

The Study Of Consumer Protection In The Mystery Box Sale And Purchase Agreement On Shopee Marketplace Viewed From Indonesian Law

Muhammad Adib Afiq^{1*}, Moch. Najib Imanullah²

¹ Student Master of Law, Universitas Sebelas Maret, Surakarta, Central Java, Indonesia.

² Teacher Master of Law, Universitas Sebelas Maret Surakarta, Central Java, Indonesia.

* Corresponding author:

Email: adibafiq5@gmail.com

Abstract.

This study analyzes the Consumer Protection Study on the Mystery Box Sale and Purchase Agreement on the Shopee Marketplace viewed from Indonesian Law. This research is a normative legal research using secondary data sources through library research. The results of the study show that the Mystery Box Sale and Purchase Agreement in the Shopee marketplace violates the provisions of Article 1320 of the Civil Code regarding the element of "halal causes", and there are no specific rules regarding the protection of consumers who carry out electronic transactions, so that the rules regarding consumer protection are still referring to the Law of the Republic of Indonesia number 8 of 1999 concerning Consumer Protection. In this research, the case will be discussed in a comprehensive manner regarding the concept of a Mystery Box Sale and Purchase agreement and how to protect consumers regarding mystery box buying and selling transactions on the Shopee marketplace. This research is projected as a basis for studying in analyzing similar cases regarding Consumer Protection in Mystery Box Sale and Purchase Agreements on the Shopee Marketplace viewed from Indonesian Law Rules later in the future. The limitation of this research lies in the study using library data sources. In the future, it is hoped that similar research could use this research as a basic reference in conducting research that can obtain concrete data in the field. Thus, it can provide more factual outcomes according to the conditions that occur.

Keywords: *Consumer Protection, Sale and Purchase Agreement, Mystery Box and Shopee Marketplace.*

I. INTRODUCTION

The rapid advancement of technology cannot be separated from people's lives. Various information that occurs in various parts of the world can be known immediately because of interconnection networking or commonly known as the internet (Hendro Setyo Wahyudi & Mita Puspita Sukmasari. 2014). The development of internet technology in Indonesia is growing day by day. In Indonesia, internet network connections have spread from remote villages to all corners of the city, also various groups and levels of society have used this technology every day (Said Akmal. 2018). The sophistication of the internet that can connect people all over the world has indirectly affected various sectors of life, including the economic sector. Nowadays, there is a buying and selling method that utilizes the sophistication of internet technology which is commonly known as buying and selling online. Buying and selling online is a term that is very familiar to Indonesian people. In buying and selling online, buyers and sellers do not meet in person, they communicate and transact in cyberspace that utilizes internet technology.

Buying and selling online is a trend that has attracted various groups of people. Young people to old people become the subject of buying and selling online. Various kinds of goods are objects of buying and selling online, ranging from goods worth tens to hundreds of thousands such as snacks, perfumes and cosmetics to goods worth tens or even hundreds of millions such as motorcycles and cars (Tira Nur Fitria. 2017). Various kinds of goods are sold online in the marketplace, one of the items being sold is a mystery box. Mystery box is a way of selling online on marketplace which the buyer sending a certain amount of money to buy a secret box. The stuff inside the secret box are not known for certain by the buyer because it is kept secret. A lot of times, sellers will display advertisements with boxes containing very tempting items, such as smartphones, PCs, cameras, and other electronic goods. However, what consumers get after buying a mystery box is not as expected and certainly does not match the image in the advertisement. This is because the contents of the mystery box are random items, so there is an element of luck related to buying and selling this mystery box (Intan Rakhmayanti Dewi. 2021).

II. METHODS

In this study, the researcher uses a type of normative or doctrinal law research. Normative law research uses library law materials as a source of research data, so that normative law research is also called library law research or library research (Amirudin & Zainal Asikin, 2004). Normative law research is a product of legal behavior, for example studying laws. The main subject of the study is law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior. Thus, normative legal research focuses on positive law inventory, legal principles and doctrine, legal discovery in in concreto cases, legal systematics, level of synchronization, legal comparisons and legal history (Abdulkadir Muhammad. 2004).

III. RESULT AND DISCUSSION

1. Mystery Box Sale and Purchase Agreement on the Shopee Marketplace

Buying and selling is an activity conducted between two or more parties where the parties exchange an object for another object owned by another party. In the Civil Code, buying and selling is part of an agreement or what is commonly known as a sale and purchase agreement. The Civil Code regulates the conditions for the validity of an agreement. The legal terms of the agreement are regulated in article 1320 of the Civil Code (Mohamad Kharis Umardani, 2019). Buying and selling online is basically the same as conventional buying and selling, it's just that buying and selling online is done online where sellers and buyers meet in cyberspace because of the sophistication of internet technology. Buying and selling consists of two words, namely "selling and buying". The word "selling" indicates the act of selling while "buying" is the act of buying. It can be concluded, buying and selling is an act of two parties, one party as a seller/sell and the other party as a buyer/buying, so in this case a legal event occurs, that is buying and selling. Buying and selling is a legal event in the civil realm. According to Soeroso, buying and selling includes multiple legal events, which consist of more than one event, namely bargaining, delivery of goods, receipt of goods (Mohamad Kharis Umardani, 2019). The phenomenon of buying and selling online that continues to grow in various circles of society has led to the emergence of various E-commerce websites and marketplaces.

E-commerce websites and marketplaces are used as a place for online buying and selling transactions. Marketplace is an online website that acts as an intermediary between sellers and buyers. Many sellers with various types of products meet with many buyers on an online website (Erlinda Septiawati, 2021, accessed from <https://economy.okezone.com/read/2021/11/03/455/2495843/5perbedaan-e-commerce-marketplace-and-online-shop>, accessed on Wednesday 23 March 2022 at 16:45 WIB). Various kinds of goods are sold online in the marketplace, one of the items being sold is a mystery box. Mystery box is a way of selling online at marketplace place with the buyer sending money to buy a secret box which contents are not known to them because the seller kept it secret. Oftentimes sellers will display advertisements in the form of boxes containing very tempting items, such as smartphones, PCs, cameras, and other electronic goods. Various kinds of goods are sold online in the marketplace, one of the items being sold is a mystery box. Buying and selling online is a form of legal action called an agreement or engagement. The agreement requires conditions in order to be valid. The terms of the validity of the agreement consist of various provisions that must be fulfilled. The provisions are regulated in Article 1320 of the Civil Code. Article 1320 of the Civil Code states several provisions that must be fulfilled in order for an agreement to be valid, these include:

- a. their agreement to bind themselves;
- b. the ability to make an engagement;
- c. a certain subject matter;
- d. an undisclosed reason

Mystery box is a way of selling online at marketplace place with the buyer sending money to buy a secret box which stuffs are not known for certain, because the stuffs inside the box are kept secret so there is an element of luck related to buying and selling this mystery box. The characteristic of buying and selling Mystery Box that use the element of luck by risking the amount of money that must be paid to get the Mystery Box is felt to be very vulnerable to criminal acts of gambling or gambling crime. There are 3

elements that must be fulfilled in order for an act to be considered as a gambling crime, these three elements are (Moeljatno, 1984):

a. Game/Competition

Games are usually in the form of games or competitions. This act is done solely for fun or busyness to fill spare time. Basically, it is recreational, but here the actors don't have to be involved in the game. They maybe become the spectators or people who are betting on the course of a game or competition.

b. Hit-or-miss

To win a competition or game, more depends on speculative elements/chance or luck.

c. Bet

There are bets in this game or competition. In this competition, there are bets placed by the players or dealers, both in the form of money or other property, even the wife can be used as a bet. As a result of this bet, some parties get the benefit, others suffer losses. This element is the most important element to determine whether an act can be called gambling or not.

Mystery box is a way of selling online at marketplace place with the buyer sending money to buy a secret box which stuffs are not known for certain, because the stuffs inside the box are kept secret so there is an element of luck related to buying and selling this box. Buying and selling Mystery Boxes risks the money that must be paid to get the box, so buying and selling mystery boxes has a "gambling element". Buying and selling mystery boxes also includes game elements by buying mystery boxes whose purpose is just for fun and hoping to get items with higher nominal value. It can be concluded, the mystery box sale and purchase agreement has fulfilled the elements of article 303 of the Criminal Code.

The mystery box sale and purchase agreement on marketplace shopee violates Article 303 of the Criminal Code. So that it can be said that the mystery box sale and purchase agreement on the Shopee marketplace is against the law. This is because the mystery box sale and purchase agreement on the marketplace Shopee has violated Article 1320 of the Criminal Code, so automatically the mystery box sale and purchase agreement on the Shopee marketplace has also violated the provisions of Article 1320 of the Civil Code concerning the element of "legitimate reasons". A legitimate reason is interpreted as not being able to promise something that is prohibited by law or contrary to law. Therefore, the mystery box sale and purchase agreement on the marketplace shopee is said to be "null and void" because it violates the objective requirements in article 1320 of the Indonesian Civil Code.

2. Consumer Protection Regarding Mystery Box Sale and Purchase Transactions on the Marketplace.

Legal protection according to Mochammad Isnaeni is a theory of civil legal protection. Mochammad Isnaeni argues that based on the source, legal protection can be divided into two types, namely (Moch Isnaeni, 2016):

1. Internal legal protection

Internal legal protection is legal protection created through an agreement made by each party. The parties design their own clauses or the contents of the agreement which can result in legal protection for the parties who are bound in the agreement. The agreement is made with the aim that the interests of the parties are accommodated on the basis of a mutual agreement. Legal protection through the agreement will be realized if the position of the parties is equal.

2. External legal protection.

External legal protection is legal protection created by the authorities through the establishment of regulations aimed at the interests of the weak. In accordance with its essence, a regulation is made in a balanced and proportional manner without discriminating or favoring certain parties. External legal protection is formed to prevent injustice, arbitrariness of the interests of other parties, and losses for weak parties (Moch. Isnaeni, 2016).

Consumer protection according to article 1 number 1 of the Law of the Republic of Indonesia number 8 of 1999 concerning consumer protection, "Consumer protection is all efforts that guarantee legal certainty to provide protection to consumers". A lot of times, sellers will display advertisements with boxes

containing very tempting items, such as smartphones, PCs, cameras, and other electronic goods. However, what consumers get after buying a mystery box is not as expected and certainly does not match the image in the advertisement. This is because the stuffs inside the mystery box are random items, so there is an element of luck related to buying and selling this mystery box (Intan Rakhmayanti Dewi, 2021), accessed from <https://tekno.sindonews.com/read/530942/207/heboh-mystery-box-di-marketplace-bisnis-lottery-abal-abal-yang-hasilnya-zonk-1630670991/10>, accessed on Wednesday 23 March 2022 at 10:21 WIB). The discrepancy between the contents of the mystery box received by consumers and their expectations clearly causes disappointment. This is because when consumers buy a mystery box, they hope to get the goods according to the pictures shown in the ad. Consumer disappointment arises because they do not know about mystery box and its concept. The lack of information provided by mystery box sellers to consumers is one of the factors of disappointment.

Oftentimes sellers only show a picture of a box containing various kinds of valuable items at quite low prices, without explaining about buying and selling mystery boxes. The seller's lack of clarity in providing information about the goods being sold violates Article 7 letter b of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection which reads, "The obligation of a business actor is to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services and provide an explanation of the use, repair and maintenance" The mystery box sale and purchase agreement on the marketplace is a form of electronic transaction, because the sale and purchase agreement are made with the help of electronic media. Article 1 point 2 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions states that Electronic Transactions are legal acts carried out using computers, computer networks, and/or other electronic media. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions does not directly regulate consumer protection. In fact, if we look at one form of electronic transaction, namely the mystery box sale and purchase agreement on the Shopee marketplace which has disappointed consumers for several times, it is necessary to have special rules regarding the protection of consumers who make electronic transactions. Momentarily, the rules regarding consumer protection still refer to the Law of the Republic of Indonesia number 8 of 1999 concerning Consumer Protection, there are no specific rules regarding consumer protection for electronic transactions.

IV. CONCLUSION

Mystery box is a way of selling online on marketplace which the buyer sending a certain amount of money to buy a secret box, while the stuffs inside the box is not known for certain because the buyer kept it secret. Oftentimes, sellers will display advertisements with boxes containing very tempting items, such as smartphones, PCs, cameras, and other electronic goods. However, what consumers get after buying a mystery box is not as expected and certainly does not match the image in the advertisement. The mystery box sale and purchase agreement on the marketplace Shopee violates the provisions of Article 1320 of the Indonesian Civil Code regarding the elements of "legitimate reason". A legitimate reason means that it is not permissible to promise something that is prohibited by law or contrary to law, contrary to the value of decency, or contrary to order. The mystery box sale and purchase agreement on the marketplace Shopee violates Article 303 of the Criminal Code regarding gambling, so it can be said that the sale and purchase agreement is against the law. Therefore, the mystery box sale and purchase agreement on the marketplace Shopee is said to be null and void because it violates the objective requirements in article 1320 of the Civil Code.

The mystery box sale and purchase agreement on the marketplace is a form of electronic transaction, because it is made with the help of electronic media. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions does not directly regulate consumer protection. In fact, if we look at one form of electronic transaction, namely the mystery box sale and purchase agreement on the Shopee marketplace which has disappointed consumers for several times, it is necessary to have special rules regarding the protection of consumers for those who make electronic transactions. Momentarily, the rules regarding consumer protection still refer to the Law of the Republic of

Indonesia number 8 of 1999 concerning Consumer Protection, there are no specific rules regarding consumer protection for electronic transactions.

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