

Legal Analysis of Fraud Disputes in Franchise Practices: An Overview of the Perspective of Civil Society Capita Selecta

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Abstract

This article discusses a legal analysis of fraudulent disputes that occur in franchise practices. The main focus of this analysis is to look at fraud disputes in franchise practices from the perspective of civil society capita selekta. This research was conducted by collecting data from relevant primary and secondary legal sources. In the context of franchising, fraud disputes occur when a franchisor knowingly commits fraud or provides false information to a franchisee with the aim of making a profit. This kind of fraud often involves misunderstanding of the franchise contract, injustice in business practices, lack of communication and support from the franchisor, and non-compliance with operational standards. This legal analysis of fraudulent disputes in franchise practices uses the principles of contract law, fairness and protection of rights. Contract law principles are used to interpret, enforce and enforce franchise contracts. The principle of justice ensures that dispute resolution is carried out in a fair and objective manner. Meanwhile, protection of rights is important in maintaining the integrity of the franchise industry and promoting the sustainability of this industry. In handling fraud disputes in franchising practices, it is important for franchisees to understand the franchise contract well and comply with the stipulated conditions. In the event of fraud on the part of the franchisor, the franchisee may bring legal claims based on breach of contract, unfair business practices or fraud. In conclusion, the application of legal principles in handling fraud disputes in franchise practices is very important. This article provides an overview from the perspective of civil society, taking into account the principles of contract law, justice and protection of rights. This research provides a better understanding of fraud disputes in franchise practices and their relevance in the context of civil law capita selekta.

Keywords: Civil, Franchise, Fraud, Dispute



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INTRODUCTION

The relevance of civil law is contained in civil selecta capita which is capable of being a form of protection of rights and interests. Which civil law functions to protect the rights and interests of individuals and legal entities in their legal relationships. By researching and analyzing Civil Registry Capita Selektta, the public can understand how civil law can provide fair and effective protection for individuals and legal entities in the context of various situations and problems that arise. In addition, the settlement of civil law disputes is also closely related to the settlement of disputes between the parties involved. Research and analysis on Civil Civil Engineering Capita Selektta can support an understanding of the various available dispute resolution methods, such as through courts, arbitration or mediation. With a deep understanding of dispute resolution, we are able to develop better approaches in resolving conflicts and achieving justice for all parties involved.

And finally, civil selecta capacity is also an indication of the development of civil law. Where civil law continues to experience development along with social, economic and technological changes. Through research and analysis, Kapita Selektta Civil Affairs can easily track developments in civil law, identify new trends, and understand how civil law can adapt to

changes in society. This is important to ensure that civil law remains relevant and effective in responding to the challenges of the times.

Apart from the urgency of the civil capita selekta analysis, Decision Number 200/PDT/2020/PT.BDG is a form of civil dispute case in the realm of franchising. The main problem in Decision Number 200/PDT/2020/PT.BDG is shown as an agreement that has been made by both parties related to being fully aware of the law and has even fulfilled the legal requirements of the agreement as regulated in Article 1320 of the Civil Code. The essence of the Article is: "All engagements carried out by competent people without violating the law, are a law for those who make it."

Article 1320 of the Civil Code of course contains a fundamental principle in civil law which states that every agreement made by a person who has legal capacity and does not conflict with the law, has legal force that binds the parties who make it. In other words, the engagement is considered as a law for the parties involved in the agreement. Article 1320 of the Civil Code also emphasizes the principle of freedom of contract, in which parties who are authorized and able to make contracts have the freedom to determine the terms, rights and obligations in their contracts. However, this principle is still subject to existing legal restrictions, so that an agreement that violates the law or contradicts the provisions regulated by law is invalid. Thus, Article 1320 of the Civil Code in general emphasizes the principle that agreements that are legal and legally made by authorized parties have binding legal force and must be obeyed by the parties involved.

However, in the agreement there is a dispute over the franchise agreement, where the Defendant commits a default as indicated by the non-fulfillment of the obligations stipulated in an agreement by one of the parties. In the context of an engagement or contract, default occurs when one party does not fulfill the agreed upon obligations or does not do what is expected in accordance with the terms of the agreement. This is indicated by the non-fulfillment of debt repayment of Rp. 460,000,000.00 (four hundred and sixty million rupiah) which was allocated as a business building lease fund and Rp. 90,000,000.00 (ninety million rupiah) as a contract settlement fund for the establishment of the Sop Duren business. Lodaya to the Plaintiff. Apparently when the Plaintiff asked the Defendant to carry out his obligations as stipulated in the previously agreed Contract Articles, the Defendant gave a response to choose to cancel the agreement while there were several funding or financial issues that had not been reported and paid for by the Defendant.

The franchise dispute was also investigated by Muhamad Utsman Mubarak in his thesis. Where he examines the legal protection that can be obtained by franchisees in the "Little Chiclin" standard agreement. In the standard Little Chiclin agreement, matters that must be considered include ownership, changes in ownership, and inheritance rights; dispute resolution; as well as procedures for extending, terminating and terminating the agreement. In addition, the structure of the Little Chiclin franchise agreement must comply with the provisions of Government Regulation Number 42 of 2007 concerning Franchising. So in determining whether a franchise agreement is legal or not, it can be done by checking whether the agreement meets the provisions stipulated in Government Regulation Number 42 of 2007 concerning Franchising. In addition, the franchise agreement must also pay attention to the rights and obligations of the parties, including intellectual property rights, as well as procedures for extending, terminating and terminating the agreement. If a franchise agreement does not meet these conditions, it can be said to be invalid.

Elise, Detania Sukarja and Tri Murti Lubis also conducted research on the existence of legal aspects of franchise agreements in the coffee business in Medan City. In this research, it is stated that the franchise agreement is an anonymous contract that combines concepts such as

freedom of contract, consensualism, Pacta Sunt Servanda, and good faith. In addition to these principles, there are several other principles that must be included in the franchise agreement, including the concepts of collaboration, cooperation, confidentiality and information privileges. There are more components in each agreement. As there are essential, natural, and incidental aspects are the three basic criteria that must be met. Indira Hastuti concludes that apart from the principal, the elements in the franchise agreement are an agreement between the franchisor and the franchisee, granting rights from the franchisor to the franchisee, granting rights that are limited to a certain time and place, and the availability of payment of a certain amount of money from franchisee to franchisor. In addition, there should be more attention to matters outside the franchise agreement regulated by Indonesian law, such as the prospectus and STPW, which can also affect the legality of the previously made agreement, especially if there are civil law issues.

Based on several literature reviews, this has led to researchers' tips to further explore Decision Number 200/PDT/2020/PT.BDG while remaining within the scope of civil society capita selecta. So that the question arises from researchers regarding how to review civil capita selekta in franchise dispute cases contained in Decision Number 200/PDT/2020/PT.BDG, then regarding the factors that encourage fraud disputes in franchise practice disputes and how to apply legal principles used to handle franchise fraud dispute in this ruling. So it can be said that the purpose of this research was conducted to find out how the development of civil capita selecta in Indonesia in the form of the complexity of civil law that applies in accordance with the legislation.

RESULTS AND DISCUSSION

Review of the Civil Code Capita Selecta in Decision Number 200/PDT/2020/PT.BDG

Franchise dispute as stated in Decision No. 200/PDT/2020/PT.BDG is included in the capita selecta category because it has a significant impact on business actors and related industries. Capita selecta is a Latin term meaning "carefully selected things". In the legal context, capita selecta refers to cases or issues that have high complexity, have a large impact, and affect the interests of many parties. Franchise disputes fall into this category because they involve a contractual agreement between the franchisor and the franchisee). This agreement defines the rights and obligations of each party, including the use of trademarks, operational support, and payment of royalties. In line with this, Decision No. 200/PDT/2020/PT.BDG has a significant impact on several aspects for PT. Lodaya Makmur Perkasa, because of the problem, in this case the franchisor or marketing franchise became the victim of the dispute. This is shown by the existence of acts of default committed by the Defendant. Therefore, the following impacts arise as contained in this Decision:

1. Financial Losses. The financial loss is a burden for the Plaintiff which is known to be PT. Lodaya Prosperous Mighty. In this case, the loss suffered is that there is a report on profits that have not been paid or have not been implemented by the Defendant which has not resulted in the accumulation of financial statements, besides that there is deferred money for the rental of business buildings obtained from loan money to the Plaintiff by the Defendant and agreement money the franchise has not been fully repaid.
2. Operational Disruption. Franchise disputes can disrupt the continuity of business operations carried out by PT. Lodaya Prosperous Mighty. When a dispute occurs, the provision of operational support and training from the franchisor to the franchisee is stopped or interrupted. This can affect service quality, operational efficiency and overall business reputation. In addition, the Defendant also carried out persecution with the aim of destroying the head office of PT. Lodaya Makmur Perkasa, where the factory is chained and

locked, causing disruption to the company's operations in producing new ingredients for Lodaya Duren Soup for other Lodaya franchise branches.

3. Disruption to the Franchise Network. Franchise disputes that occur as stated in this Decision create instability in the franchise network. Legal uncertainty arises and influences investment decisions, growth and development of franchise networks. This can hinder future business expansion and growth.
4. Brand Reputation Loss. Franchise disputes that are in the public eye can damage the reputation of a trademark for both the franchisor and the franchisee. In this case, the threat of damaged reputation is internal, which is indicated by the existence of arrears in employee salaries that have not been paid by the Defendant for 2 (two) months. So, of course, the reputation of the Sop Duren Lodaya stall will not be good as a company engaged in the FnB sector. Of course there will be spread of word of mouth which is a sign of the lack of good strategic management of the Lodaya Makmur Perkasa company.
5. Impact on the Franchise Industry. Franchise disputes that attract public attention can create concern among investors and potential franchise partners. They may become skeptical of the franchise business model as a whole, which could hinder the growth of the franchise industry as a whole.

As such, franchise disputes not only have a direct financial impact on the parties involved, but can also create uncertainty, operational disruptions, loss of reputation, and affect the franchise industry as a whole. Therefore, effective and timely resolution of franchise disputes is very important to minimize the negative impacts that may occur. When a dispute occurs between the franchisor and the franchisee, the problems that arise can also involve various aspects, such as breach of contract, trademark infringement, differences in interpretation of clauses in the agreement, or problems related to providing operational support and training. Such disputes often involve multiple parties and have significant economic implications, especially if the franchise network involves multiple business units or territories. In addition, franchise disputes can also affect the reputation of the trademark and the franchise industry as a whole. If there is a dispute that harms one of the parties or disrupts the continuity of business operations, this can create concern among investors, potential franchise partners and customers. Therefore, the resolution of franchise disputes often requires careful and in-depth legal handling, as well as considerations involving various interests.

Factors That Drive Franchise Disputes Against Defaults made by Franchisees

It is known that in Decision No. 200/PDT/2020/PT.BDG that the Franchisee committed a violation or default by not carrying out his obligations as stated in the contract agreement letter which had been agreed by both parties consciously and had fulfilled the legal requirements of the contract. The default committed by the Defendant or the franchisee seems to reap different facts. This is because the Plaintiff or PT Lodaya Makmur Perkasa who was represented by the Rauf Brotherhood had experienced problems or a separate case. Where it is known that the identity of the Ikhwan Rauf is unclear, he claims to be the Director representing the company. Then, Ikhwan Rauf has also served a period of detention as a result of the Criminal Decision obtained by dropping the case without having legal standing in this case.

Furthermore, as in the exception of Decision No. 200/PDT/2020/PT.BDG states that the Ikhwan Rauf used the legality of the company only for personal gain. The Ikhwan have trapped the victims to get their money, this is also what the Defendant did in this Decision. This is confirmed by the existence of a transfer account bearing the name of Ikhwan Rauf. So, it means that the Ikhwan Rauf was declared unfit to hold the status of a legal entity representative because the fraud that was committed was on behalf of PT Lodaya Makmur to take capital

money from the victims or franchisee only. So in line with that it is possible that there are factors underlying or encouraging the Defendant to commit acts of default, including the following:

1. Fraud by the franchisor. If the franchisor intentionally commits fraud or provides wrong information to the franchisee with the aim of gaining profit, this can be a factor that encourages franchise disputes. It is possible that this has been disclosed or detected by the franchisee because the account is in the name of a person, not a company.
2. Error in understanding the franchise contract. If the franchisee does not fully understand the contents of the franchise contract or does not follow the stipulated terms, this can lead to disagreements and has the potential to become a dispute. So, it can be interpreted that the contract agreement that has been prepared by the Ikhwan or as the plaintiff looks convincing. However, the victim or as the Defendant did not realize that there were obstacles from the start.
3. Injustice in business practices. Franchisees feel that they are being treated unfairly by the franchisor. This is because, upon further investigation, it turned out that the Ikhwan, as the party claiming to be the franchisor's representative, had already ensnared victims by offering the same franchise business just to take advantage of the franchisor. Thus, the meaning of this is a form of blackmail.

In cases of franchise disputes involving fraud on the part of the franchisor acting on his behalf, the franchisee appears to have wisely brought legal claims against the franchisor based on breach of contract, unfair business practices, or fraud. In this case, the franchisee has collected strong evidence and has taken the right path of legal claims and can bring justice to the franchisee as a victim.

Application of Legal Principles in Handling Franchise Disputes

The application of legal principles in handling franchise disputes is considered important, this is because to obtain valid legal certainty. Where in the context of franchising, the application of legal principles provides legal certainty for both parties, namely the franchisor and franchisee. Legal principles help regulate the contractual relationship between the two parties, define their rights and obligations, and provide a clear framework for resolving disputes that arise. In addition, the application of legal principles will also guarantee the protection of the rights of both parties. Legal principles play an important role in protecting the rights of both parties involved in a franchise dispute. Through the application of legal principles, courts or dispute resolution institutions can assess and enforce rights protected by law, including contractual rights, intellectual property rights, and other rights related to franchising.

In line with this, the application of legal principles can also be a reference for fair dispute resolution. The application of legal principles ensures that franchise disputes are handled fairly and objectively. Legal principles, such as the principle of equality before the law and the principle of procedural fairness, help ensure that all parties to a dispute have an equal opportunity to present their arguments and evidence, and that the final decision is based on applicable law and relevant facts. In addition, handling franchise disputes is also important to maintain the integrity of the franchise industry as a whole. By having a clear and effective legal framework, disputes can be handled properly, and industry players can maintain their reputation and trust in the franchise system.

Another thing can also be felt in the application of legal principles to encourage the sustainability of the franchise industry, where proper handling of franchise disputes based on legal principles can encourage the sustainability of the franchise industry. By having a transparent and fair legal process, the parties will feel safer to be involved in the franchise

business, both as franchisor and franchisee, and this can strengthen the growth and development of the franchise industry as a whole. So, as a whole regarding the application of legal principles in handling franchise disputes it is important to achieve justice, legal certainty, and the sustainability of the franchise industry. This helps protect the rights and interests of both parties involved, and ensures that dispute resolution is carried out in a fair manner and in accordance with applicable law.

So, the application of the legal principles in Decision Number 200/PDT/2020/PT.BDG needed to establish legal certainty and protection for the parties is as follows:

1. Principles of Legitimacy and Integrity of Franchise Contracts. This principle emphasizes the importance of the validity and integrity of the franchise contract between the franchisor and the franchisee. Franchise contracts must comply with applicable legal requirements and not contain any elements of fraud, tort or coercion.
2. The principle of Providing Honest and Complete Information. This principle emphasizes the importance of providing honest and complete information to franchisees. The franchisor must provide accurate, non-misleading and complete information related to the franchise business, including potential profits, operational costs and related financial obligations.
3. Principles of Responsibilities and Obligations of the Parties. This principle emphasizes the responsibilities and obligations attached to the franchisor and the franchisee. The franchisor must be responsible for ensuring conformity of business practices to agreed standards, while the franchisee must comply with the terms and conditions set out in the franchise contract.
4. Principles of Consumer Protection. This principle focuses on protecting consumers who become franchisees in cases of franchise fraud. The law must provide protection for consumers from fraudulent practices, misleading business practices, and actions that harm them.
5. Principles of Fair Dispute Resolution. This principle emphasizes the importance of fair resolution of franchise fraud disputes for all parties involved. Dispute resolution can be done through alternative mechanisms such as mediation or arbitration, or through litigation in court, by ensuring that the rights of all parties are recognized and respected.

CONCLUSION

So from the analysis conducted on Decision Number 200/PDT/2020/PT.BDG which is based on a review of the civil capita selekta point of view, it can be concluded that fraud disputes in franchise practices involve cases where the franchisor commits fraud or provides wrong information to the franchisee with the intention to make a profit. Where the handling of disputes of this kind involves the application of legal principles such as the principle of contract, justice, and protection of rights. Thus, it is important to understand the franchise contract well and comply with the terms set out. If there is fraud on the part of the franchisor, the franchisee may bring legal claims based on breach of contract, unfair business practices or fraud. In handling fraudulent disputes in franchise practices, the application of legal principles helps ensure legal certainty, protects the rights of the parties involved, and promotes fairness in dispute resolution. In this case, it is important for the franchisee to gather solid evidence and consult experienced legal experts for proper advice.

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