing and lending is defined as

an agreement in which one party provides another party with a certain quantity of consumable goods, with the condition that the recipient must return the same amount of goods of the same kind and quality. Article 1754 stipulates that anyone lending a specific sum of money or goods to another party is obligated to return the equivalent amount, in accordance with the agreed terms. (Setiawan, K. H. 2023: 4)

In the Civil Code, a loan is referred to as a contract. According to Article 1313 of the Civil Code, a “contract” is defined as: "An act by which one (or more) person(s) undertakes to commit themselves to one (or more) other person(s)." In form, an agreement consists of a series of words or sentences that contain promises or commitments, whether made orally or in writing, by the parties involved, creating a binding obligation. In the context of online loans, lenders and borrowers typically do not meet directly, and the parties may remain unknown to each other. This is because an intermediary, such as a digital platform, facilitates the connection between the parties. As a result, borrowers often do not receive adequate legal protection for their personal information when applying for loans. If a borrower fails to repay the loan, the online lending company may share the borrower's personal data with third parties, including contacts stored on the borrower’s mobile phone. The Shopee platform provides various attractive offers to customers, such as promotions, free gifts, and lower prices. Additionally, Shopee has introduced new features like SpayLater and Spinjam to make the payment and credit process easier. However, this increased flexibility encourages people to pursue higher levels of purchasing, often leading them to spend more on fulfilling wants rather than needs. (Arianti, L., 2024:6)

In Madiun Regency, many teenagers aged 18 to 30 are using online credit apps that make shopping on Shopee more convenient. Shopee PayLater and Spinjam users within this age group include both men and women. This behavior is influenced by social media and environmental factors. For example, teenage girls tend to compete to buy products like clothing, skincare, makeup tools, shoes, and bags, while teenage boys are more inclined to purchase items such as watches, shoes, and clothing. This trend fosters consumer-oriented behavior among them.

Late payments on online loans have become an increasingly significant issue in modern society. This problem not only impacts the relationship between consumers and service providers but can also jeopardize the financial stability of those involved. In Madiun Regency Municipality, the widespread use of SPayLater and Spinjam services has introduced new challenges, especially in terms of debt management and the risk of late payments.

According to Law No. 8 of 1999 on Consumer Protection, the legal terms agreed upon by traders and product providers are documented in agreements that are binding on both consumers and these parties. Furthermore, paragraph (2) of Chapter 1 of Law No. 11/2017 on Electronic Information and Transactions stipulates that electronic transactions are legal acts conducted using computers, computer networks, or other electronic media. Despite the availability of features like SpayLater and Spinjam, users continue to encounter challenges, such as BI testing. (Setiawan, K. H., 2023:4)

After conducting initial observations, several cases were discovered in Madiun District where 18-year-old victims had made purchases on the popular e-commerce platform Shopee.

Due to financial difficulties, one victim took advantage of Shopee's online lending feature, SpayLater, which offers low-interest rates and the option to pay in up to 12 installments. However, before the due date, the victim received SMS, WhatsApp, and phone calls from the online loan provider demanding immediate repayment. The victim was surprised, as the repayment request did not align with the original agreement, which was still valid. In an attempt to resolve the situation, the victim decided to use Shopee's other online lending feature, Spinjam, to cover the SpayLater installments. Without much thought, the victim borrowed money from Spinjam to settle the SpayLater debt. However, upon receiving the loan, the victim noticed an issue—the amount received was only 10% of what had been agreed upon. As the repayment deadline approached, the victim again received SMS, WhatsApp, and phone calls from Spinjam demanding payment, which did not match the original repayment agreement. When the victim tried to contact the service to address the discrepancies, the response was negative. After much back-and-forth, the victim was eventually granted a one-week extension to settle the debt. However, the service warned that if the payment was not made within this time, a 5% fine on the total amount owed would be applied.

Therefore, legal protection is crucial for consumers using online loan services like Spinjam. According to Article 1, paragraph (1) of the Law on Consumer Rights, consumer protection is defined as: "The concept of consumer protection is closely related to legal protection, which encompasses various aspects of law. This protection not only covers property but also includes the rights of consumers. In other words, consumer protection is synonymous with the legal protection of consumer rights." (Rudy, 2021:13)

Late payment of SPayLater and SPinjam services in Madiun Regency is a complex issue that requires in-depth study from a legal and empirical perspective. This investigation will focus on understanding the causes of the delays, their impact on consumers and the effectiveness of existing regulations in addressing this problem. It is hoped that the results of this research can provide constructive recommendations to improve consumer protection and ensure the sustainability of online lending in Indonesia.

Given this, it is necessary to carry out a more in-depth investigation: (1) What are the reasons for late payments on Spaylater and Spinjam online loan services?; (2) On what legal basis are the rights of users who default on Spaylater and Spinjam online credit services protected?

2 Method

The research is empirical legal research, also known as field or sociological research, which examines both the legal provisions in force and how they have been applied in real-life situations within society. This type of research aims to gather necessary facts and data by first reviewing secondary data and then proceeding to collect primary data in the field. In this study, the focus is on analyzing the legal protection for online borrowers and the role of the Otoritas Jasa Keuangan (OJK) in providing consumer protection to individuals in Madiun District.

This study is a descriptive study, meaning it investigates existing problems and provides solutions through data analysis. The aim is to offer a detailed, clear, and objective description

and explanation of consumer protection for users of the online loan services SpayLater and Spinjam.

Research using an empirical legal approach begins by identifying legal problems present in society. The researcher then examines the relevant legal regulations related to the problem. What sets this approach apart from the normative legal approach is the inclusion of field research. In empirical legal research, researchers conduct direct observations and interviews with parties involved in or affected by the application of the law, allowing them to gather real-world insights and data. (Soekanto, p. 2006: 7)

When studying late payments in online loan services like Spaylater and Spinjam, the empirical legal approach will not only analyze the laws that govern online loans but also assess their practical application. The research will include interviews with users of online loan services, service providers, and other relevant stakeholders, such as regulators or legal experts. By conducting these interviews and observations, the researchers aim to understand the factors contributing to late payments, the processes involved in debt collection, and how users react to the existing legal protections. (Soekanto, p. 2006:7)

By integrating data from field research with an analysis of legal norms, the empirical legal approach enables researchers to develop a more comprehensive and nuanced understanding of a legal issue. This approach also facilitates the assessment of the effectiveness of current laws and provides the basis for recommendations that are both practical and aligned with real-world conditions. (Soekanto, p. 2006: 7)

Overall, the empirical legal approach provides an advantage by integrating theoretical analysis with empirical data, making the research findings more conclusive and directly applicable to real-world situations in society.

3 Results And Discussion

3.1 Reasons for Late Payment on Spaylater and Spinjam Online Loans

Delayed payments on online lending platforms like SPayLater and SPinjam can result from various factors related to users' financial capacity or willingness to meet their obligations. A key factor is financial difficulty, where individuals face shifts in their income, such as unemployment, pay cuts, or reduced business earnings. Insufficient or unpredictable income frequently hinders users from making payments on time. Moreover, unexpected expenses, like emergency medical bills or surprise charges, can disrupt personal budgets, causing payment delays.

Another factor contributing to late payments is a lack of financial literacy or planning. Some users may not be fully aware of their installment due dates, especially when they have multiple financial obligations. Those who are inexperienced in managing a monthly budget often face difficulties in setting aside money for installment payments. Additionally, uncontrolled credit usage is a concern, where users borrow more than they can afford, frequently for non-essential items such as excessive online shopping. The simultaneous use of multiple loan services, like SPayLater and SPinjam, further intensifies financial pressure, making it challenging to meet repayment deadlines.

The lack of effective reminders or automatic payment systems is another factor leading to late payments. While many online lending platforms send reminders through notifications or SMS, some users may ignore or find these notifications insufficient. Users who do not enable the auto-debit feature are more likely to miss payments due to forgetfulness or technical difficulties. Furthermore, technical issues such as platform system failures, poor internet connectivity, or blocked bank accounts can also prevent users from making timely installment payments.

External factors like difficult economic conditions, inflation, rising commodity prices, or pandemics also affect users' ability to repay loans. During times of financial strain, users may re-prioritize their spending, often neglecting loan repayments. For example, the pandemic and global health crisis resulted in widespread job losses, making it difficult for many to fulfill their loan commitments.

User behavior and habits also play a role in late payments. Some users lack discipline in managing their payments and tend to procrastinate, assuming they have more time, which eventually leads to delays. Others intentionally postpone payments, thinking they can pay the late fees later, but this only worsens their financial situation due to accruing interest and penalties. Additionally, fraud or account misuse can also contribute to late payments. In cases where users' accounts are hacked or exploited by malicious individuals, they may be unaware of outstanding bills or due dates. This misuse disrupts their ability to manage their financial responsibilities, leading to missed or delayed payments.

In summary, late payments on SPayLater and SPinjam services are typically caused by a mix of personal financial difficulties, poor financial management, technical issues, and external factors. To avoid payment delays, users should maintain a clear understanding of their financial obligations, practice careful budgeting, and take advantage of features like payment reminders or automatic debits to ensure timely payments.

3.2 The legal basis for protecting the rights of users who default on the online credit services Spaylater and Spinjam

The legal framework for online lending is established in Financial Law No. 19/12/PBI/2017 of 2017, which supports the implementation of financial technology (fintech). The key legal provisions for online lending include: (Setiawan, K. H., 2023: 32)

- 1) Online lending providers are required to adhere to relevant regulations and collaborate with other digital banking services. They must register and secure a license from the OJK. The OJK establishes a maximum loan limit of IDR 2 billion and holds the authority to review and adjust the permitted loan amounts. Promoters, structured as limited liability companies, can be formed by Indonesian citizens and/or foreign legal entities, allowing up to 85% foreign ownership.
- 2) The terms related to the interest rate and the final payment are outlined in the agreement between the lender and the borrower, which is delivered in electronic format.
- 3) According to Article 18 of POJK 77/2016, a valid contract is one between the lender and

the borrower, made in the form of an electronic document that includes the following details: contract number, contract date, the lender's identity, the rights and obligations of each party, loan amount, interest rate, repayment amount, repayment timeline, principal amount, applicable fees, sanctions, and dispute resolution procedures. The contract must clearly define the consequences and sanctions, with each online loan having a unique interest rate..

- 4) Actions for default and damages are related to the debtor's obligations. Typically, the borrower is required to make payments as agreed in the contract. If the borrower fails to pay, they will incur a penalty as stipulated in the contract. However, if the debtor intends to settle the debt, the creditor has the right to pursue a default action under Article 1238 of the Civil Code, which states: "If the debt is not paid after a reminder or a similar notice, or is considered unpaid due to failure to meet the deadline.
 - Debt restructuring and/or loan modification refer to adjustments made to the loan terms, such as changes to the repayment schedule and loan duration, including payment exceptions. A loan modification may involve altering the payment amount or making a straightforward adjustment to the payment timeline.
 - Reconditioning refers to a payment that alters part or all of the loan terms, such as changes to the repayment date, loan term, or other conditions, without affecting the total amount owed or causing any loss. The loan can be repaid either fully or partially through a bank transfer.
 - Restructuring involves altering the terms of the loan, which may include additional funds from the bank, converting all or part of the interest into new capital, or converting all or part of the loan or debt into shares.

4 Conclusion

Delays in payments for Spaylater and Spinjam online loan services are caused by a combination of personal financial issues, lack of financial discipline, technical difficulties, and external factors. Financial challenges, such as job loss or unexpected expenses, can prevent users from making timely payments. Additionally, poor financial management, multiple loans, and excessive borrowing can worsen late payments. Users may also miss payments due to insufficient reminders or technical glitches on the lending platform. External factors like an economic downturn or a pandemic further exacerbate the problem. Some users have a habit of delaying payments, while cases of fraud or account misuse may also contribute to delays. Legal protection for users who default on online loan services is governed by Indonesian Financial Law No. 19/12/PBI/2017, overseen by the Financial Services Authority (OJK). Loan providers must comply with these regulations and be registered with the OJK. Specific rules regarding loan amounts, interest rates, and other terms are detailed in electronic contracts. In case of default, legal actions may be taken, and remedies such as debt restructuring, reconditioning, or loan modifications are available to adjust repayment terms to make them more manageable for users.

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