

THE LEGAL FORCE OF THE COOPERATION AGREEMENT LETTER IN A COOPERATION AGREEMENT IS REVIEWED ACCORDING TO ARTICLE 1320 OF THE CIVIL CODE

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ABSTRACT

In every activity that is an agreement, of course, there is an agreement that has been made. Whether it is in business, or in certain special matters. This study aims to find out and analyze the regulation of cooperation agreement letters in the civil code (hyperdata). As well as knowing and analyzing the Principles and Determining Factors in Making a Draft Contract (Cooperation Agreement). This research belongs to the normative type of research. So it can be known that agreements are specifically regulated in the Civil Code, Book III, Chapter II on "Agreements Born of Contracts or Agreements" and Chapter V to Chapter XVIII which regulates the principles of legal principles and legal norms of treaties in general, as well as legal norms of treaties that have special characteristics better known as named agreements. In addition, basically, the contract that the parties conclude applies as a law to those who make it. The factors that must be considered by the parties are the legal authority of the parties, taxation, over legal rights, agricultural issues, choice of law, dispute resolution, termination of contracts, and the form of standard agreements agreed upon

Keywords: letter of agreement, cooperation, engagement

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INTRODUCTION

In every activity that is agreement, of course, there is an agreement that has been made (Harahap, 1982). Whether it is in business, or in certain or special matters (Kolk, 2016).

Articles 1320, 1266, and 1267 of the Civil Code describe the legal terms of an agreement and the waiver of articles in the occurrence of default.

In the explanation of Article 1230 of the Civil Code (Civil Code) can be found the legal terms of an agreement, in general, can be known as follows:

The four legal terms of an agreement include:

1. An agreement that binds both parties.
2. Proficiency in making an engagement.
3. A particular subject matter.
4. A cause that is not forbidden.

The four valid juridical requirements of an agreement contract are as follows:

- Objective valid terms based on article 1320 of the Civil Code.
1. Specific object/Subject.
 2. Allowed/justified/legalized causation.
- Subjective legal terms under article 1320 of the Civil Code.
1. The existence of the agreement and will.
 2. Authority to do.

- Common legal terms outside article 1320 of the Civil Code.
 1. The contract must be performed in good faith.
 2. The contract must not conflict with applicable customs.
 3. The contract must be performed on the basis of the principle of propriety.
 4. The contract must not violate the public interest.
- Special legal terms.
 1. Written terms for a particular contract.
 2. The terms of the notarial deed for a particular contract.
 3. The terms of the deed of an official other than a notary for a particular contract.
 4. The condition of permission from the authorized official for a particular contract.

Article 1266 of the Civil Code can be cited as follows:

"The void condition is deemed to always be included in a reciprocal agreement if one of the parties does not fulfill its obligations.

In such a case consent is not null and void, but annulment must be requested to the Court (Santosa, 2015). This request must also be made, even if the void condition regarding non-fulfillment of the obligation is stated in the consent (Dalimunthe, 2017).

"If the void condition is not stated in the agreement, then the Judge in view of the circumstances, at the request of the defendant, is free to give a period of time to fulfill the obligation, but that period shall not be more than one month."

Article 1267 of the Civil Code can be cited as follows:

"The party against whom the engagement is not fulfilled may vote; forcing the other party to comply with the agreement, if it is still possible, or demanding the cancellation of the agreement, with reimbursement of costs, losses, and interest."

The waiver of Articles 1266 and 1267 is so that in the event of default or non-fulfillment of the contents of the agreement by one of the parties, then:

The cancellation of an agreement does not need to go through the process of a void application to the court but can be based on the agreement of the parties themselves (Lambsdorff, 2002).

A party whose agreement is not fulfilled may force the other party to fulfill the contents of the agreement or demand the cancellation of the agreement to the court by charging reimbursement of costs, losses, and interest (Chang & Ive, 2007).

METHOD

The research method used in this study is a normative legal research method. Normative legal research is legal research carried out by examining library materials or secondary data (Soekanto, 2007).

According to Marzuki (2017), normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced.

In this type of legal research, often the law is conceptualized as what is written in legislation or law is conceptualized as a rule or norm that is a benchmark for human behavior that is considered appropriate (Asikin, 2004).

RESULTS AND DISCUSSION

Regulation of Cooperation Agreement Letter in the Civil Code (KuhPerdata)

The Civil Code is a law that is a source of formal law as well as a source of material law for treaty law in force in Indonesia.

The Agreement is specifically regulated in the Civil Code, Book III, Chapter II on "Agreements Born of Contracts or Agreements" and Chapters V through Chapter XVIII which regulate the legal principles and legal norms of treaties in general.

As well as the legal norms of treaties that have special characteristics that are better known as named agreements (Harefa & Tuhana, 2016).

Based on Article 1233 of the Civil Code regarding covenants, explains that: "An engagement was born because of an agreement or because of a law." (Civil Code).

Furthermore, Article 1333 of the Civil Code states that: "An agreement is an act in which one or more persons bind themselves to another or more persons."

Based on provisions in Article 1320 of the Civil Code, it states that there are 4 (four) conditions for the validity of an agreement, namely:

1. There is a word of the agreement for those who bind themselves;
2. The ability of the parties to make an agreement;
3. A certain thing; and
4. A cause (*causa*) that is lawful.

The first and second terms are called subjective terms because they pertain to the subject of the agreement. Meanwhile, the third and fourth terms related to the object of the agreement are called objective conditions.

The difference between the two terms is also associated with the null and void issue (*nieteg or null and ab initio*) and the *vernietigbaar=voidable* of an agreement.

If the objective conditions in the agreement are not met then the Agreement is null and void or the agreement is void, the law considers the agreement to have never existed.

If the subjective conditions are not met then the Agreement may be canceled or as long as the agreement has not been or is not canceled by the court, then the agreement in question continues to be in force. The four conditions for the validity of the treaty are the basis for the birth of a treaty.

In the law of covenants, we know five important principles that are at once the essence of the law of covenants (Sinaga, 2018). The five principles are:

1. The principle of freedom to enter into agreements

Freedom of entering into treaties is one of the principles in the common law prevailing in the world (Anand, 2011).

This principle gives every citizen the freedom to enter into an agreement on anything, provided that it does not conflict with laws and regulations, propriety and public order.

Article 1338 paragraph (1) of the Civil Code states, "All agreements made lawfully apply as laws to those who make them".

The principle of freedom of entering into a treaty is a principle that gives freedom to the parties to the agreement to:

- a. Make or not make an agreement;
- b. Enter into an agreement with anyone;

- c. Determine the content of the agreement, its implementation and terms;
- d. Determine the form of the agreement i.e. written or unwritten;
- e. Accept or deviate from the provisions of the legislation of a rational nature.

All agreements or the entire contents of the agreement, provided that they are qualified, apply to their makers with the same force as the law.

The parties to the agreement are free to enter into an agreement with any content in an agreement by taking into account the applicable legal limitations, including the limitations of moral norms living in society.

2. The principle of consensual

The principle of consumerism can be traced in the formulation of Article 1320 paragraph (1) of the Civil Code.

In this article, it is determined that one of the conditions for the validity of the agreement is the agreement of both parties. The agreement is valid if an agreement has been reached on the subject matter and no more formalities are needed (Hayek, 2002).

However, various provisions of the law stipulate that for the validity of the agreement must be made in writing or is required to be made by a deed made by an authorized official (for example, a deed of establishment of a Limited Liability Company).

The principle of consensual known in the Civil Code relates to the form of agreements.

3. The principle of *pacta sunt servanda*

This principle is translated as the principle of legal certainty summarized in the formulation of Article 1338 paragraph (1) of the Civil Code, "All agreements made validly apply as laws".

The *principle of pacta sunt servanda* states the judge or third party must respect the substance of the agreement entered into by the parties, as befits a statute.

They may not intervene or intervene in the substance of the agreement concluded by the parties.

4. Principles of good faith

Article 1338 paragraph (3) of the Civil Code states that, "All agreements shall be executed in good faith".

This principle states that the parties, namely the creditor and the debtor, must carry out the substance of the contract based on the trust or firm belief or good will of the parties (Mackaay, 2011).

5. The principle of personality

It is the principle that determines that a person who will perform and or make a covenant is for individual purposes only (van Dyke, 1977). This can be seen in Article 1315 and Article 1340 of the Civil Code.

Article 1315 is formulated, "Generally no man may bind himself on his own behalf or ask for the establishment of a promise, except for himself".

Article 1315 relates to the formulation of Article 1340 of the Civil Code, "Agreements are valid only between the parties who make them" (<http://titin trianaash.blogspot.com/2015/06/normal-0-false-false-false-in-x-none-x.html>. Titin Triana. Legal Certainty of Oral Treaties.).

In addition to the five principles above, there are still some basic things that can be used as guidelines in making covenants. This provision is universal and morally liable.

Some of these basic principles are:

- a. The principle of trust;
- b. The principle of legal equality;
- c. The principle of balance;
- d. The principle of legal certainty;
- e. Moral principles;
- f. The principle of propriety;
- g. The principle of habit; and
- h. The principle of protection.

Principles and Determining Factors in Making a Draft Contract (Cooperation Agreement)

What is meant by the principles in contract design is the basis or principles that must be considered in designing a contract (Sangiovanni-Vincentelli et al., 2012).

Every contract designer who will design a contract, whether it is a contract that has been known in the Civil Code or that lives and develops in society, must pay attention to the principles in designing the contract.

Erman Rajaguguk stated that there are ten basic principles that must be considered in contracts that are commonly used in Indonesia and deserve the attention of international trade contract designers. The ten things include:

- (1) Use of the term,
- (2) The principle of freedom of contract,
- (3) The principle of bidding and acceptance,
- (4) Good faith,
- (5) Risk switching,
- (6) Indemnity,
- (7) Emergency
- (8) Reasons for termination,
- (9) Choice of law, and Dispute resolution.

Factors To Be Considered in The Drafting Of The Contract Basically the contract that the parties make applies as a law to those who make it.

Thus, the contract concluded by the parties equates its binding force with the Act.

Therefore, designing a contract requires thoroughness and accuracy from the parties, both the creditor and debtor, the investor and the rights of the state concerned, and the contract designer and notary.

The factors that must be considered by the parties who will enter into and conclude a contract are:

- (1) Legal authority of the parties,
- (2) Taxation
- (3) For a legitimate right,
- (4) The problem of agriculture,
- (5) Choice of law,
- (6) Dispute resolution,
- (7) Termination of the contract, and
- (8) Standard form of agreement.

In this case, the author takes one example of a cooperation agreement contract by PT. Clipan Finance Indonesia Tbk Labuhanbatu branch of Barton car showroom in Labuhanbatu Region.

In the cooperation agreement Letter Number 01 / PKS-SR / CFI-843 / VII / 2022 article 1 concerning Rights and Obligations in point 1 between PT. Clipan Finance Indonesia Tbk Labuhanbatu Branch Against Barton Mobil Showroom said that PT. Clipan Finance Indonesia Tbk Labuhanbatu Branch will conduct research and analysis of customer capabilities in accordance with the creditworthiness requirements set by PT. Clipan Finance Indonesia Tbk. Clipan Finance Indonesia Tbk Labuhanbatu Branch.

CONCLUSION

Based on the above explanation, it can be concluded that the agreement is specifically regulated in the Civil Code, Book III, Chapter II on "Agreements Born of Contracts or Agreements" and Chapter V to Chapter XVIII. Which regulates the principles of legal principles and legal norms of treaties in general, as well as the norms of treaty law that have special characteristics better known as named treaties.

In addition, basically, the contract that the parties conclude applies as a law to those who make it. Therefore, drafting a contract requires the thoroughness and thoroughness of the parties.

The factors that must be considered by the parties to enter into and make the contract are the legal authority of the parties, taxation, over legal rights, agricultural issues, choice of law, dispute resolution, termination of the contract, and the form of the agreed standard agreement.

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