

# **Implementation of Default Settlement in Event Organizer Service Agreements During the Covid-19 Pandemic with Clients (Case Study of The West Jakarta District Court Decision Number 25/Pdt.G.S/2020/PN.Jkt.Brt)**

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## **Abstract**

President Joko Widodo announced that an Indonesian citizen had been confirmed positive for COVID-19 on March 2, 2020. Starting from the spread of covid-19 in Indonesia, the President of Indonesia issued Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Determination of the Nonalam Disaster of the Spread of Corona Virus Disease 2019 (Covid-19) which stipulates the spread of covid-19 to be a non-natural disaster. This normative legal research discusses the settlement of defaults on the basis of force majeure due to the COVID-19 pandemic. This research uses secondary data types using primary legal materials and secondary legal materials and is carried out with a statute approach, and a case approach. Based on Article 1233 of the Civil Code (KUHPerduta) which reads "each engagement is born either by consent, or because of the Law". Mariam Darus Badruzaman gave an explanation regarding an agreement is a legal relationship that occurs between two or more people located in the field of wealth, where one party has the right to achievement and the other party is obliged to fulfill the achievement. Based on this, the agreement has elements, namely: the existence of a legal relationship that attaches the rights and obligations of the parties, the agreement must fulfill the element of wealth, and the agreement must list which parties are active and which parties are passive. The parties should have renegotiated rather than brought a lawsuit to the court.

**Keywords:** Treaty Law, Service Agreement, Default, Force Majeur



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## **INTRODUCTION**

President Joko Widodo announced that an Indonesian citizen had been confirmed positive for COVID-19 on March 2, 2020. Starting from the spread of covid-19 in Indonesia, the President of Indonesia issued Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Determination of the Nonalam Disaster of the Spread of Corona Virus Disease 2019 (Covid-19) which stipulates the spread of covid-19 to be a non-natural disaster. The spread of Covid-19 has given rise to new policies from the government related to restrictions on community activities such as lockdowns, social distancing, physcal distancing, or work from home. The result of various policies issued by the government is the weakening of the economy. A weakening economy can result in restrictions on activities that can affect the wiggle room of business and result in the implementation of rights and obligations in business contracts being hampered.

The performance of rights and obligations in a business contract cannot be executed if there is no agreement between the parties. The agreement of the parties gives birth to an agreement, the agreement can give birth to a contractual relationship for the parties who have entered into an agreement to bind themselves through the agreement that the parties have made. Therefore, all clauses contained in an agreement must be complied with by the parties. Article 1320 of the Civil Code (KUHPerduta) explains the conditions for the validity of an agreement, while Article 1338 of the Civil Code the agreement that has been made by the parties



applies like an Act for which the parties make it. But in fact not all agreements can run well, there are often circumstances where the obligations or achievements of one of the parties cannot be fulfilled or what is commonly called a default or break a promise. The legal impact of a default can cause a contract to be void or null and void. The law has provided a platform for every activity that man performs in his life.

A covenant or contract is an attempt by man to fulfill various interests in the fulfillment of human life associations. One of the agreements in the association of human life is a cooperation agreement carried out by an event organizer. According to Setiawan, an event organizer is a business in the field of services officially appointed by the client to organize a series of events, starting from the process of concept making, planning, balancing, executing events to the entire series of events that have been made, this is useful to assist clients in realizing the goals they expect.

During its development, event organizers have specifications in several fields, such as music performances, product exhibitions, product launches, to wedding organizers. A wedding organizer must be able to realize every wish and dream of the bride and groom at the time of the wedding party in accordance with the agreement that has been mutually agreed upon. An agreement is an instrument that has elements of certain rights and obligations that can be expected to occur fairly and well and have proportionality in accordance with what has been mutually agreed upon. However, it is undeniable that there is a potential for an obstacle in its implementation which even results in contracting failures caused by various factors, both internal and external factors.

In recent business practices, the Covid-19 pandemic has become one of the external factors that hinder the implementation of contracts, as well as a lot of debate among business actors related to contracts. Debtors who basically have obligations in the agreed contract, with the Covid-19 outbreak, not a few want to take the opportunity to free themselves in fulfilling their achievements and also the existence of some business actors who make the basis that the pandemic situation is a reason for the cancellation of previously agreed contracts. For example, the non-fulfillment of achievements by one of the parties such as the case in the decision of the West Jakarta District Court Number: 25/Pdt.G.S/2020/PN.Jkt.Brt.

The District Court's decision decided a case of default that occurred between the bride-to-be and PT. Beautiful Green Aligned as a wedding organizer. That between the bride and groom and the wedding organizer has made and signed a purchase order No. PO:0085/KLT/I/09-08-2019 dated August 9, 2019 (agreement). Referring to the agreement, the parties have their own obligations, such as PT. Hijau Indah Selaras which has the obligation to hold a contract event and wedding reception for brides-to-be which will be held on April 5, 2020 and will take place at K-Link Tower. In its completion PT. Hijau Indah Selaras is considered by the bride-to-be to be unable to carry out her achievements to hold a contract event and wedding reception on April 5, 2020 or is considered to have committed a default. The forms of default, namely:

1. Not carrying out any achievements at all;
2. Carry out achievements, but not as they should;
3. Carry out achievements, but in a timely manner;
4. Carry out the deeds prohibited in the agreement.

Based on several things that the author has explained, the purpose of this study is to find out the legal basis for regulating consumer financing agreements in the perspective of contract law and to know the legal consequences of force majeure for the parties to consumer financing agreements in the event of covid-19.



## **RESEARCH METHODS**

This research uses normative-empirical legal research type research. This research is an in-action study on the applicability of normative law. This type of research is field research (foeld research), which is research that is carried out systematically and methodologically to reveal the data needed in research sourced from the field. Normative-empirical legal research examines the implementation or implementation of positive legal provisions (laws and regulations) and contracts factually; on each specific legal event that occurs in society in order to achieve a predetermined goal, the assessment aims to ascertain whether the results of the application to the legal event in concreto are appropriate or not based on the provisions of the law or the tenure of the contract. Normative-empirical research originated from the provisions of written positive law (statutes) imposed on legal events in concreto in society. The implementation or implementation is realized through real actions and legal documents. Based on the results of the application, it can be understood that the provisions of the undan-law or contract have been executed as appropriate or not.

## **RESULTS OF RESEARCH AND DISCUSSION**

Based on Article 1233 of the Civil Code (KUHPerdota) which reads "each engagement is born either by consent, or because of the Law". Mariam Darus Badrulzaman gave an explanation regarding an agreement is a legal relationship that occurs between two or more people located in the field of wealth, where one party has the right to achievement and the other party is obliged to fulfill the achievement. Based on this, the agreement has elements, namely: the existence of a legal relationship that attaches the rights and obligations of the parties, the agreement must fulfill the element of wealth, and the agreement must list which parties are active and which parties are passive.

As Article 1313 of the Civil Code which reads "an agreement is an act by which one or more persons bind themselves to one or more persons". According to Subekti, a covenant is an event where a person promises another person or where two people promise each other to carry out a thing. The parties may enter into an agreement as they wish on the principle of freedom of contract. This principle gives freedom to the agreement makers or parties to execute or not execute the agreement, make agreements with anyone, determine the content of the agreement, how it is implemented and the terms and determine the form of the agreement, which is written or unwritten. According to Atiyah, a contract has three objectives, namely:

1. The contract is obligatory to be executed (coercive) and provide reasonable protection;
2. The contract seeks to prevent an unjust increase in wealth;
3. The contract aims to prevent the occurrence of certain losses in the contractual relationship.

An agreed agreement must meet the conditions for the validity of the agreement as specified in Article 1320 of the Civil Code. The validity of an agreement in Article 1320 of the Civil Code is divided into two, namely subjective conditions, and objective conditions. The Subjective Requirements contained in Article 1320 of the Criminal Code are the agreement of the parties and the ability of the parties, while the objective requirement is a certain thing and a lawful cause.

In order to avoid differences in interpretation, agreements are made using language that can be understood by both parties. This is necessary so that in the future there will be no disputes between the parties. Referring to the provisions of Article 1338 paragraph (1) of the Civil Code which explains that all agreements made validly apply as laws to those who make them. (look for references related to *pacta sunt servanda*/ binding principle).



Later there is often the term purchase order (PO) which is a document that contains a request to the seller to provide stock of goods/services. Which in the document is accompanied by detailed information, including the price to be paid, the payment method, and the date of payment. If referring to the Supreme Court Decision through decision Number 1506 K / Pdt / 2002 dated September 23, 2004 states the legal rules: "The Purchase Order signed by both parties binding itself is an agreement so that it applies as an Act binding on both parties".

Purchase order can be interpreted as a commercial document issued by a company or someone who acts as a buyer in order to obtain the goods or services needed. In trade law, if a company sends an authorized Purchase order to the authorized company officer, and the seller has agreed by signing the Purchase order he received, then both parties make the transaction. Purchase orders can be a proof in a trading dispute if one of the parties does not carry out its obligations.

The position of the Purchase order in practice lies in the conformity of the will of the parties. From the information related to the sale and purchase agreement and purchase order, it can be seen that the Purchase order can be categorized as a sale and purchase agreement. This is because the purchase order / order letter involves two parties, namely the ordering party (buyer) and the party who received the order (seller). Obligations arising from the issuance of a Purchase order / order letter between the two parties where the booker issues the Purchase order / order letter is obliged to pay a price in accordance with the price of the goods / services purchased from the person who received the message and the recipient of the order letter (seller) is obliged to distribute the goods / provide services that have been ordered.

Based on the explanation above, it can be said that the Purchase order / Order letter is a form of new sale and purchase agreement that can be categorized as part of an innominate contract (unnamed agreement). A contract or agreement that is not stated in the Civil Code, but has its form in the practice of daily people's lives. Purchase order / Order letter can also be legally said to be a form of valid agreement. Because the Purchase order / order letter has met the conditions as much as it has been specified in Article 1320 of the Civil Code.

Based on the explanation above, the Purchase order No. PO: 0085 / KLT / I / 09-08-2019 as contained in the decision of the West Jakarta District Court No. 25 / Pdt.G.S / 2020 / PN.Jkt.Brt is a binding agreement. The purchase order is a binding agreement between Anienditha Cyanda Tuhfah and Adam Rahmansyah as the candidates for pangantin (the plaintiffs with PT. Hijau Indah Selaras as the Wedding Organizer (defendant) regarding the plan to hold the contract and wedding reception of the bride and groom. The implementation of the contract in the PO is scheduled for April 5, 2020.

Every agreement is an agreement born of good faith. This is as mentioned in Article 1338 paragraph (3) with the reading "the agreement shall be executed properly". Good faith can be distinguished in two senses, namely good faith in the subjective sense and in the objective sense. Good faith in the subjective sense means honesty. Meanwhile, in an objective sense, compliance related to the implementation of agreements or the fulfillment of achievements and how to carry out rights and obligations must heed the norms of propriety and decency.

The performance of the contract can be carried out properly if it is based on good faith and is supported by a good situation as well. The situation that occurs at this time is arguably unfavorable for everyone, especially for business actors. The situation in question is that there has been a Covid-19 pandemic in Indonesia, this has caused a lot of losses and in addition makes it difficult for business actors to meet their living needs. As happened in the decision of the West Jakarta State Complaint No. 25 / Pdt.G.S / 2020 / PN.Jkt.Brt the agreement on the implementation of the marriage contract for the bride and groom had to be canceled due to the COVID-19 pandemic in Indonesia.



Defendants through Notification Letter No. 122/HIS/DIR/POLICY RELATED TO COVID/III/20 dated March 16, 2020 concerning policies for stakeholders (brides-to-be) His Wedding Venue & Organizer related to the corona virus (Covid-19) outbreak phenomenon in Indonesia, informed and stated to the plaintiffs that according to the appeal and direction of the Governor of DKI Jakarta, a wedding event that invites many people at one time can still be carried out by carrying out preventive procedures the spread of the coronavirus (Covid-19) outbreak.

The force majeure pretext filed by the defendant is not based on the applicable legal provisions, which in fact is based on the SE of the Director General of the Islamic Milky Way No. P-002/DJ. III/Hk.00.7/03/2020, the marriage contract during the Covid-19 pandemic can still be carried out with the health protocol. The defendant has sent a letter of ability to enter into a marriage contract dated April 5, 2020, as per notification letter No. 122. The COVID-19 pandemic is included in a force majeure. As long as the party affected in this situation is a debtor who is able to prove that this pandemic is a force majeure situation. Therefore, debtors affected by covid-19 should be given the opportunity to renegotiate the ongoing agreement so that the debtor is not declared in default. Default is the non-fulfillment of achievements or promises by the debtor based on bad faith. Default or non-fulfillment of promises can occur intentionally or unintentionally. According to Yahya Harahap, default as an executor of an obligation that is not timely or carried out is not in accordance with the aftermath. This gives rise to the necessity for the Debtor to provide or pay damages, or in the event of a default by one of the parties, the other party may sue for cancellation of the agreement.

According to Ahmad Rizki, there are forms of default, namely not carrying out the content of the contract at all, carrying out part of the content of the contract, carrying out not the contract as it should be, executing the contract but late. Meanwhile, according to Subekti, default is the negligence or negligence of a debtor, it can be in the form of not doing what he is expected to do; carrying out what he promised, not as promised, doing what he promised but too late, doing something that according to the covenant he was not allowed to do.

One of the things that can be done by the debtor to be free from default or his obligations is to prove the incompleteness of the achievement because the debtor is in a situation that is not possible to fulfill it or in a force majeure. Provisions related to force majeure are regulated in Articles 1244-1245 of the Civil Code. According to R. Setiawan, force majeure stops the work of the agreement and causes several consequences, including that the creditor can no longer ask for the fulfillment of achievements, the debtor can no longer be declared negligent, the risk cannot turn to the debtor, at mutual approval, the creditor cannot demand cancellation. The element of force majeure is that there is no element of intentionality and element of good faith from the party who is hindered from fulfilling their obligations.

In this case, the defendant has provided a legal basis for the non-performance of the marriage contract or its achievements. The legal basis is Government Regulation (PP) No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating The Handling of Covid-19 dated March 31, 2020. The regulation regulates the implementation of large-scale social restrictions, such restrictions are carried out through the involvement of schools and workplaces, restrictions on religious activities, and/or restrictions on activities in public places or facilities. The defendant has therefore given his good faith, inter alia is:

1. That the defendant has given a notification letter No. 122/HIS/DIR/POLICY RELATED TO COVID/III/20 dated March 16, 2020 referring to the DKI Governor's Instruction No. 16 of 2020. In the letter, the defendant said that the wedding event that invited many people could still be carried out by carrying out covid-19 prevention procedures and the defendant offered to change the date of the event.



2. That the defendant through a statement of refund policy No. 240/B/HIS/K-LINK/GM/IX/2020 dated September 28, 2020, in essence, the defendant did not dispute any default on the implementation of the contract and the wedding reception of the plaintiffs and offered a refund to the plaintiffs in the amount of Rp. 80,940,000 (eighty million nine hundred and forty thousand rupiah), however it was rejected by the plaintiffs.
3. That the defendant through the decree of refund of marriage No. 241/A/HIS/K-LINK/GM/X/20 dated October 17, 2020 which in essence the defendant did not dispute the existence of default on the implementation of the contract and wedding reception of the plaintiffs and offered a refund to the plaintiffs in the amount of Rp. 112,950,000 (one hundred twelve million nine hundred and fifty thousand rupiah), however it was rejected by the plaintiffs.

Based on some of the above, the defendant has tried to convey his good faith to the plaintiff and has proved that covid-19 is a force majeure that causes the defendant to be unable to carry out his obligations (achievements). Because the defendant experienced force majeure or coercive circumstances that caused the defendant to be in difficult circumstances, the defendant may request renegotiation (renegotiation) to the party who has no difficulty in this case is the plaintiff. This renegotiation must be carried out in the good faith of both parties, so that the contract can still be carried out in accordance with the original purpose for which the contract was made.

Renegotiation is an alternative for the parties to be able to maintain the contract by making adjustments according to the circumstances and still maintaining the rights and obligations of the parties. Renegotiation is carried out by two-way communication between the parties, namely the first party as the communicator and the second party as a communicant or alternating each other in explaining their respective interests. The purpose of holding renegotiation is to obtain a reasonable exchange of rights and obligations in the performance of the contract because the event that occurs fundamentally affects the balance of the contract itself. Thus, renegotiation is an attempt to provide an opportunity to the party who is unable to carry out its obligations due to force majeure reasons to reorganize the rights and obligations of each party by not canceling the principal agreement.

Renegotiation settlement can be interpreted as one of the alternative methods of solving cases that have the characteristics of circumstances affecting the balance of the contract, in particular against commercial contracts. That way not all parties can renegotiate for no apparent reason, Sutan Remy Sjahdeini provides criteria for debtors who can renegotiate, namely: the debtor has good faith from the beginning of the agreement; the debtor's business still has good business prospects to be able to pay off its debts to creditors; the creditors will get a larger amount of debt repayment prolegation through debt restructuring than if the company (defendant) is declared bankrupt; debt terms based on debt restructuring are more favorable to creditors than before restructuring. Renegotiation can only be given to debtors who are considered to be able to still fulfill their achievements or obligations, as a form of legal protection provided to creditors, since the creditor is actually entitled to the achievements of the debtor and vice versa the debtor has the obligation to give his achievements. If the parties agree to renegotiate, then three things may happen, namely:

1. The parties agree that the existing contract is set aside and then negotiate a whole new agreement;
2. The parties cancel the terms of the old contract and replace them with new ones;
3. The parties give the existing contract but change some of its conditions called variations of the original contract.



The regulation is followed by the Instruction of the Minister of Home Affairs Number 15 of 2021 concerning the Implementation of Restrictions on Emergency Community Activities of Corona Virus Disease 2019. Engagement in the Civil Code is contained in book III on engagement (Van Verbintenis). The book describes agreements born of agreements (contracts) and agreements born due to laws such as unlawful acts, voluntary representation, and unpaid payments. In this regard, to suppress the growth of victims infected with covid-19, on March 31, 2020, the Indonesian government issued a policy through Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB). Then on April 3, 2020, the Minister of Health issued Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Covid-19. The implementation of the PSBB includes the involvement of schools and workplaces, restrictions on religious activities, restrictions on activities in public places or facilities, restrictions on social and cultural activities, restrictions on transportation modes, and restrictions on other special activities.

## **CONCLUSION**

Based on the discussion that the author explained above, the author provides several conclusions which include the following: Covid-19 is an event that occurs beyond human ability (force majeure), while the element of force majeure is that there is no element of intentionality and element of good faith from parties who are hindered from fulfilling their obligations; Purchase Order (PO) Number: 0085/KLT/I/09-08-2019 is a valid agreement, referring to the Supreme Court Decision No. 1506 K/Pdt/2002 dated September 23, 2004; The Defendant has proven to the Plaintiff that covid-19 and based on presidential decree No. 12 of 2020 which states that covid-19 as a non-natural disaster as a national disaster (force majeure) which causes the service agreement to be unenforceable as in PO Number: 0085/KLT/I/09-08-2019; The service agreement is declared to have ended in good faith with a reimbursement policy as referred to in the refund policy statement letter No. 240/B/HIS/K-LINK/GM/IX/2020 and the marriage refund decree No. 241/A/HIS/K-LINK/GM/X/20.

In accordance with the discussion and conclusions above, the author provides several suggestions which include: A civil suit to the court is not the only remedy for the issue of tort due to force majeure; Renegotiation can be an alternative solution to the problem of default due to force majeure; and Renegotiation is the agreement of the parties to set aside the old contract and negotiate to enter into a new contract and/or the parties give the old contract and negotiate to enter into a new contract and or the parties give the existing contract and make variations of the original contract.

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