



Default in debt agreements through social media

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Abstract

Changes in the times have changed the form of agreements which originally only contained written or oral, but now agreements using digital in the form of smartphone as new form in their business activities. Contracts or agreements new form now have been protected by Law Number 1 Year 2024 concerning Information and Electronic Transactions as the second amendment to Law Number 11 Year 2008, which is called ITE Law. In specific provisions, especially in Article 1 number 17, it is explained that electronic contract is agreement made by both parties which is used through electronic system. Electronic is defined as a collection of devices and procedures which aims to prepare, collect, process, analyze, store, display, announce, transmit, and/or distribute electronic information. Problems then arise when one of the parties does not carry out the performance as agreed, resulting in a default. This study aims to analyze the legal force of debt agreements made through social media and examine the legal consequences arising from the occurrence of default in the agreement. This research method employs normative legal research with a statutory and conceptual approach, utilizing primary, secondary, and tertiary legal materials, collected through literature studies, processed, and analyzed qualitatively.

The results indicate that debt agreements made through social media remain valid and legally binding as long as they meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code and the provisions regarding electronic transactions in Article 18 paragraph (1) of the ITE Law. Default in debt agreements made through social media has legal consequences in the form of the creditor's right to demand fulfillment of performance, compensation, cancellation of the agreement, and transfer of risk in accordance with civil law. Thus, agreements made through social media have the same legal force as conventional agreements and provide legal protection for the parties in the event of default.

Keywords: Default, debt agreement, social media

Introduction

In social life, humans are inseparable from legal relationships with others, one of which is through agreements. An agreement is a legal act that creates rights and obligations for the parties making it. Provisions regarding agreements are regulated in Article 1313 of the Civil Code (KUHPerdata), which states that an agreement is an act by which one or more people bind themselves to one or more other people. For an agreement to be valid and legally binding, it must meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code, namely, agreement of the parties, capacity, a specific matter, and a lawful cause. Furthermore, Article 1338 of the Civil Code stipulates that every legally made agreement applies as law to the parties making it (*pacta sunt servanda*).

In practice, one form of agreement frequently entered into by society is a debt agreement. The provisions regarding lending and borrowing are regulated in Article 1754 of the Civil Code, which states that a loan is an agreement in which one party provides another party with a quantity of goods that are used up, with the condition that the recipient must return the goods in the same quantity and type. In an agreement, there are always obligations that must be fulfilled by the parties, as stipulated in Article 1234 of the Civil Code, namely, to provide something, do something, or not do something. If one party fails to fulfill the agreed performance, this is called a breach of contract and can result in legal consequences such as claims for compensation, cancellation of the agreement, or fulfillment of the performance.

Advances in technology and information have brought about changes in the form of agreements, from written or oral agreements to agreements made through electronic media, including social media such as WhatsApp. The existence of electronic contracts has been recognized and protected in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008^[9] concerning Electronic Information and Transactions. Article 1, number 17, explains that an electronic contract is an agreement between parties made through an electronic system. Thus, debt agreements made through social media are essentially legally binding as long as they meet the requirements for a valid agreement under the Civil Code.

However, under *das sollen*, legal provisions have provided certainty that electronic agreements have the same standing as conventional agreements and must be implemented in good faith by the parties. However, under *das sein*, many debt agreements made through social media are not properly implemented. Many debtors fail to fulfill their obligations to repay their debts within the agreed timeframe, while creditors often experience difficulties in proving and enforcing their rights because the agreements are made solely through social media conversations without conventional written evidence. This situation raises legal issues regarding the binding force, validity, and legal consequences of default in debt agreements made through social media. Based on these issues, the author is interested in further examining this in a study entitled "Default in Debt Agreements Through Social Media."

Agreement Debt Receivable in Civil Law

Agreement is the main source of the birth of engagements in civil law. Regulations regarding agreements are contained in the Civil Code, specifically Book III concerning Engagements. Article 1313 of the Civil Code states that an agreement is an act by which one or more persons bind themselves to one or more other persons. Based on the perspective of civil law, agreements are closely related to the concept of engagements. Agreements are one of the main sources of the birth of engagements as affirmed in Article 1233 of the Civil Code, which states that engagements are born because of agreements or because of laws. Thus, every agreement that is legally made will give rise to an engagement that creates legal relationships between the parties. This provision shows that the scope of agreements in civil law is broad and flexible, so that it can adapt to the needs and developments of society. As long as the performance can be determined, does not contradict the law, and can be implemented, the performance may become the object of a valid agreement. These provisions are reflected in Article 1338 paragraph (1) of the Civil Code, which affirms that all agreements legally made shall be valid as laws for the parties who make them.

In order for an agreement to be valid and to have binding legal force, it must fulfill the legal requirements of an agreement as stipulated in Article 1320 of the Civil Code, namely agreement between the parties, legal capacity, a certain object, and a lawful cause. The first two conditions are subjective conditions, while the last two conditions are objective conditions. If the subjective conditions are not fulfilled, the agreement can be cancelled, whereas if the objective conditions are not fulfilled, the agreement becomes null and void by law. In addition to the validity requirements of agreements, the implementation of agreements must also be based on the principle of good faith. Article 1338 paragraph (3) of the Civil Code affirms that agreements must be executed in good faith. The principle of good faith means that the parties are obliged to carry out agreements honestly, properly, and without harming the other parties in the agreement. A named agreement is an agreement that has been specifically regulated in the Civil Code, such as sale and purchase, lease agreements, and lending and borrowing agreements.

The debt receivables agreement is regulated in Article 1754 of the Civil Code, which states that lending and borrowing is an agreement whereby one party gives to another party a number of consumable goods on condition that the borrower will return goods of the same kind, quantity, and quality. According to J. Satrio, a lending and borrowing agreement is an obligatory agreement that gives rise to an engagement, namely a legal relationship between creditor and debtor which gives rise to the creditor's right to demand performance and the debtor's obligation to fulfill such performance. This legal relationship creates reciprocal rights and obligations between the parties. If the borrower fails to fulfill his obligations, then a default or breach of contract occurs. Agreements concerning debt receivables do not only create obligations to return the principal loan, but may also contain provisions regarding interest, repayment periods, and sanctions in the event of default. Therefore, the implementation of debt receivable agreements requires legal certainty and good faith from the parties so that the rights and obligations arising from the agreement can be properly fulfilled.

Validity of Electronic Agreements through Social Media

Contracts using social media, as regulated in Article 18 paragraph (1) of the ITE Law, are legally valid as long as they fulfill the legal requirements of an agreement. Therefore, electronic agreements remain binding upon the parties even though they are conducted digitally, including agreements concerning debt receivables. Accordingly, such agreements must still comply with the provisions of civil law as stipulated in Article 1320 of the Civil Code, which explains the legal requirements for the validity of an agreement, whether it is carried out electronically or conventionally. In essence, electronic contracts refer to agreements conducted through electronic media or social media platforms such as mobile phones, the internet, and other electronic devices that can be accessed by the parties involved in the agreement.

In the implementation of an agreement, the parties are obliged to respect and perform the agreement because an agreement legally made by the parties functions as law for those who make it. The existence of electronic contracts, including agreements through social media, is closely related to the principle of *pacta sunt servanda* as regulated in Article 1338 of the Civil Code. This principle means that every agreement or contract, whether conventional or conducted through social media, has a legal position equivalent to law for the parties who entered into it, thereby providing legal certainty and justice. The agreement between parties in an electronic contract through WhatsApp can be proven through the existence of mutual statements of intent or consensus between the parties. In practice, such agreements are commonly expressed through written conversations (chat), direct messages, or comments indicating acceptance of an offer. As long as there is no element of coercion, mistake, or fraud, agreements reached via WhatsApp are considered valid and legally binding.

The capability of the parties also remains an essential requirement in electronic agreements. If one party is not legally capable, the agreement may be subject to cancellation as regulated under civil law. Therefore, the use of social media does not eliminate the legal provisions regarding capacity as one of the requirements for the validity of an agreement. The validity of electronic agreements through WhatsApp is further strengthened by the provisions of the ITE Law. Article 1 number 17 of the ITE Law defines an electronic contract as an agreement between parties made through an electronic system. Social media applications such as WhatsApp are included within the scope of electronic systems that enable agreements through the exchange of electronic messages. Furthermore, the ITE Law affirms that electronic information and electronic documents, including their printed results, constitute valid legal evidence. Therefore, agreements made via WhatsApp possess binding legal force and may be used as evidence in resolving disputes before the court.

The Power of Proof of Debt and Receivable Agreements through WhatsApp

The development of information technology has changed the way people enter into agreements, including debt agreements, which are now often conducted through applications like WhatsApp. In civil law, an agreement does not have to be in writing as long as it meets the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. Therefore, debt agreements made

via WhatsApp conversations remain valid and binding on the parties, as stipulated in Article 1338 of the Civil Code. In civil evidence law, WhatsApp conversations are considered electronic documents recognized as valid legal evidence under Article 5 paragraph (1) of the Electronic Information and Transactions Law. Conversations containing debt agreements can be submitted as evidence in civil trials. However, their evidentiary force is considered private written evidence because they were created without the intervention of authorized public officials.

The evidentiary force of WhatsApp messages applies as long as the parties acknowledge the content and authenticity of the conversation. If one party denies this, the party submitting the evidence must prove its authenticity, for example through digital forensic examination or other supporting evidence. Article 5 paragraph (4) of the ITE Law also emphasizes that electronic documents are considered valid if they can be accessed, displayed, their integrity is guaranteed, and they can be verified. In practice, WhatsApp conversations usually do not stand alone, but are supported by other evidence as stipulated in Article 1866 of the Civil Code, such as proof of transfer, witnesses, voice recordings, and confessions from the parties. Furthermore, data authenticity and integrity are important factors, such as metadata, verified telephone numbers, and the consistency of the conversation content with other facts. According to Edmon Makarim, electronic agreements must meet the principles of electronic system reliability, namely ensuring the integrity of information, the authenticity of the parties' identities, and the traceability of the transaction process. If these principles are met, debt agreements made via WhatsApp are not only legally valid but also provide legal certainty in their implementation.

Default in Debt Agreements

Default is a form of violation of obligations arising from an agreement. In the Civil Code, the concept of default relates to the provisions regarding performance as stipulated in Article 1234 of the Civil Code, namely the obligation to provide something, do something, or not do something. If these obligations are not properly fulfilled, the obligated party can be declared in default. Therefore, default is essentially the failure to fulfill the promised performance. According to Subekti, default can occur if the debtor fails to fulfill what was promised, performs it but not as intended, performs it late, or does something that the agreement prohibits. Therefore, default is not limited to a total failure to fulfill performance but also includes performance that does not comply with the terms of the agreement. This situation indicates a violation of the principle of *pacta sunt servanda*, which obligates the parties to comply with the agreement. In debt agreements, default plays a crucial role because it directly relates to the legal relationship between the creditor and the debtor. The debtor is obligated to repay the loan within the agreed time and under the agreed terms. If these obligations are not fulfilled, the debtor can be declared negligent and in default. Conversely, the creditor has the right to demand fulfillment of the performance, compensation, or other legal consequences.

Forms of default in a debt agreement include:

- a. Failure to perform the performance at all, for example, the debtor failing to repay the loan after the due date.
- b. Performing the performance but not as intended, such as payments that do not match the amount or terms of the agreement.

- c. Late performance of the performance, namely payments made after the agreed time.
- d. Committing an act prohibited by the agreement, for example, using loan funds for purposes prohibited by the parties.

Default of performance has legal consequences for the debtor, such as the obligation to pay compensation, fulfill the agreement, or other demands from the creditor. Therefore, default is the primary basis for disputes in debt agreements.

Legal Consequences of Default in Debt Agreements through Social Media

Default in a debt agreement via WhatsApp essentially has the same legal consequences as default in a conventional agreement, as long as it meets the valid requirements of the agreement as stipulated in Article 1320 of the Civil Code and is recognized under the Electronic Transactions and Transactions Law. WhatsApp, in this case, functions as an electronic communication medium that can create a legal relationship if there is an agreement between the parties regarding the object and content of the agreement. If the debtor fails to fulfill their obligation to repay the loan as agreed, they can be legally declared in default. The primary legal consequence of default is the debtor's obligation to pay compensation in the form of costs, losses, and interest, as stipulated in Article 1243 of the Civil Code. The creditor can also demand fulfillment of the agreement, cancellation of the agreement, or enforced performance through the courts. In practice, before filing a lawsuit, a summons or warning is usually issued to the debtor, including through electronic media, as long as it can be proven that it was received.

Proving default through WhatsApp is supported by Article 5 paragraph (1) of the Electronic Transactions and Transactions Law, which recognizes electronic information and documents as valid legal evidence. Therefore, screenshots of conversations, chat histories, proof of transfers, and metadata can be used as evidence in court. This electronic evidence is usually corroborated by other evidence such as witnesses or statements from the parties. In addition to giving rise to civil liability, breach of contract through social media can also raise other issues, such as privacy violations and misuse of personal data if the creditor disseminates the debtor's data without permission. Therefore, the use of social media in debt agreements must still consider data protection and the good faith of the parties. Therefore, debt agreements through WhatsApp have the same legal force as conventional agreements. The debtor remains responsible for their negligence, while the creditor enjoys legal protection for their rights under the Civil Code and the Electronic Information and Transactions Law.

Efforts Settlement Default In Agreement Debt Receivables

Default in a debt agreement occurs when the debtor fails to fulfill their obligations as agreed, either by failing to fulfill them at all, being late in fulfilling their obligations, or performing them inconsistently with the terms of the agreement. This situation gives the creditor the right to demand fulfillment of their obligations or compensation. Therefore, civil law provides several remedies for resolving defaults, both through non-litigation and litigation.

a. Deliberation or Negotiation

The first remedy generally employed is deliberation between the creditor and debtor. This resolution is based on the principle of good faith as stipulated in Article 1338 paragraph (3) of the Civil Code. Through negotiation, the parties can find a mutually beneficial solution without involving the courts, thus being faster, more cost-effective, and maintaining good relations.

b. Summons

If deliberation is unsuccessful, the creditor can issue a written summons or warning to the debtor to immediately fulfill their obligations. The summons serves as an official statement that the debtor has defaulted and serves as evidence if the dispute proceeds to legal proceedings.

c. Debt Restructuring

Settlement can also be achieved through debt restructuring, such as extending the payment period, reducing interest, or rescheduling payments. This step is usually taken when the debtor is experiencing financial difficulties but still has good intentions to repay their debt.

d. Mediation or Alternative Dispute Resolution (APS)

Mediation is conducted with the assistance of a neutral third party to help the parties reach an agreement. This mechanism emphasizes amicable resolution, and the resulting agreement is binding if outlined in a written agreement.

e. Litigation in Court

If non-litigation efforts are unsuccessful, the creditor can file a breach of contract lawsuit in the district court. The lawsuit can involve demands for performance, compensation, or termination of the agreement. Litigation provides legal certainty through a judge's decision, although it requires more time and expense.

f. Claims for Compensation

Based on Article 1243 of the Civil Code, creditors can claim compensation in the form of costs, losses, and interest due to the debtor's failure to fulfill their obligations. Compensation aims to restore the creditor's position to the position it was in before the default occurred.

Overall, default resolution should be carried out in stages, prioritizing amicable settlement and good faith. However, if these efforts are unsuccessful, legal action can still be taken to provide legal protection for the parties.

Conclusion

The installation Based on the discussion, it can be concluded that debt agreements made through social media, particularly WhatsApp, are essentially valid and binding as long as they meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. An agreement between the parties expressed through electronic communication still creates a legal obligation and is valid as law for the parties in accordance with the principle of *pacta sunt servanda* in Article 1338 of the Civil Code. Social media essentially functions only as a means of electronic communication, while the substance of the agreement remains subject to civil law. The validity of these electronic agreements is also strengthened by provisions in the Electronic Information and Transactions Law, which recognizes electronic information and/or electronic documents, including printouts, as valid legal evidence.

Breach of contract in debt agreements made through social media carries the same legal consequences as breach of contract in conventional contracts. A debtor who fails to fulfill their obligations, whether through non-payment, late payment, or performance not in accordance with the agreement, may be declared in default. As a legal consequence, the debtor is obligated to reimburse costs, losses, and interest as stipulated in Article 1243 of the Civil Code. The creditor also has the right to issue a summons as an official warning before filing a civil lawsuit with the court to demand fulfillment of the obligation or compensation. During the evidentiary process, WhatsApp conversations, transfer receipts, screenshots, and other electronic documents can be used as valid evidence as long as their authenticity and integrity can be proven. Furthermore, resolving defaults in debt agreements through social media can be achieved through both non-litigation and litigation channels. Settlement through deliberation, negotiation, debt restructuring, and mediation should be prioritized as they are more effective and provide space for amicable resolution. However, if these efforts are unsuccessful, the creditor can pursue litigation through a default lawsuit in court. Thus, Indonesian positive law has provided legal certainty and legal protection for debt agreements made through social media, both in terms of the validity of the agreement, the provision of evidence, and the resolution of disputes resulting from default.

References

1. Abdulkadir M. Indonesian Civil Law. Bandung: Citra Aditya Bakti, 2000.
2. Adolf H. Fundamentals of International Contract Law. Bandung: Refika Aditama, 2010.
3. Hernoko AY. Contract Law: The Principle of Proportionality in Commercial Contracts. Jakarta: Kencana, 2014.
4. Mertokusumo. Understanding the Law, An Introduction. Yogyakarta: Liberty, 1999.
5. Muhammad A. Contract Law. Bandung: PT Citra Aditya Bakti, 2000.
6. Fuady M. Contract Law (From a Business Law Perspective). Bandung: Citra Aditya Bakti, 2017.
7. Prodjodikoro W. The Legal Principles of Agreements. Bandung: PT Sumur, 1997.
8. Ridwan K. Indonesian Contract Law in a Comparative Perspective. Yogyakarta: FH UII Press, 2013.
9. Salim HS. Contract Law. Jakarta: Sinar Grafika, 2008.
10. Satrio J. Contract Law, Contracts Arising from Agreements. Bandung: PT Citra Aditya Bakti, 1994.
11. Satrio. Contract Law, Contracts Arising from Agreements - Book I. Bandung: PT Citra Aditya Bakti, 2001.
12. Subekti. Principles of Civil Law. Jakarta: Intermasa, 1996.
13. Subekti R. Contract Law. Jakarta: Intermasa, 1987.
14. Vollmar. Introduction to Civil Law Studies II. Jakarta: Rajawali, 1984.
15. Yahman. Characteristics of Default and the Crime of Fraud. Jakarta: Prenadamedia Group, Rawamangun, 2015.
16. Yahya Harahap M. Legal Aspects of Contracts. Bandung: Alumni, 1986.
17. H ZA. Mudharabah Contract. CV. Adanu Abimata, 2022.