

Alternative Dispute Settlement Through The Consumer Dispute Settlement Agency in Realizing Consumer Protection in Accordance With Law Nomor 8 Of 1999 Concerning Consumer Protection

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Abstract. Competition between economic actors to get the maximum profit creates unhealthy competitive behavior to produce low-quality goods/services at low prices so that they can be consumed by most consumers. Therefore, to resolve disputes and protect consumers, the government established a Consumer Dispute Settlement Agency (BPSK). BPSK's decision in resolving consumer disputes is executorial in nature, but based on the provisions of article 57 UUPK, the Assembly's decision is requested under article 54 paragraph (3), to determine its implementation in the court where the aggrieved consumer is located. In other words, the BPSK decision has executive power, but its implementation is carried out by the District Court because only the court has execution power. Institutionally, BPSK does not have the authority to carry out executions, because BPSK is not a judicial institution. With the enactment of UUPK, aggrieved consumers feel protected and could complain about their problems by submitting alternative complaints to the Consumer Dispute Settlement Agency (BPSK). BPSK is expected to play an active role in leading efforts to protect consumers before and after litigation by not denying the rights of commercial actors and creating a level playing field between commercial actors and consumers that can create free competition and encourage national economic growth.

Keywords: Alternative Settlement, Consumer Dispute Settlement Agency, Consumer Protection

1. Introduction

The development of the business world is currently very rapid so it cannot be separated from the roles and business activities related to trade, both goods, and services, which greatly affect the economy at the national and international levels. What is very interesting about business activities that occur in people's lives today are the many problems that later in their development can lead to a case or dispute that must be resolved by the parties. In fact, in the current settlement process, it can be resolved either through the court or outside the court.

Given the increasing opening of the national economic market in the context of economic globalization, economic development must be able to guarantee greater social welfare and certainty of the quality, quantity, and safety of goods and services produced or purchased commercially. The lack of quality alternatives has become an "open secret" in the Indonesian industrial world. The powerlessness of consumers towards economic actors is very detrimental

to the interests of society. As a general rule, financial entertainers take shelter behind standard arrangements endorsed by the two players (between business entertainers and customers) or different data given by business entertainers to buyers.

Dispute resolution that arises in the business world is a separate problem because if business people face certain disputes, they will be faced with a judicial process that takes a long time and requires a lot of money, whereas, in the business world, the desired dispute resolution can be resolved fast and cheap. In addition, it is hoped that the settlement of disputes in the business world will not damage subsequent business relations with those who have been involved in a dispute. This is certainly difficult to find if the party concerned brings the dispute to court because the process of resolving disputes through court (litigation) will end in the defeat of one party and the victory of the other party. In addition, in general there can be various criticisms of dispute resolution through the courts, because the resolution of disputes through the courts which is generally slow or called a waste of time is caused by a very formalistic and technical examination process, the cost per case is expensive, the courts are generally unresponsive as well as court decisions do not solve problems and various other problems.[1]

Based on the various disadvantages of resolving disputes through the courts, in the business world, disputing parties may prefer to resolve disputes faced outside the court.

Dispute settlement outside the court is also known in the Consumer Protection Act where the institution that handles dispute resolution outside the court is the "Consumer Dispute Settlement Agency (BPSK)". This is directed in Article 49 passage (1), that: "the public authority lays out a Buyer Debate Settlement Office in Level II Locales to resolve shopper questions outside the court.[2]

The work process carried out by BPSK is like that of a court, therefore BPSK is referred to as a quasi-judicial body to handle consumer cases, as is the case with dispute resolution bodies in the fields of taxation or labor.[3]

2. Research Methods

The legal research method is a scientific way of working, one of which is characterized by using the method (in Greek it is called *Methodos*, *Meta* means above, while *thodos* means a way, a way.[4] When viewed from its type, research law can be divided into three types, namely: normative legal research, empirical legal research, or a combination of both.[5] The composition of this logical work utilizes the kind of regulating lawful exploration. Normative legal research means research that focuses on legal materials in the form of rules or norms of positive law and becomes the main reference material in research. In the mean time, the methodology utilized in this exploration is the resolution approach, which analyzes all regulations and guidelines connected with the lawful issues being considered. The materials utilized comprise of essential lawful materials, auxiliary legitimate materials, and tertiary lawful materials.

3. Problem Formulation

Based on the background described above, the authors are interested in raising the problem in this research, namely, how is the alternative dispute resolution through BPSK (Consumer Dispute Settlement Agency)? what is the role of BPSK in realizing consumer protection by Law No. 8 of 1999 concerning consumer protection?

4. Result Analysis

4.1 Alternative Dispute Resolution through BPSK (Consumer Dispute Resolution Agency)

In the Consumer Protection Act it is explained, 2 main things are discussed regarding BPSK, namely:

1. Dispute resolution through BPSK is not a must for consumers, however, BPSK decisions have sufficient legal power to provide shock therapy for unruly business actors, because these decisions can be used as preliminary evidence for investigators.[6]
2. The law distinguishes the types of lawsuits that can be submitted to BPSK based on *persona standi in judicio*. [6] In article 46 paragraph (1) it is stated that any claim for violations by business actors can be made by:
 - a. A consumer who is harmed or the heir concerned;
 - b. A group of consumers who have the same interests;
 - c. Non-governmental consumer protection institutions that meet the requirements according to the law;
 - d. Government or related agencies;

Fundamentally, this regulation doesn't preclude the chance of a neighborly settlement between the gatherings to the question. In general, an amicable settlement between the disputing parties is always sought at every stage of the peaceful dispute resolution procedure. Peaceful settlement here is carried out directly by the parties to the dispute without involving BPSK or the court.

The Purchaser Insurance Act specifies that shoppers who are hurt can sue financial entertainers through foundations or bodies approved to determine debates among buyers and monetary entertainers or through legal establishments in light of the deliberate decision of the gatherings to the question. The out-of-court settlement of customer debates means to settle on specific advances so the misfortunes endured by shoppers are not rehashed. However, the law stipulates that extrajudicial dispute resolution does not rule out the perpetrator's criminal responsibility. If the efforts of one of the parties are declared unsuccessful, then the parties to the dispute can go to court.

Therefore, the Law on Consumer Protection No. 8 of 1999 regulates two ways of resolving consumer disputes, namely consumer dispute resolution through the courts and consumer settlement outside the court. The settlement of consumer disputes is also based on Article 45(1) and Article 47 of the Consumer Protection Law. Article 45 (1) UUPK stipulates that "consumers who are harmed can sue traffickers through institutions authorized to resolve disputes between consumers and traffickers or through courts that are included in general law jurisdiction". Moreover, the UUPK article expresses that "debate settlement out of court by customers intends to arrive at an understanding with respect to the structure and measure of remuneration or potentially about specific activities that ensure that the misfortunes endured by purchasers are not rehashed. dispute According to article 45 (1) in conjunction with the UUPK, article 47 of the UUPK, the settlement of consumer disputes outside the court can be pursued in two ways, namely: 1. Settlement of claims for compensation for direct losses and 2 Settlement of disputes for claims for compensation by the Consumer Dispute Settlement Agency (BPSK)

Consumer Dispute, is a government agency established to resolve consumer disputes in the regions. The parties to the quarrel have the option of resolving disputes through BPSK, which is an alternative dispute resolution that has the advantage of relatively low cost and short time. This condition is different when carried out by a district court.

Consumer Dispute Resolution by BPSK is an out-of-court agreement or ADR (Alternative Dispute Resolution) that promotes a win-win solution (mutual benefit) through certain channels, namely conciliation, mediation, and arbitration. BPSK has the right to resolve consumer disputes, if the consumer dispute is not included in the category of goods or services that are prohibited from marketing by law. The Role of BPSK in Realizing Consumer Protection by Law No. 8 of 1999 concerning Consumer Protection.

4.2 BPSK's Role in Realizing Consumer Protection by Law No. 8 of 1999 concerning Consumer Protection

The obligations and obligations of the Purchaser Question Settlement Organization (BPSK) are to serve all debates with a debate goal model through intervention, pacification, and discretion. It is different from BPSK which was formed as an institution that is not only able to resolve disputes, but also must protect consumers with its control function. Thus, the spirit of the establishment of the BPSK is very different from the small claims court when viewed from the differences in the authority of the two institutions. what's more, Customer Debate Settlement (BPSK) is an elective question goal given by the Indonesian government to safeguard buyer privileges by Regulation No. 8 of 1999 concerning Customer Assurance.

BPSK expects to determine questions among buyers and business entertainers in a more straightforward, faster, and more affordable way than through the courts. BPSK can resolve disputes related to goods or services obtained by consumers from business actors, whether in the form of an agreement or not.

To apply dispute resolution to BPSK, consumers must fill out an application form and attach the necessary evidence, such as proof of payment, proof of transactions, and other relevant documents. After the request is received, BPSK will mediate between consumers and business actors to find a solution that is acceptable to both parties. If the mediation is not successful, BPSK can issue recommendations or decisions that are final and binding on both parties.

The advantages of using BPSK as an alternative dispute resolution include:

1. Easier and faster. The dispute resolution process through BPSK is usually faster than through the courts because it does not go through a lengthy trial process.
2. More affordable. The cost of resolving disputes through BPSK is relatively more affordable than court fees so it can be reached by people who can't afford it.
3. Is informal. The dispute resolution process through BPSK is informal and not as rigid as in court, making it easier for consumers and business actors to reach an agreement.
4. Prioritizing the interests of consumers. BPSK has duties and functions to protect consumer rights so that in resolving disputes, BPSK will prioritize consumer interests.

Therefore, the use of BPSK as an alternative dispute resolution can help realize consumer protection by Law No. 8 of 1999 concerning Consumer Protection.

The obligations and specialists of the Customer Debate Settlement Organization as managed in Article 52 are as per the following:[2]

- a. carry out the dealing with and settlement of purchaser contentions using intercession or intervention or pacification;

- b. provide buyer security counseling;
- c. supervise the incorporation of standard conditions;
- d. report to the overall specialist on the off chance that there is an infringement of this arrangement;
- e. receive grumblings, both composed and unwritten, from shoppers with respect to infringement of purchaser assurance;
- f. conduct exploration and assessment of purchaser assurance debates;
- g. summon business entertainers associated with having committed infringement of buyer security;
- h. summon and present observers, master observers, or potentially every individual who is considered to know about infringement of this regulation;
- i. Request the help of agents to bring business entertainers, witnesses, master observers, or everybody as alluded to in letters g and h, who are not able to agree with the request of the Customer Question Settlement Office;
- j. obtain, analyze, as well as assess letters, reports, or other proof for examination and additionally assessment;
- k. decide and decide if there is a misfortune with respect to the buyer;
- l. notify the choice of business entertainers who disregard shopper security;
- m. impose managerial authorizations on business entertainers who disregard the arrangements of this regulation.

Viewed based on position, as stipulated in Article 23 concerning the Consumer Protection Act (UUPK) explains that "If a business actor refuses and/or does not respond and/or does not fulfill the demands for compensation at the consumer's request, then the consumer is given the right to sue business actors, and resolve disputes that arise through BPSK, or through filing a lawsuit to the judiciary at the consumer's domicile." Here there are two significant things to see: 1. UUPK gives elective arrangements through bodies outside the equity framework called the Debate Settlement Organization Shoppers (BPSK). 2. Settlement of buyer questions with business entertainers is definitely not a chief decision that doesn't need to be picked. The decision of question goal through BPSK is equal or lined up with the decision of debate goal through a legal body.

The settlement of purchaser debates by BPSK is completed in view of the decisions and endorsement of the gatherings concerned and is certainly not a layered question goal process. The technique is very basic, shoppers who have debates with business entertainers can come straightforwardly to the BPSK office where they are domiciled with a question goal demand, finishing up the grumbling structure, as well as records/reports supporting the protest. Gatherings to prosecution at BPSK are not charged or for nothing. Aside from being for nothing, the buyer protest system is very simple, in particular just bringing proof or verification of procurement/installment, and an individual personality card (KTP). The objection structure is given at the BPSK Secretariat, after which BPSK will bring the questioning gatherings to be met at the Pre-preliminary.

From this pre-preliminary, the subsequent stages will be to decide if purchasers and business entertainers can in any case be accommodated or should make foreordained settlement strides like mollification, intercession, or discretion. Settlement of shopper debates is pursued as an understanding in a composed arrangement endorsed by the questioning gatherings. This is in accordance with the choice of the Priest of Industry and Exchange of the Republic of Indonesia contained in SK No.350/MPP/Kep/12/2001 concerning BPSK, which in Article 6 expresses that a choice gave by BPSK can be as Harmony, Claim dismissed, or Claim conceded.

Along with its development, even though BPSK has been given a very vital role to maintain the UUPK mandate there are still many consumers who are reluctant to entrust dispute resolution to BPSK. This is on the grounds that the substance of the guideline, method, and question settlement component contains numerous shortcomings and clashes so BPSK's presence isn't boosted.

In the above connection, so that BPSK as an institution authorized to resolve consumer disputes can play an active role, it is necessary to strengthen BPSK in the future, namely first by changing the rules governing BPSK, secondly designing BPSK by combining court and ADR (alternative) models of dispute resolution) which is unique to Indonesia. This can be seen, for example, from the BPSK concept which is based on the UUPK which is an out-of-court dispute resolution institution, but in the process of settling cases it is governed by procedural law which is very procedural like civil procedural law in district courts.

5. Conclusion

The Consumer Protection Act was formed as a legal umbrella to create a just and prosperous society that is materially and spiritually through the mechanism of a sound and responsible economic system. The Consumer Protection Law mandates BPSK as an institution that oversees a healthy and responsible economic system through increasing consumer knowledge, awareness, and independence, as well as fostering the attitude of civilized and responsible business actors to create a sense of justice and legal certainty. And to provide alternative consumer dispute resolution through litigation and non-litigation. The non-litigation route is carried out by BPSK through mediation, conciliation, and arbitration.

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