

APPLICATION OF STANDARD AGREEMENTS IN LEASE PURCHASE CONTRACTS: LEGAL IMPLICATIONS OF BUSINESS IN THE REALM OF CIVIL LAW**Delycia Anwar Rannu, Gunardi Lie**

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Email: Delycia.205210064@stu.untar.ac.id, Gunardi@fh.untar.ac.id**Abstract**

Business practices provide easy access to capital for certain goods. Hire purchase arises when the buyer cannot afford to pay cash. Standard agreements cannot be negotiated by consumers. In Indonesia, this practice is growing rapidly, especially in the motorbike trade. The application of standard agreements has important implications in business law, such as consumer protection and dispute resolution. Research on this subject is important for identifying challenges and opportunities in modern business. This legal research uses a normative juridical approach, which is a research method that relies on secondary data sources, such as library materials. This normative juridical approach involves analysis of legal principles, legal systematics, as well as vertical and horizontal synchronization in the civil law system in Indonesia. The results of this research are that the research highlights the importance of understanding the business practices of hire purchase contracts, especially the application of standard agreements and their legal implications. This raises questions regarding the balance of rights and obligations between providers and recipients of goods or services. It is important to understand the legal framework to ensure equality of rights and obligations and maintain the principles of consumer protection and public order in this business practice.

Keywords: Business Law, Business, Consumers

INTRODUCTION

With rapid economic growth, there has been a significant increase in business practices that offer easy access to capital to obtain certain facilities (Abdeldayem, Aldulaimi, & Kharabsheh, 2021). This phenomenon is reflected in the various efforts offered by business actors to help people meet their needs for certain goods. Business actors, both individuals and legal entities, compete to attract consumers by providing convenience in obtaining the goods they want. They realize that public interest is high, but are often constrained by financial problems (Weisbrod, Handler, & Komesar, 2023). Therefore, business actors use rental purchase institutions as an alternative to facilitate consumers, which is expected to be simpler than the procedures and conditions imposed

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by traditional financial institutions such as banks (Tebbens, 1979; van der Velden, Contino, Muffels, Verheijen, & Das, 2023).

The emergence of the practice of leasing purchase first emerged as a solution to overcome a situation where sellers are faced with high demand to buy their goods, but prospective buyers cannot afford to pay in cash. The seller is willing to accept payment in installments or installments, but on condition that the item will not be sold to another party before full payment is made. This phenomenon encourages the formation of Lease Purchase Agreements by business actors. The agreement is the result of a transaction between the producer and the consumer, where basically, the form and content of the agreement have been determined by the producer beforehand. The consumer has no opportunity to bargain or change the content or terms of the agreement. This type of agreement is known as a standard agreement (Subekti, 1976)

The content that has been stipulated in the standard agreement includes models, formulations, and measures. Within the sphere of trade, one of the known types of agreements is the "Lease Purchase Agreement", which arose in response to a growing need in society. In Indonesia, the practice of lease purchase agreements has developed rapidly, especially as seen from the public's interest in using these agreements to meet their secondary needs. Both manufacturers (sellers) and consumers (buyers) engage in this practice, which often occurs in the motorcycle trade. It can be said that lease purchase agreements are growing and thriving in Indonesia (Ackerman & Porter, 2022; Muhammad, 1992).

In business practice, standard agreements in lease purchase contracts have become commonplace. This agreement is an integral part of the business transaction between the provider and the recipient of goods or services. However, the application of standard agreements in lease purchase contracts presents a number of relevant implications in the context of business law, especially in the realm of civil law.

The importance of understanding the legal implications of using standard agreements in lease purchase contracts lies in the need to maintain a balance and clarity of rights and obligations between the parties involved. In this context, a deep understanding of the legal framework governing lease purchase contracts is crucial. The implications of implementing standard agreements can also affect business aspects such as consumer protection, legal liability, and dispute resolution.

Therefore, research on the application of standard agreements in lease purchase contracts and their implications for business law in the realm of civil law has significant relevance in the context of modern business practice. By understanding the dynamics and changes in the practice of lease purchase contracts, as well as their impact on business law, we can identify emerging challenges and opportunities, and develop appropriate legal frameworks to address them.

RESEARCH METHODS

This legal research uses a normative juridical approach, which is a research method that relies on secondary data sources, such as literature materials. This

normative juridical approach involves an analysis of legal principles, legal systematics, and vertical and horizontal synchronization in the civil law system in Indonesia. In this way, this study examines the legal norms contained in applicable laws and regulations, especially in the context of the standard agreement in the lease purchase agreement and its legal impact in case of default by the buyer (Field, 2016)

RESULTS AND DISCUSSION

An agreement is an agreement between two or more persons that is legally enforceable. Factors influencing the development of treaty law in Indonesia are primarily progress in trade. The growing variety of trade transactions gave rise to different types of agreements made by the community.

A standard agreement is a written agreement in the form of a form that has been standardized by producers without considering individual consumer differences (Tri Purwani, Harto Listijo, Ika Listyawati, 2024). The use of standard agreements is increasingly common in trade to facilitate the transaction process. Sutan Remy Sjahdeini argues that the standard agreement arose because of the needs of the community over the past eighty years (Badruzaman, 1994).

In standard agreements, the economically weaker party often simply accepts the stipulated terms without being able to change them. Standard contracts not only include clauses that have been prepared in advance by business actors in documents that bind consumers, but also their forms. Standard clauses in consumer transactions are rules or conditions that have been set by business actors and must be obeyed by consumers according to the Consumer Protection Law (Poernomo, 2019).

Article 1 point 10 of the Consumer Protection Law emphasizes that the standard clause highlights the manufacturing procedure carried out by business actors, not the content. This manufacturing process is closely related to the terms of the validity of the agreement, namely the agreement of the parties to be bound by it, as stipulated in Article 1320 B.W. The agreement to be bound by a matter is the main condition for the existence of the agreement. If the parties have agreed on an agreed matter, they will be bound by the agreement based on the principle of consensualism. This principle is also related to freedom of contract, where a person has the freedom to enter into agreements with others on terms or contents set by that party (Njatrijani, 2017; Wahyu Avianto, Hermanto Siregar, Anny Ratnawati, 2024).

Indicator Klausula Baku includeing (Fuadi, 2001) :

- The content is determined unilaterally by the creditor who has a stronger position than the debtor.
- The debtor has no contribution in determining the content of the agreement.
- The debtor accepts the agreement out of necessity or compulsion.
- The form is written.
- Prepared in advance in bulk or individually.

Form of agreement with standard clauses, also known as standardized contract, pad contract, standard contract, or contract of adhesion.

The background to the emergence of lease purchase was first to address problems related to how to provide solutions when sellers face a lot of demand to buy their goods, but prospective buyers cannot afford to pay the price in cash. The seller is willing to accept payment in installments or installments, but requires a guarantee that the goods will not be sold again before the price is paid off.

In addition, the background of the birth of the lease purchase contract is also related to the principle of freedom of contract as stipulated in Article 1338 paragraph (1) of the Civil Code. This article gives freedom to the parties to make or not make a contract, enter into a contract with anyone, determine the substance, performance and terms of the contract, and determine the form of the contract, whether oral or written. This principle of freedom of contract provides an impetus for entrepreneurs to develop businesses through lease purchase contracts, considering the socioeconomic conditions of people who tend to have limited cash funds (Salim Hs, 2019).

Experts have different views on the definition of lease purchase, which is then divided into 3 kinds of definitions:

- 1) According to this view, lease purchase is defined as buying and selling with an installment payment system. This means that even if the buyer has already paid part of the price of the goods, the goods do not fully belong to him until the last payment is made. Only after the final payment, the buyer will have full ownership rights to the goods.
- 2) The second definition describes lease purchase as a form of lease with purchase options. That is, the tenant (buyer) can use the rented goods by paying a certain amount of money every certain period. However, the renter also has the option to purchase the item after several rental periods (Subekti & Tjitrosudibio, 2001).
- 3) The third definition states that lease purchase is a combination of sale and purchase and lease. In this case, the lease purchase contract has elements of both types of contracts. For example, the buyer can use the item by paying rent, but ultimately has the option to purchase the item after full payment is made. It describes the transition of the status of goods from lease to ownership after the last payment (Salim Hs, 2019)

Regarding the legal basis of lease purchase agreements in Indonesia, two important points became the basis for the jurisprudence of the Supreme Court on December 16, 1957 and the Decree of the Minister of Trade and Cooperatives Number 34 / KP / II / 80. In the case of N.V. Handelsmaatschappij Auto against Jordan, the Supreme Court gave an interpretation that strengthened the legal framework for the lease purchase agreement. Meanwhile, the Decree of the Minister of Trade and Cooperatives regulates the legal aspects of the practice of leasing purchases, detailing the procedures and rules to be followed.

The subject matter in the lease purchase agreement involves two main parties, namely the creditor (seller of the lease purchase) and the debtor (tenant of the purchase). Creditors are usually companies or businesses that produce goods or that are specifically

engaged in lease purchase agreements. On the other hand, a debtor is an individual or entity that acquires goods through a lease purchase system.

Goods that can be bought and sold must meet certain criteria, including that they are new durable commercial goods and have not undergone technical changes. Although the origin of the goods can be from own production or from other domestic production, provided that the goods meet these requirements.

The rights and obligations of each party to the lease purchase agreement are also regulated. The purchase tenant (creditor) has the right to receive installment payments from the debtor, while his obligations include giving the goods to the debtor, taking care of the return of the name of the goods (if applicable), extending the vehicle registration and vehicle tax (if needed), and taking good care of the rental goods. On the other hand, The debtor has the right to receive the leased goods after the last repayment and the obligation to take care of the leased goods at his own expense and pay installments on time.

A lease purchase agreement is a type of agreement that does not have a specific name (contract innominate). In addition to being regulated in the Nominal Contract Law, this kind of agreement is also regulated in Book III of the Civil Code.

In Book III of the Civil Code, there is only one article that regulates the contract of innominate, namely Article 1319 of the Civil Code which states that "All agreements, both those with special names and those not known by certain names, are subject to the general rules contained in the previous chapter."

Article 1338 of the Civil Code is a very important basis in making contracts outside the written provisions in the Civil Code. This article states that "All agreements validly made shall be valid as law to those who make them." This means that every agreement is binding on the party making it, grants the rights set out in the agreement, and sets out the obligations to be performed.

In making an agreement, it is important to pay attention to the terms of validity of the agreement, which consists of four conditions as stipulated in Article 1320 of the Civil Code:

1. There is an agreement from the parties bound by the agreement.
2. Legal capacity to make agreements.
3. The existence of a certain object that is the substance of the agreement.
4. There is a lawful reason to make the agreement.

Innominaat agreements arise because of the principle of freedom of contract, but this freedom remains limited by law, public order, decency, and decency. Therefore, the legal principles applicable to innominaat contracts also follow the principles listed in Book III of the Civil Code. Thus, the basis of the innominaat contract is the principle of freedom of contract stipulated in Article 1338 of the Civil Code.

The principles of innominaat contract law follow the principles stated in Book III of the Civil Code, especially the principle of freedom of contract stipulated in Article 1338 of the Civil Code. That is, the basis of the innominaat contract is freedom to contract, but it is limited by legal principles, such as law, public order, decency, and decency.

Although there is no law specifically regulating lease purchase or lease purchase, such agreements are still applied in society as long as they comply with the principles of freedom of contract and do not violate laws, decency, and public order. Lease purchase, which is a unique form of agreement, cannot be equated with a sale and purchase agreement or lease, although it has the characteristics of both.

A lease purchase agreement can be likened to the sale and purchase of a particular object, where the seller sells the goods taking into account any payment made by the buyer with repayment of the price of the goods agreed in the agreement. Title to the goods is only transferred from the seller to the buyer after the price of the goods is paid in full by the buyer to the seller.

The background to the emergence of the lease purchase agreement for the first time was to respond to problems that arose because most prospective buyers could not afford to pay the amount of money in cash. Thus, lease purchase contracts emerged as an alternative to overcome the limitations of people's purchasing power and the narrowing of the industrial goods market.

In addition, the background of the birth of the lease purchase contract is also driven by the principle of freedom of contract. However, various lease purchase contracts often do not specify exactly when the lease purchase agreement occurs.

If we refer to Article 1320 of the Civil Code, the momentum of a lease purchase contract is when there is an agreement between the lease purchase seller and the lease purchase buyer. There is no provision that requires the lease purchase agreement to be in writing. Agreements, including lease purchase agreements, can be oral or written. However, the existence of a written agreement can help prevent possible violations or defaults. Therefore, it is advisable to make a lease purchase agreement in writing, either by notarial deed or deed under hand, in order to provide security for all parties involved.

In all lease purchase agreements, it is agreed that the ownership of the goods will be transferred on the day of payment of the last month's rent or upon repayment of the price of the goods before the specified deadline. As long as the price of the goods has not been paid in full, the goods remain the property of the seller, although proof of ownership of the goods may be in the name of the buyer. This clause reflects the precautionary attitude of the seller towards the possible transfer of rights to the leased goods.

At the moment when both parties sign the letter of agreement, the lease purchase agreement is considered to be formed. Usually, no testimony from several witnesses is required, and a minimum stamp of Rp.6000 is usually affixed to the letter of agreement to strengthen its legal force. Although a lease purchase agreement is not the same as a sale and purchase or lease, it is a combination of the two, in which the parties exercise their rights and obligations in accordance with previously agreed terms.

An example of the application of a lease purchase agreement in Indonesia is when someone wants to buy a house through a lease purchase scheme. In this case, the buyer pays the down payment first, followed by installment payments or installments until paid off.

By paying a down payment, title to the house has not been transferred, even though the house is already occupied or controlled by the rental buyer. Rental buyers are required to maintain and maintain the house during the installment payment process. Title to the new house will transfer to the rental buyer after the last installment payment is made and the price of the goods is paid off. That's when the rental seller will submit proof of ownership of the house to the rental buyer.

In this context, a lease purchase can be thought of as a mixed agreement that combines elements of sale and purchase and a lease agreement. As long as the price of the goods has not been paid in full, the title to the goods remains with the seller of the lease, even though the goods are already in the hands of the rental buyer. The new title will be transferred from the seller of the lease to the buyer of the lease after payment of the last installment to settle the price of the goods (Bawarodi, 2014).

Marhainis Abdulhay describes default as when parties who should have fulfilled their obligations do not do so. The legal consequence of default is that the agreement does not need to be called for cancellation, because it is automatically null and void. However, Article 1266 paragraph 2 confirms that the legal effect of default does not directly cause cancellation, but must be requested cancellation by a judge. Articles from 1244 to 1252 of the Civil Code provide for compensation for default, which includes the payment of actual losses, costs incurred, as well as the right to sue for loss of potential profits. Further, the options for further prosecution are provided for in Article 1267 of the Civil Code.

The termination of a contract signifies the end of the agreement between two parties, namely the creditor (the party entitled to the performance) and the debtor (the party obliged to fulfill the performance). This concept can be applied to different types of agreements such as sale and purchase, accounts receivable, or lease. In the draft contract law, the process of termination of the contract is regulated in detail in articles such as Article 7.3.1 to Article 7.3.5. The articles include the right to terminate the contract, notice of termination, anticipation of non-performance, warranty against non-performance, and effect of termination in its entirety. Article 7.3.1 gives the right to terminate the contract when the failure to fulfill the obligations under the contract reaches a fundamental level (Salim Hs, 2019)

The expiration of the lease purchase contract may occur in the following situations::

1. The final payment has been settled.
2. The second party (the tenant buyer) dies and there are no heirs to carry forward the contract.
3. The buyer went bankrupt, and the vehicle was impounded.
4. There is a seizure by the rental seller against another party because the buyer has transferred the object of the lease purchase to another person.
5. One of the parties breaches the contract (default).
6. A court ruling has been issued.
7. Criminal acts such as fraud, destruction, or embezzlement occur.
8. Third parties commit unlawful acts.

The implementation of the lease purchase contract cannot be separated from these legal consequences. In practice, the errors or omissions of either party may result in legal liability. The lease purchase agreement binds both parties to fulfill the agreed obligations.

However, sometimes one of the parties does not fulfill the agreed obligations. It should be borne in mind that there is currently no specific Law regulating rental purchase contracts in detail. Therefore, the contract expiration process can be adjusted to the agreement of both parties.

Possible ways to terminate the contract include payment of the last installment, death of one party without heirs passing on, confiscation of goods leased by the seller to the other party, or permanent court judgment.

In execution, contracts may fail or be imperfect due to fault or external forces. This condition of non-performance of the contract is called default, which is the non-fulfillment of obligations that should be carried out in accordance with the contract.

The consequences of default can be described as follows:

1. Engagement obligations remain: Despite any delay in fulfilling the performance, the creditor still has the right to demand the performance of the performance from the debtor. The creditor is also entitled to claim damages for the delay. However, the withdrawal of goods by the rental seller from the rental buyer must be carried out in accordance with applicable legal procedures, taking into account the principles of fairness.
2. The debtor must pay compensation to creditors: Article 1243 of the Civil Code stipulates that debtors who commit defaults must pay compensation to creditors.
3. The burden of risk passes to the debtor: If an obstacle arises after the debtor defaults, then the risk of loss is transferred to the debtor, unless the creditor acts with grave error or willfulness.
4. Creditors can exempt themselves from providing counter-performance: If the initial agreement is reciprocal, creditors can exempt themselves from the obligation to provide counter-performance using Article 1266 of the Civil Code.

Damages may arise due to default or tort. Default is regulated in Book III of the Civil Code, while unlawful acts are regulated in Article 1365 of the Civil Code. Default can be in the form of not fulfilling overall achievements, delays in fulfilling achievements, or improper implementation of achievements. The defaulting debtor must pay compensation for costs, losses, and interest suffered by the creditor. The law specifies that the debtor must first be declared in a state of negligence before the indemnity obligation can be imposed.

The creditor has the right to demand payment of installments that are not fulfilled by the rental buyer. If the lease buyer does not fulfill his obligations, including timely payment of installments, then it is considered a default. In this case, the creditor can demand fulfillment of the agreement, fulfillment of the bond, and compensation for costs and interest.

CONCLUSION

The conclusion of this study highlights the importance of a deep understanding of the business practices of lease purchase contracts, especially in the context of the application of standard agreements and their legal implications in the realm of civil law. The business practice of lease purchase contracts, which is increasingly common in Indonesia, has raised questions about the balance of rights and obligations between providers and recipients of goods or services.

The application of standard agreements in lease purchase contracts has significant implications in the context of business law, with expanded discussions on consumer protection, legal liability, and dispute resolution. The importance of an in-depth understanding of the legal framework governing lease purchase contracts is crucial in ensuring equal rights and obligations between both parties.

From this research, we also gain a better understanding of the legal aspects associated with lease purchase contracts, such as the role of standard agreements, the contract termination process, and the legal consequences of default. Although there is no law that specifically regulates lease purchase contracts, this study provides a clear picture of the legal framework governing this practice in Indonesia.

In addition, the study underscores the importance of freedom of contract in the business practices of lease purchase contracts, while still paying attention to legal principles governing consumer protection and public order. With a better understanding of the dynamics and changes in the practice of lease purchase contracts, as well as their impact on business law, we can identify emerging challenges and opportunities, and develop appropriate legal frameworks to address them.

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