



## Online Contract Drafting Assistance For Small Medium Enterprise In The Gentan Raya, Baki, Sukoharjo Markets

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### Abstract

The backgrounds of business actors in Pasar Raya Gentan are different. The majority of business actors have received the highest education from high school. The educational background of this business actor influences one's mindset and attitude in making decisions and facing problems. The lack of education resulted in a lack of knowledge of the significance of the Covenant. Business actors in the gentan market often use oral agreements that unconsciously lead to agreements. Preparation of Training Materials, At this stage, the team first makes a good and correct guidebook for writing agreements. Presentation of Contract Drafting and Review Business Contract Material, At this meeting the presenters provided socialization and understanding of the importance of contract drafting. In addition, participants were also given knowledge about the law of making contracts in business. Design (Skill Session), at this stage, participants are stimulated independently to be able to make a work agreement project which will later be applied in their field of work, Monitoring and Evaluation, after being deemed sufficient to master and understand the "Contract Drafting and Review Business Contract", it is followed by monitoring and evaluating the success rate of contracting for participants, whether it has helped participants in implementing this training. The solution offered to partners is to provide assistance in contract design for business actors in Raya Gentan market. Contract drafting is an important element in a legal relationship. Contract drafting is a combination of two words, namely "contract" and "drafting". Literally, the word "contract" means promise, while "drafting" means designing / drafting. So contract drafting can be interpreted briefly as the design of an agreement. A complete understanding of contract drafting is very important for business actors.

**Keywords:** Online Contract; Contract Drafting; Sme Business.

### I. Introduction

The agreements carried out today are mostly related to trade or business matters and talk about contract law both consciously and unconsciously, therefore everyone must be given an understanding of the ins and outs of the agreement at least knowing the important provisions in the law of the agreement. The legal basis in an effort to provide protection is no exception for people who carry out certain legal actions such as buying and selling transactions. Generally, both business actors and consumers do not really realize that what we are doing is a legal act that can cause legal consequences if fraud occurs or one of the parties denies the existence of the agreement. So whatever is done in buying and selling can be prosecuted if there is fraud in it.

An agreement is a legal relationship that is often carried out in social life in society, including the conformity of the will between one person and another, or between an individual and a legal entity, this is because the agreement adheres to the principle of freedom of contract. An agreement is a promise from two or more parties who make an agreement, so it does not rule out the promises not being fulfilled<sup>1</sup>.

The problems faced in the business activities of business actors in the Gentan market include:

1. Lack of knowledge of business actors in securing agreements

Pasar Raya Gentan was founded in 2007 and has 65 business actors who occupy kiosks and 11 business actors "oprokan". The backgrounds of business actors in Pasar Raya Gentan are different. The majority of business actors have received the highest education from high school. The educational background of this business actor influences one's mindset and attitude in making decisions and facing problems. The lack of education resulted in a lack of knowledge of the significance of the Covenant. Business actors in the gentan market often use oral agreements that unconsciously lead to agreements, for example in shopping for daily needs, accounts payable with friends, and so on. It can be said that oral agreements are often encountered and used by business actors in Pasar Raya Gentan. Business actors do not realize the importance of a written agreement. The habit of using the agreement will have an impact if problems and major losses arise, then one of the parties who is suspected of default will evade or defend by not acknowledging / denying having made the oral agreement.

2. Lack of understanding of business actors regarding the importance of written agreements

The fact is that in the Gentan Raya market, there are still many market traders who buy and sell with suppliers of merchandise only by means of an oral agreement. From the results of interviews obtained from several kiosk traders in Pasar Raya Gentan. Ibu Berti, said that there was no written agreement with the vegetable distributor who entrusted vegetables and various spices. Likewise with Pak Heri Winarno as Head of the Market Village, said that so far the majority of business actors in Pasar Raya Gentan have used

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<sup>1</sup> J.Satrio , S.H, 2001, Hukum Perikatan, Perikatan yang lahir dari perjanjian, BUKU 1, PT. Citra Aditya Bakti, Bandung.

oral agreements both to buyers and distributors of snack foods, but it is different for distributors of large factories, usually the factories that have made agreements. written.

3. The rights and obligations of each party in an oral agreement are not protected

Basically an oral agreement is still valid and has the legal force to declare a person defaulting, but if the oral agreement is denied / not acknowledged by the party suspected of default, the oral agreement does not have the legal power to declare a person defaulting, because the agreement can be true. it may or may not exist, depending on the evidence of the parties. This is because the presence or absence of an agreement is very decisive in stating someone has defaulted, because someone cannot be declared in default if there is no agreement made.

4. Low awareness of business actors in Pasar Raya Gentan using a written agreement.

In carrying out their work, business actors do not understand the importance of an agreement. This is proven by the low number of Gentan market business actors who make agreements in each of their business activities

The solution offered to partners is to provide assistance in contract design for business actors in Raya Gentan market. Contract drafting is an important element in a legal relationship. Contract drafting is a combination of two words, namely "contract" and "drafting". Literally, the word "contract" means promise, while "drafting" means designing / drafting. So contract drafting can be interpreted briefly as the design of an agreement. A complete understanding of contract drafting is very important for business actors. The drafting of this contract drafting must pay attention to the theories, principles and rules regulated by statutory regulations as well as universal legal norms, standards and practices. Thus, the legality of the contract drafting product that has been agreed upon and the legal interests of the parties drafting the contract drafting can be legally protected. This training will guide participants to be able to understand the ins and outs of contracts / agreements (understanding, terms, elements), effective stages of contract formulation, negotiation strategies in contract / agreement agreements, strategies for handling contract disputes / agreements, determining compensation and contract settlement.

## II. Method

Preparation of Training Materials, At this stage, the team first makes a good and correct guidebook for writing agreements. Presentation of Contract Drafting and Review Business Contract Material, At this meeting the presenters provided socialization and understanding of the importance of contract drafting. In addition, participants were also given knowledge about the law of making contracts in business<sup>2</sup>. Design (Skill Session), at this stage, participants are stimulated independently to be able to make a work agreement project which will later be applied in their field of work, Monitoring and Evaluation, after being deemed sufficient to master and understand the “Contract Drafting and Review Business Contract”, it is followed by monitoring and evaluating the success rate of contracting for participants, whether it has helped participants in implementing this training.

## III. Main Heading of the Analysis or Results

### *A. Theoretical Review*

E-Commerce in general is a form of legal action through electronic transactions using internet technology media. Before the development of electronic transaction methods of E-Commerce is transformation of the basic concept of telemarketing (transactions via the internet). Ecommerce has also changed the way consumers get different products he wanted. The trade relationship must be based on an agreement. So that the rights and obligations of the parties can be arranged in writing for avoid the worst risk that will happen. For those who don't carry out responsibilities in accordance with the agreed agreement can was sued by the party who felt aggrieved to get compensation<sup>3</sup>.

The sale and purchase according to article 1457 of the Civil Code is an agreement with where the one party commits himself to hand over an object and the other party pays the promised price. Meanwhile in article 1313 Civil Code an agreement is an act where one person or more attached to one or more people. When the buyer do the word / agreement with the seller, then there is a sale and purchase the. As for the terms of approval. The sale and purchase agreement occurred also stated in article 1458 of the Civil Code which reads “buying and selling is thought to have happened as soon as those people had

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<sup>2</sup> Lia Sautunninda, 2008, Jual Beli melalui Internet (E-Commerce) kajian menurut buku III KUH Perdata dan Undang-Undang informasi dan Elektronik, Fakultas Hukum Universitas Syiah Kuala.

<sup>3</sup> Abdul Kadir Muhammad, 2002, Hukum perikatan, Citra Aditya Bakti, Bandung.

reached agreement about the item and its price, even if the item is has not been submitted and the price has not been paid"<sup>4</sup>

Definition of Buying and Selling Online (E-commerce). In buying and selling transactions via the internet, the parties are involved in it carry out a legal relationship that is expressed through a form of agreement or contracts made electronically and in accordance with Article 1 point 17 The Information and Electronic Transactions (ITE) Law is referred to as a contract electronic, namely an agreement contained in an electronic document or other electronic media. Business actors offering goods or services electronically obliged to provide information about the termscontracts, manufacturers and products completely and correctly. Based on The understanding above, can be drawn from several elements of E-commerce, namely<sup>5</sup>:

- a. There is a trade contract
- b. The contract was executed by electronic media
- c. The physical presence of the parties is not required
- d. The contract occurs in public networks
- e. The system is open, namely the internet or WWW
- f. The contract is irrespective of boundaries, national jurisdiction

E-commerce agreements are known to two actors, namely merchants / business actors make sales and buyers / customers / consumers who act as buyer. Apart from business actors and consumers, in buying and selling transactions through Internet media also involves providers as service providers the internet and banks as a means of payment. Buying and selling transactions that occur between individuals and individuals who will selling goods to each other.<sup>6</sup>

#### 4) Consumer to Business (C2B)

Transactions that allow individuals to sell goods to the company.

#### 5) Non-Business electronic Commerce

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<sup>4</sup> Mertokusumo Sudikno, 2006, Penemuan Hukum Sebuah Pengantar, Liberty, Yogyakarta.

<sup>5</sup> Abdul Halim Barkatullah, Teguh Prasetyo, 2005, Bisnis E-Commerce Studi sistem keamanan dan hukum di Indonesia, Pustaka Pelajar, Yogyakarta

<sup>6</sup> Endang Purwaningsih, 2010, Hukum Bisnis, Bab 4 –Transaksi E-Commerce, Ghalia Indonesia

## 6) Intrabusiness (Organizational) Electronic Commerce

### *B. Small Medium Enterprise in Pasar Raya Gentan Bagi Sukoharjo*

Micro, Small and Medium Enterprises (MSMEs) are defined as follows: 1) Micro, is a productive business owned individual persons and / or individual business entities meet the criteria for Micro Enterprises as stipulated in This Act. 2) Small Business, is an economic business productive stand alone, done by people an individual or business entity that is not a child companies or non-branch companies that are owned, be controlled, or become part of it either directly or indirectly directly from Medium or Large Enterprises meet the criteria for Small Business as referred to in This Act. 3) Medium Business, is an economic business productive stand alone, done by people an individual or business entity that is not a child companies or branches of companies that are owned, controlled, or Micro Business Development. be part of either directly or indirectly with Small Business or Large Business with total net worth or annual sales proceeds as regulated in this Law”.<sup>7</sup>

Meanwhile, the characteristics of MSMEs are according to the provisions Law Number 20 of 2008 is as follows: The characteristics of micro enterprises are as follows: a) Type goods / commodities of the business are not always fixed, from time to time can change, b) The place of business is not always permanent, at any time can move places, c) Have not done even simple financial administration, and it's not separating family finances from business finances, d) Human resources (entrepreneurs) do not have souls adequate entrepreneurship, f) Relative average level of education very low, g) Generally there is no access to banking, however, some of them already have access to financial institutions non-bank, h) Generally do not have a business license or other legality requirements including NPWP<sup>8</sup>. The characteristics of small businesses are as follows: a) Type the goods / commodities that have been cultivated are still not easy to change, b) The location / place of business is generally already settled not moving, c) In general it has do financial administration even though it is still simple, corporate finance has begun to be separated from finance family, have made a business balance, d) Already have a permitbusiness and other legality requirements including NPWP, f) Human resources (entrepreneurs) have

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<sup>7</sup> Handri Raharjo, 2003, Cara Pintar memilih dan mengajukan kredit, pustaka yustisia, Yogyakarta.

<sup>8</sup> Holland, C.P., Lockett, A.G., “Business Trust and the Formation of Virtual Organizations”, Proceedings of the 31st Annual Hawaii Internation

deep experience entrepreneurship, g) Some have access to banking in terms of capital requirements.

The characteristics of medium-sized enterprises are as follows: a) In general, they already have good management and organization better, more organized even more modern, with a clear division of tasks, among others, the financial section, the section marketing and production, b) Has done financial management by implementing an accounting system regularly, making it easier for auditing and assessment or examination, including by banking, c) Carry out the rules or management and labor organizations, there is Jamsostek, health care and others, d) Already have all the legality requirements, including permits business, place permit, NPWP, environmental management efforts and others, e) Already have access to resource banking funding<sup>9</sup>.

The Role of MSMEs in the Economy. Nationally, the role played by actors This small business can be viewed from several aspects, namely: In terms of quantity / quantity. This small business is one of the economic activities the people (other than micro and medium enterprises) who dominate economic activities, especially in Indonesia, compared to business big. This can be seen from the source of Bappenas, that data micro and small enterprises in 2007 amounted to 41.30 million units (99.85%), medium enterprises amounted to 61.05 million units (0.14%), and large businesses as much as 2.2 million units (0.0005%). From data the foregoing shows that in terms of quantity, then small business actors are larger and the majority in structure business actors in the homeland (Indonesia), and are present in each economic sector. In terms of labor absorption From a historical perspective, small business is a business sector which has been shown to play a strategic role in overcoming consequences and the impact of the monetary crisis that hit Indonesia<sup>10</sup>.

Nationally, this small business sector has proven capable contribute to driving growth Indonesia's economy so far. The strategic position of This small business sector is due to the advantages it has by this business sector compared to large businesses, namely its

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<sup>9</sup> Holland, C.P., Lockett, A.G., "Business Trust and the Formation of Virtual Organizations", Proceedings of the 31st Annual Hawaii International Conference on System Sciences

<sup>10</sup> Ganzaroli, A., PhD Thesis, Erasmus University Rotterdam, 2002 [GLF98] Ganzaroli, A., Lee, R. and Firozabadi, B., "The role of trust in design of trustworthy trade procedures", Proceedings of the workshop on Deception, Fraud and Trust in Agent Societies, Autonomous Agents conference, 1998

ability to absorb labor, and using local resources, as well as relative effort flexible This small business sector is economically functional provide goods and services for consumers with purchasing power low and medium. The small business itself is basically in part large is informal. Hence, it is not surprising if this business sector is relatively easy to enter by new business actors, then the problem of unemployment and more or less poverty can be overcome and its implications is income. It is not impossible for the products produced by these small business actors to become substitutes for products of large businesses that have gone bankrupt. Many products have been produced by the actors small businesses which are then reused by members other communities to serve as land business / business on a small scale too so on (for example, the business of making tofu or tempeh, where the tofu production provides opportunities opening of other small businesses such as fried food sellers or similar businesses). Besides having a contribution to the absorption of labor, this business sector also uses more resources local, both in terms of raw materials for production and in terms of sources of capital used. Another advantage that this small business has is flexible nature of the business. The flexibility of this business sector causing it to be able to survive and adjust to within economic crisis conditions.<sup>11</sup>

*C. Online Contract Drafting Assistance for Small Medium Enterprise  
in the Pasar Raya Gentan*

Legal knowledge of contract law in general as well as skills in drafting contract is one of its important aspects must be owned by someone or an inner group business or economic activity. One of the activities what is done is a good buying and selling transaction done with consumers or with others businessmen. A contract basically contains rights and obligations for the parties so as to provide legal certainty for the parties, a contract must be drawn up properly and correctly so that you can avoid mistakes and that can minimize disputes arising from a contract. One way that can be done in order to increase

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<sup>11</sup> Goossens, A., "Contractmanagement een must", Tijdschrift voor Inkoop en Logistiek, nr. 12-2001, pp. 56-58, 2001

knowledge and skills in drafting a good and correct contract namely by providing training for members Public.<sup>12</sup>

The agreement is regulated in Book III of the Book Civil Law Law (KUH Perdata) About the Engagement. Book Management System III KUH Civil is open, that is everyone is given freedom to make a good covenant already regulated in law or not yet regulated in a law of origin is not contradictory by law, public order or morality. Article 1313 of the Civil Code states that agreement is an act with it one or more people attach themselves to one or more people. Definition of Agreement Article 1313 The Civil Code is incomplete and too broad<sup>13</sup> so that the formula the agreement is perfected that is the agreement is a legal relationship between two or more people who agree / mutually bind themselves to have legal consequences. According to <sup>14</sup>in each agreement there are three kinds elements, namely:

#### 1. The essentialia elements

This essentialia element is an absolute element must be in an agreement. For example, in The sale and purchase agreement must have a price and goods.

#### 2. Naturalia element

The natural element is a common element attached to the agreement, namely the element without promised specifically or expressly in agreement with itself is considered to be in agreement. In buying and selling, for example, the seller must guarantee there are no hidden defects.

#### 3. Elements of accidentalia

The accidentalia element is an element that must be loaded or expressly called in the agreement,

for example, identity and domicile. Article 1320 of the Civil Code, determines the conditions validity of the agreement, namely:

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<sup>12</sup> Achmad Ichsan, 2011, Hukum Perdata, Hukum Perjadjandjian dan Persetudjuanpersetudjan tertentu perbuatan melanggar hukum, pembuktian dan pengertian dasar hukum atjara perdata, PT. Pembimbing masa-Djakarta.

<sup>13</sup> Das, T.K., and Bing-Sheng Teng, "Between Trust and Control: developing confidence in partner cooperation in alliances", Academy of Management Review, Vol. 23, No. 3, pp. 491-512, 1998

<sup>14</sup> Ahmad M Ramli, 2004, Cyber Law dan Haki dalam Sistem Hukum Indonesia, PT. Refika.

1. to agree that they bind themselves;
2. competent to make appointments;
3. regarding a certain;
4. a cause that is lawful.

The first two conditions are called conditions subjective, because the two conditions are regarding the people or subjects who make the agreement. The last two conditions are objective requirements because regarding the agreement itself or the object of the legal act that is done. In a case subjective conditions are not met, the agreement can canceled (vernietigbaar). Parties who can request cancellation is an incompetent party or the party that gives the agreement is not free.<sup>15</sup>

The agreement that has been made remains binding, as long as it is not canceled (by the judge) upon request the party entitled to request the cancellation. In in the event that the objective conditions are not met, the agreement is null and void (nietig), meaning that in a juridical from the beginning there was no agreement and no there is also an agreement between the parties, because of that one party cannot sue the other before the judge, because the legal basis is not there. The terms of validity of the agreement above will be described in one by one as follows<sup>16</sup>:

a. agreed those who tied themselves up

The agreement is the basis for the birth of a agreement. An agreement is considered born or occurs when an agreement is reached between the parties who entered into the agreement. Word agreed to contain the understanding that the parties mutually express each other's will to make an agreement; party will which one reciprocally corresponds to the will of the other party. Based on Article 1321 The Civil Code requires an agreement free, meaning that the agreement is obtained not because of error (dwaling), coercion (dwang) and deception (bedrog).

b. competent to make appointments

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<sup>15</sup> Castelfranchi, C. and Falcone, R., Social Trust: cognitive anatomy, social importance, quantification and dynamics. In Proceedings of the Workshop on Deception, Fraud and Trust in Agent Societies, Autonomous Agents conference Minneapolis, 1998, pp. 35-49.

<sup>16</sup> Achmad Ichsan, 2011, Hukum Perdata, Hukum Perdjandjian dan Persetudjuanpersetudjan tertentu perbuatan melanggar hukum, pembuktian dan pengertian dasar hukum atjara perdata, PT. Pembimbing masa-Djakarta.

Article 1329 of the Civil Code states that everyone is capable of making engagements if it is by law not declared incompetent. Based on the provisions it is known that in general everyone deemed competent to make an engagement, except they were expressly considered incompetent by laws, namely those who are not yet mature and the person put on interdiction.

c. about a certain matter

A certain thing as a condition of the three conditions the validity of the agreement implies that what was promised rights and obligations both parties if a dispute arises. (Subekti, 2002) Certain things in an agreement focused on goods (zaak) or goods. Goods referred to in the agreement at least must be able to determine the type, as specified in Article 1333 paragraph (1) of the Criminal Code Civil, namely an agreement must have as the minimum of an item specified type.

d. a cause that is lawful

Regarding what is meant by cause (causa) and causa kosher, the law is not give an explicit understanding, but para scholars agree that the causa here is not cause in the sense of the opposite of effect. According to Subekti, 2002, because in an agreement is the content of agreement itself. One that cause a person makes a covenant or encouragement soul to make a covenant in essence ignored by the law. Civil Code does not explicitly provide an understanding of because it is lawful. Article 1337 of the Civil Code only states that "a cause is forbidden, if prohibited by law, or if contrary to decency or order general"

#### IV. Conclusion

In the Gentan Raya market, there are still many market traders who buy and sell with suppliers of merchandise only by means of an oral agreement. Basically an oral agreement is still valid and has the legal force to declare a person defaulting, but if the oral agreement is denied / not acknowledged by the party suspected of default, the oral agreement does not have the legal power to declare a person defaulting, because the agreement can be true. it may or may not exist, depending on the evidence of the parties. In carrying out their work, business actors do not understand the importance of an agreement. This is

proven by the low number of Gentan market business actors who make agreements in each of their business activities. The solution offered to partners is to provide assistance in contract design for business actors in Raya Gentan market. Contract drafting is an important element in a legal relationship. Contract drafting is a combination of two words, namely "contract" and "drafting". Literally, the word "contract" means promise, while "drafting" means designing / drafting. So contract drafting can be interpreted briefly as the design of an agreement. A complete understanding of contract drafting is very important for business actors.

## **V. Acknowledgments**

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