



Legal Responsibility of Debtors for Late Repayment of Loans on the Shopee Application: Perspective of OJK Regulation No.10/PJOK.05/2022 on Information Technology-Based Joint Funding Services

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ABSTRACT

This study aims to understand the legal protection and legal responsibility of debtors in online loan agreements on the Shopee platform. This research is a type of normative juridical legal research, using a legislative approach, a conceptual approach, and a sociological approach. The results of this study are as follows: First, the legal protection provided to debtors of Shopee's Peer-to-Peer Lending (P2PL) loans, regulated by OJK, includes regulations governing peer-to-peer lending services, as outlined in Article 41 of PJOK Number 10/POJK 2022. Second, the debtor's responsibility for late loan payments on Shopee is to pay a fine of 5% of the total bill and record a default in the financial information system, which makes it more difficult to access future loans. If the delay continues, Shopee can freeze the debtor's account and involve a debt collector for collection.

INTRODUCTION

The Shopee application, which started as an online shopping application only, but over time the marketplace added Shopee Pay Later and Shopee Pinjam facilities. The emergence of companies that provide many online money lending services has attracted public attention. Moreover, now there are many online money lending services. And online money lending continues to grow (KA Safitri, K.A, 2022). Online loan applications are only made online via smartphones, loans are directly transferred to the user's account instantly without going through an interview or survey process, even without providing assets as collateral or guarantees. Online loan applications only require personal data such as KTP, this is what makes it a digital credit that is in great demand by the public.

Shopee Pinjam is a lending and borrowing service that brings together creditors and debtors where the transaction process is in electronic media without face-to-face meetings. In POJK, Shopee Pinjam is categorized as a P2PL (Peer-to-Peer Lending) based loan. The agreement in P2P Lending occurs because one person binds himself to another party in order to provide facilities in the form of a loan through the website by the lender as the creditor to the borrower as the debtor. The way the P2PL service works is by connecting prospective creditors with debtors on a Platform. Loan applications are made by debtors by fulfilling all administrative requirements provided by the creditor or the online loan service provider company for further approval. The loan approval process by creditors is determined by several factors such as the amount of the loan, completeness of administration and bad credit history. Furthermore, if it has been approved by the lender or investor, the loan interest rate will be determined and the loan application will be entered and recorded automatically in the marketplace.

In Indonesia, the provisions of information technology-based money lending agreements, based on Article 30 of OJK Regulation No. 10/POJK.05/2022, contain the following rules: a. Agreement between the Organizer and the Fund Provider; and b. Agreement between the Fund Provider and the Fund Recipient. Furthermore, Article 32 regulates: (1) The funding agreement between the fund provider and the fund recipient is stated in an electronic document. (2) The electronic document as referred to in paragraph (1) must contain at least: a. Agreement number; b. Date of agreement; c. Identities of the parties; d. Rights and obligations of the parties; e. Funding amount; f. Economic benefits of Funding; g. Installment value; h. Term; i. Collateral object, if any; j. Related costs; k. Provisions regarding fines, if any; l. Use of Personal Data; m. Dispute resolution mechanism; and; n. Mechanism for resolving rights and obligations in accordance with the provisions of laws and regulations if the Organizer is unable to continue its operational activities. (3). The Organizer is required to provide access to information to the fund recipient regarding the position of the funding received.

In Shopee Pinjam, there are three parties involved in the loan agreement, including an online loan service that connects debtors with creditors, namely PT Lentera Dana Nusantara Shopee Pinjam in collaboration with PT. Lentera Dana

Nusantara (LDN) which is the party that organizes the loan funds. Shopee authorizes LDN to collect debts from SPinjam loan recipients. In this relationship, Shopee acts as a platform that facilitates the lending process. Creditors are obliged to provide clear funds and information, while debtors are obliged to pay loans according to the agreement (Indriyani, Regia Cahaya, 2022). The legal relationship between the three parties is regulated by OJK regulations, which include the rights and obligations of each and legal protection for debtors.

The legal relationship formed by the parties in Shopee Pinjam is bound by an agreement, namely Shopee which then gives power of attorney to PT Lentera which in this case plays a role in organizing P2P lending loans which take action to collect debts from loan recipients. The legal relationship in using Shopee Pinjam in the Shopee application is a legal relationship between Shopee and ShopeePinjam users because they have used the services in the Shopee application, where in this case the relationship is as consumers and business actors. Then the second legal relationship is a cooperative relationship between Shopee and PT Lentera, as well as the granting of power of attorney from the lender to PT Lentera to deposit its funds, provide loans and distribute them to loan recipients (Mazaya, S. Siti S., et al., 2023).

In the relationship between parties in Shopee Pinjam, this is stated in a standard contract. The use of a standard contract in this case is intended to facilitate the transaction process between consumers and business actors. However, besides that, this contract also makes the consumer's right to draft the contents of the agreement increasingly limited or unbalanced. It is said to be balanced if there is negotiation in making the contract or agreement.

In general, it is not always profitable for shopee electronic loan contracts to often arise the risk of violations that have been committed for parties who have the right to demand for performance that has been receivable or creditors or by parties who are required to fulfill the performance, namely the party who has debt or debtor. Various legal issues are related to the validity of electronic contracts, especially the determination of the ability to determine the time of the agreement which is difficult to determine and its legal reasons.

The implementation of P2P lending in Shopee Pinjam often does not run smoothly as promised. In practice, there are often delays in loan payments by borrowers on the Shopee Pinjam service. According to the results of the interview from (Ayunda Cahaya, 2024) in 2023 via the link <https://forms.gle/hEnyPq4DmysCxugiz>, it is known that respondent data is divided into four age categories, namely 17-20 years old, 21-25 years old, 26-30 years old, 31-40 years old. The majority of respondents who use the Spinjam online loan service are those aged 21-25 years, amounting to 28 out of a total of 50 respondents. Based on the job category which is divided into four categories, namely IRT, students, Private, Entrepreneurs, the data collection carried out resulted in the majority of users of the Spinjam online loan service being respondent data who work as students, namely 17 respondents. For housewives (IRT) there were 10 respondents, private workers there were 11 respondents and self-employed workers there were 12 respondents. There were 50 respondents, all of whom were users of the Spinjam online loan service or Spinjam debtors.

The number of Spinjam users who experienced delays based on interviews was 14 people and users who did not experience payment delays were 35 respondents.

Late payments are caused by various factors, such as financial, changes in financial situations and difficulties in arranging payments. Shopee users who are late in paying Spinjam bills have breached the contract. In contract law, late payment refers to the failure of a person or entity to provide a promised service. The occurrence of a breach of contract will result in a violation of legitimate interests in the form of interests protected by law. The injured party, Shopee, can receive compensation by settling its losses. If an error occurs, the loss is borne by the user (Ni Kadek Natalia Pingkan Putri, et.al, 2022).

Previous studies have discussed the phenomenon of the spread of fintech P2P lending (online loans). However, until now, studies on this matter have only been limited to efforts to protect victims of online loan applications through statutory regulations (Astuti & Efvisitiana, 2021; Belgradoputra et al., 2019; Gurning, 2022; Paramartha, 2022; Putri & Yolanda, 2022). The next previous study is a study conducted by Arvante (2022), he stated that one of the reasons why until now there are still many Indonesian people who dare to use illegal online loan application services is because of the ease of the loan process and disbursement of funds (Arvante, 2022). In fact, the impact of borrowing money from fintech P2P lending applications (online loans) is very large (Kurnia et al., 2021).

Based on the previous research above, according to the researcher, it is necessary to discuss the legal protection provided to debtors regarding late payment of loans on the Shopee application in accordance with the principles of consumer protection regulated by the OJK and the responsibility of debtors for late payment of money loans on the Shopee application based on the provisions stipulated in OJK No.10/PJOK.05/2022.

LITERATURE REVIEW

Overview of Online Loans

Online loans offer various benefits that are relevant to many people in this digital era. One of the main benefits is ease of access, where people can apply for loans anytime and anywhere through a digital platform without having to visit a physical office. However, the main risk of online loans is high interest and additional costs such as late fines that can increase the amount of debt quickly. In addition, illegal online loans can also pose a risk to personal data security because they often ask for sensitive information such as ID numbers, NPWP, and others (Yosiana, Meriska, 2023).

Overview of the Financial Services Authority

With the establishment of Law Number 21 of 2011 concerning the Financial Services Authority, an independent institution has been created, namely the Financial Services Authority (OJK), which is the result of a process of restructuring the organizational structure of institutions that carry out regulatory and supervisory functions in the financial services sector. OJK is an independent institution in carrying out its duties and authorities, free from interference from

other parties. Although OJK is an independent institution, its independence does not apply absolutely (absolutely). OJK's independence in regulating and supervising activities in the financial services sector is approached through good coordination in terms of issuing regulations and carrying out supervision that is inherent in an independent institution (Rahyani, Wiwin Sri, 2012).

METHODOLOGY

Legal research is a process of finding legal rules, legal principles, and legal doctrines to answer the issues faced (Peter Mahmud Marzuki, 2017). This research is a type of normative juridical legal research using a statutory approach related to OJK Regulation no. 10/PJOK.05/2022 concerning information technology joint funding services, a conceptual approach, and a sociological approach.

RESEARCH RESULT

This study uses qualitative normative legal data analysis that refers to laws and regulations through legal interpretation, legal literature, document studies or library materials that can solve a problem so that a conclusion can be drawn. The first legal source used in this study is primary legal material, namely OJK Regulation No. 10 / PJOK.05 / 2022 concerning information technology joint funding services. Second, using secondary legal materials sourced from books, scientific journals, scientific papers, the Internet, which are related to the problems in this study. And the third tertiary legal material is informative and helps in finding primary legal materials and secondary legal materials such as dictionaries.

The method used in this study is a normative legal research approach. The normative legal research approach is a library research method by reviewing library materials that are relevant to the object of study. This study uses a statute approach. The method used in this study is to use objects in the form of legal norms to answer legal problems faced through the process of discovering legal rules, legal principles, and legal doctrines. The source of legal materials for library legal research is legal research conducted by consulting library materials.

DISCUSSION

Legal Protection for Debtors Who Are Late in Making Loan Payments According to the Principles of Consumer Protection Regulated in the OJK

A person has the right to receive protection and legal certainty if they have committed a legal act, including one of them being a Shopee Pinjam user. In this case, the debtor is directly protected by the state in a preventive and repressive manner. Preventive legal protection is a protection from the state against the normative rights of Shopee Pinjam debtors through legislation. Repressive protection is an effort by the state to protect Shopee Pinjam debtors to defend normative rights when a dispute occurs in the agreement, in order to obtain a fair settlement. In fact, the position of a debtor is the weakest position, compared to the position of a very strong creditor, this is because the creditor himself has very large capital. Therefore, the government provides legal protection through law, so that justice can be upheld (Cenlia Brigita, et.al., 2023).

Legal protection provided to Peer to Peer (P2PL) loan debtors is currently, OJK has issued regulations governing the implementation of lending with P2PL services. P2PL service providers are required to implement and pay attention to the provisions stated in POJK 10/POJK.01/2022 concerning Information Technology-Based Joint Funding Services. P2PL service providers are required to follow and apply the basic principles of user protection regulated in Article 41 of PJOK 10/POJK.01/2022, namely the principle of debtor data confidentiality, the principle of debtor data security, transparency, the principle of fair treatment for each debtor and the mechanism for resolving disputes with the principle of the judicial trilogy (Mazaya, S. Siti S., et al., 2023).

In addition, the form of protection provided by OJK to debtors of P2PL-based online loan services is that if actions are found that cause losses to the debtor and other actions such as violations committed by the P2PL service provider, then OJK can take action in the form of a warning letter to the termination of business activities against the P2PL service provider, where the regulation is explained in Article 41 of PJOK Number 10 of 2022. In addition, other actions that can be taken by OJK are providing assistance and legal defense for the interests of debtors, namely in the form of assistance in filing lawsuits in Court.

In OJK regulation Article 2 POJK No.6/pojk.07/2022 concerning Consumer Protection in the Financial Services Sector. The provisions issued by OJK regulate at least five principles or rights that must be obtained by every consumer, namely:

1. Principle of transparency of information
This principle is the right to obtain information as clearly as possible. As a consumer of financial services, you have the right to obtain information about the financial product clearly. OJK requires financial service business actors to provide information about products or services accurately, honestly, clearly, and not misleadingly.
2. Principle of fair treatment and responsible business conduct
The second principle is that consumers have the right to obtain equal access to financial products according to the classification determined by the product provider.
3. The principle of protecting assets, privacy, and consumer data, and
OJK prohibits financial companies from sharing data or information about their consumers with third parties. Consumer data is only used in accordance with the interests and purposes agreed to by the consumer, unless otherwise specified by applicable laws and regulations.
4. Principle of adequate education
This principle is the right to receive reliable service, in this case consumers have the right to receive accurate service, where the infrastructure procedure system and human resources provided by financial services institutions must be qualified and professional.
5. The principle of handling complaints and resolving consumer disputes simply, quickly, and at an affordable cost

This principle is used by consumers to file complaints if there is a problem in a transaction process. Handling complaints is a dispute resolution service, every financial services institution is required by the OJK to open a consumer complaint facility.

The P2P lending organizers are required to implement and pay attention to the provisions stated in POJK 10/POJK.01/2022 concerning Information Technology-Based Joint Funding Services. Financial service providers are required to follow and apply the basic principles of user protection as stipulated in Article 41 of PJOK 10/POJK.01/2022, namely the principle of debtor data confidentiality, the principle of debtor data security, transparency, the principle of fair treatment for each debtor and the mechanism for resolving disputes (<https://www.hukumonline.com/berita/a/prinsip-hukum-perlindungan-konsumen-jasa-keuangan-lt63904bd95c234/> accessed on February 5, 2022).

Based on the OJK regulations above, legal protection for debtors in this case in the Shopee Pinjam application is sufficient in accordance with the principles of consumer protection. However, it is important for debtors to understand the terms and conditions and consequences of late payments to avoid legal problems in the future (Yulenrivo Fakhri, Busyra Azheri, Yulfasni, 2023).

Legal Responsibility of Debtors for Late Payment of Loans on the Shopee Application Based on the Provisions Regulated in OJK No.10/PJOK.05/2022

Sugeng Istanto stated that accountability is an obligation to provide an answer which is a calculation of all things that happen and an obligation to provide compensation for losses that may be incurred. A person is legally responsible for certain actions or that he is responsible for a sanction if his actions are contrary. In general legal theory, it states that everyone, including the government, must be responsible for their actions, whether due to error or without error (Santoso, Aris Prio Agus, et al., 2022).

With the formation of a Peer-to-Peer (P2P lending) based agreement, the rights of the funder include the right to receive a refund that has been agreed upon at maturity. When the recipient of funds for information technology-based joint funding services defaults or fails to pay, there will be legal consequences and will remain legally responsible for the resulting legal consequences. Default will result in legal consequences, namely:

1. The debtor is required to pay compensation (Article 1243 of the Civil Code);
2. The creditor can request the cancellation of the agreement through the Court (Article 1266 of the Civil Code);
3. The creditor can request the fulfillment of the agreement, or the fulfillment of the agreement accompanied by compensation and the cancellation of the agreement with compensation (Article 1267 of the Civil Code), (Civil Code).

Defaults that occur in the use of P2P lending services are generally caused by debtors who do not make payments on outstanding bills. Defaults can be in the form of not paying bills according to the specified date, or even not paying

bills at all. This default refers to the delay or inability of the debtor to fulfill his obligations.

Article 102 of OJK Regulation No. 10/POJK.05/2022 contains the rules regarding Collection, namely as follows: (1) In the event that the Fund Recipient defaults, the Organizer is required to collect from the Fund Recipient, at least by providing a warning letter in accordance with the time period in the Funding agreement between the Fund Provider and the Fund Recipient; (2) The warning letter as referred to in paragraph (1) must contain information at least:

- a. the number of days late in payment of obligations;
- b. the final position of the total Funding that has not been paid off or the principal owed;
- c. the economic benefits of Funding; and
- d. fines owed (OJK Regulation No. 10/POJK.05/2022 Concerning information technology joint funding services).

On Shopee Pinjam when there is a delay in loan payment, Shopee will send a payment reminder to the debtor 5 days before the payment due date and confirm the invoice with certainty through the application. Shopee will also contact the debtor and issue a warning all the time for the notification placed on the Shopee loan bill until the deadline for paying the bill. The actions taken by Shopee are:

1. Delivery of Payment Information in the Early Stage. Shopee Pinjam will send an SMS or message to the debtor's mobile number before the due date to remind customers about loan installment payments.
2. Prevent debtors from applying for loans through Shopee Pinjam in the Shopee application until their bills are paid off.
3. Reduce the Shopee Pinjam limit.
4. Shopee can freeze the debtor's Shopee account.
5. Warning Letter for late payment.

To increase the intensity of collection, if the debtor does not respond, the Shopee Pinjam collection team will use direct phone calls as the next step in Desk Collection. Phone calls can also be made automatically using a robotic system to ensure the effectiveness of collection. The intensity of phone calls can be increased for user accounts that are considered to have a high risk of default or absconding. In addition to telephone, payment reminders can also be sent via email, notifications, applications, SMS, or other electronic means before and after the due date. This communication method is proof that Shopee Pinjam has made maximum efforts to contact and remind debtors of outstanding payment obligations.

Based on the explanation above, when the debtor is late in making loan payments or defaults, which is a condition due to negligence or error, so that he cannot fulfill the performance as stipulated in the agreement and not in a compelling situation, he can ask for compensation. This is in Shopee P2P lending-based loans, debtors who are late in paying loans on the Shopee application, according to OJK No.10/PJOK.05/2022, face several legal responsibilities. Delays

can result in a fine of 5% of the total bill and recording of default in the financial information system, which makes it difficult to access loans in the future. If the delay continues, Shopee can freeze the debtor's account and involve debt collectors for collection.

CONCLUSIONS AND RECOMMENDATIONS

Legal protection provided to Shopee debtors of Peer to Peer (P2PL) loans OJK has issued regulations governing the implementation of lending and borrowing with P2PL services as stated in Article 41 of PJOK Number 10 of 2022. P2PL service providers are required to implement and pay attention to the provisions stated in POJK 10/POJK.01/2022 concerning Information Technology-Based Joint Funding Services. If actions are found that are detrimental to debtors or violations by service providers, OJK can take action in the form of warnings to termination of business activities. P2PL service providers are required to follow and apply the basic principles of user protection as stipulated in Article 41 of PJOK 10/POJK.01/2022, namely the principle of debtor data confidentiality, the principle of debtor data security, transparency, the principle of fair treatment of each debtor and the mechanism for resolving disputes with the principle of the judicial trilogy.

With the formation of a Peer-to-Peer (P2P lending) agreement on Shopee Pinjam, the rights of the lender include the right to receive a refund that has been agreed upon at maturity. In this case, debtors who are negligent in late payment of loans on the Shopee application have legal responsibilities regulated by OJK No.10/PJOK.05/2022. This responsibility results in a fine of 5% of the total bill and a record of default in the financial information system, which complicates access to loans in the future. If the delay continues, Shopee can freeze the debtor's account and involve debt collectors for collection.

ADVANCED RESEARCH

In writing this journal, the author realizes that there are still many shortcomings in terms of language, writing, and presentation considering the limitations of the author's own knowledge and abilities. Therefore, for the perfection of this writing, the author expects constructive criticism and suggestions from various parties.

Further research can be conducted to explore the effectiveness of OJK regulations in minimizing violations of debtor or organizer rights. In addition, comparative analysis with other countries can provide additional insights in developing a better regulatory system.

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