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## Position of Electronic Agreements (E-Contract) in Emaster Online Arisan as Evidence in Civil Procedure Law

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### ABSTRACT

In the digital era, the internet has significantly transformed various aspects of life, including financial systems and social interactions. One notable change is the shift from traditional face-to-face arisan (a rotating savings and credit association) to online arisan facilitated through social media platforms and electronic banking. This study examines the legal validity of electronic agreements (e-contracts) in online arisan, focusing on the case of Emaster Online Arisan as evidence in civil procedure law, particularly in Decision No. 41/Pdt.G/2021/PN Pwd. The research employs a normative legal approach, analyzing the Indonesian Civil Code, Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE), and relevant case law. The findings indicate that online arisan agreements, even if not formally documented, are legally binding as long as they meet the requirements stipulated in Article 1320 of the Civil Code, which includes the agreement of the parties, legal capacity, a specific object, and a lawful cause. The study concludes that electronic agreements are recognized and protected under Indonesian law, and the court's decision in the Emaster case underscores the principle of *pacta sunt servanda*, ensuring that parties must fulfill their contractual obligations.

## **INTRODUCTION**

In the digital era, the internet has changed various aspects of life, including communication and social interaction. Globalization driven by information technology allows easy access to information that shortens the distance between individuals around the world. One impact of this progress is the transformation of the financial system, which is seen in the shift in social practices such as arisan activities. Arisan, which was originally carried out traditionally with face-to-face interaction, has now developed into online arisan through social media platforms and electronic banking facilities, which offer efficiency of time and space. Online arisan involves collecting funds by a group of individuals and distributing them through a lottery mechanism. This process is based on the principle of trust between members and managers, which leads to the creation of an electronic agreement. However, despite providing convenience, online arisan also has weaknesses, namely the lack of direct interaction which can cause difficulties in building trust, as well as the risk of legal uncertainty in its implementation. The agreement underlying online arisan, although often not stated in the form of a formal written document, still has legal force that binds the parties. This is based on the principle of consensualism in contract law in Indonesia, which recognizes the validity of an agreement based on the agreement of the parties, both written and oral. However, the agreement must meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code (KUH Perdata) in order to be implemented and enforced legally. Online arisan agreements made through electronic media, such as Whatsapp or other digital platforms, are valid and binding on the parties as long as they meet the requirements for a valid

agreement as stipulated in Article 1320 of the Civil Code.

The validity of agreements formed through electronic media is recognized in Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), which states that electronic information and documents are valid legal evidence. Although not always formally documented, the agreement underlying online arisan still has legal force that binds the parties involved. The requirements for the validity of the agreement refer to the provisions of Article 1320 of the Civil Code, which includes the existence of an agreement between the parties, the capacity to act, a clear object of the agreement, and a purpose that does not conflict with the law.

A case study of online arisan managed through the Whatsapp application shows the dynamics that arise when the defendant requests funds before the draw schedule, but does not fulfill the obligation to pay contributions after receiving the funds. The manager who acts as the plaintiff is forced to use personal funds to cover the shortfall in payment. However, the defendant did not show good faith to pay off his obligations, which caused the plaintiff a financial loss of IDR 317,325,000. Efforts to resolve the dispute amicably did not produce results because the defendant did not show good faith to resolve the problem.

The defendant's action of stopping the payment of arisan contributions after winning the lottery, while the payment is a binding obligation in the arisan agreement, can be categorized as a breach of contract. The defendant's negligence in fulfilling his obligations resulted in the plaintiff suffering losses. Based on the description of the background, the researcher is interested in studying in more depth and conducting research with the title: POSITION OF ELECTRONIC E-CONTRACT AGREEMENT

## **METHODS**

This study uses a normative legal approach by examining Law Number 19 of 2016 concerning Electronic Information and Transactions (UU ITE) as a legal basis and analyzing Decision Number 41/Pdt.G/2021/PN.Pwd as a case study to understand the application of law in the context of online arisan agreements.

The method used is a document study, with data sources in the form of primary legal materials including the Civil Code, the ITE Law, and case decisions, as well as secondary legal materials such as textbooks, journals, and relevant cases. In addition, this study also utilizes tertiary legal materials such as legal dictionaries and encyclopedias. The data collected are analyzed qualitatively and presented descriptively and explanatory to answer the formulation of the research problem.

## **RESULTS AND DISCUSSION**

Validity of Online Arisan Agreements in Indonesia in the Case of Emaster Online Arisan

The law of agreements in Indonesia adheres to the principle of freedom of contract, which gives autonomy to the parties to determine the contents of the agreement, such as the terms, time period, location of implementation, and form of the agreement, both written and oral. Article 1313 of the Civil Code (KUH Perdata) defines an agreement as a legal act that binds the parties to fulfill the agreed performance. In other words, an agreement is a valid agreement between two or more parties that gives rise to rights and obligations for them to do or not do something.

In the context of civil law, an agreement has legal force that binds the parties who make it. This means that the parties are obliged to comply with and implement the contents of the agreement that has been agreed upon. If one party does not fulfill its obligations, then the other party has the right to demand fulfillment of these obligations or ask for

compensation for the losses suffered. The two main elements in an agreement are: first, a legal act carried out consciously and voluntarily by the parties, and second, the existence of a legal bond that requires the parties to fulfill the agreed performance.

In this case, Defendant I did not acknowledge the existence of an agreement that had been agreed upon in the "Emaster" online arisan. The plaintiff, as the owner of the arisan, stated his objection to Defendant I's attitude. In Decision Number 41/Pdt.G/2021/PN Pwd, the panel of judges considered that an agreement had been reached between the parties through communication carried out in the Whatsapp conversation group.

The contents of the "Emaster" arisan agreement are as follows:

1. The owner creates an online arisan group through social media such as Whatsapp and Facebook.
2. The owner requests a photocopy of the ID card of each member.
3. The owner determines the rules of the arisan agreed upon by the members.
4. The owner offers the types of arisan that members can participate in.
5. The owner informs the payment schedule and sanctions for late payments.

Although not stated in the form of a formal written document, the online arisan agreement is still binding on the parties involved in it, including Defendant I. The validity of the agreement is based on the fulfillment of the requirements for a valid agreement that have been stipulated in the law.

This is in accordance with Article 1338 paragraph (1) of the Civil Code (KUH Perdata) which states that an agreement made legally has the same legal force as the law for those who make it. The validity of an agreement formed through electronic media, as occurred in the case of this online arisan, is recognized by Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE).

Even though it is done online, the arisan agreement must still fulfill the four requirements for a valid agreement as stipulated in Article 1320 of the Civil Code (KUH Perdata), namely: (1) agreement of the parties, (2) capacity of the parties to perform legal acts, (3) clear and specific object of the agreement, and (4) lawful cause as follows:

1. Agreement: An agreement in an online arisan is formed when the arisan manager sets rules which are then agreed to by the members through a digital communication platform, such as a chat group. The legal theory of agreement relevant to this case is the Acceptance Theory (Ontvangs Theorie), which states that an agreement occurs when the party offering (the arisan manager) receives a statement of agreement from the party accepting the offer (the arisan member).

2. Legal Capacity: Legal capacity refers to a person's ability to perform legal acts. In the case of this online arisan, the members, most of whom are housewives, are assumed to be legally competent because they are adults and understand the consequences of the legal acts they carry out.

3. Specific Object of Agreement: The object of the agreement is the rights and obligations agreed upon in the online arisan, such as the nominal contribution, payment schedule, and implementation mechanism of the arisan. This is a clear achievement for the parties.

The Halal Cause: The cause or purpose of the agreement must be valid and not contrary to the law. In this case, online arisan does not conflict with the law and does not involve prohibited transactions.

Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions regulates the requirements for the validity of electronic contracts, one of which is the inclusion of the identities of the parties, the object of the agreement, and its specifications. The online arisan "Emaster" has met these provisions, marked by the existence of an agreement regarding the identity of the members, the rules of the arisan, and payment obligations.

In the context of the online arisan "Emaster", the fulfillment of these requirements shows that the agreement formed through electronic media has met the standards of validity stipulated in the laws and regulations. The identities of the parties involved in the online arisan "Emaster" are clearly stated, both the identities of the arisan managers and the identities of the members. The object of the agreement, namely money or goods that become arisan prizes, is also agreed upon in a specific manner. The specifications of the agreement, such as the payment mechanism for contributions, the procedure for drawing lots, and other rules, are also

stipulated in detail and clearly. Thus, the "Emaster" online arisan agreement has met the formal requirements for the validity of an electronic contract as stipulated in Government Regulation Number 71 of 2019.

The "Emaster" online arisan agreement, although not stated in the form of a conventional written document, can be categorized as an underhand agreement because it still meets the requirements for validity under Indonesian law. Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) recognizes the validity of electronic information and/or documents created through an electronic system that meets statutory provisions. Therefore, the Statement Letter agreed upon by the Plaintiff and the arisan members, including Defendant I, through the Whatsapp chat group, has legal validity under Indonesian law.

Even though it is formed through social media such as Whatsapp, the "Emaster" online arisan agreement still has validity and legal force that binds the parties, as long as it meets the requirements for a valid agreement as stipulated in the Civil Code (KUH Perdata) and the provisions of Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). This confirms that agreements reached through electronic media are recognized and protected by law in Indonesia.

Analysis of the Application of Law Regarding the Validity of Agreements in Decision Number 41/pdt.G/2021/PN Pwd

Analysis of Decision Number 41/Pdt.G/2021/PN Pwd shows that the judge has considered the principle of justice and the obligations of the parties based on the agreed agreement in trying the case. The decision handed down by the Panel of Judges is based on relevant legal considerations.

This case covers two main issues, namely the validity of the agreement between the Plaintiff and the Defendant in the context of membership of the "Emaster" social gathering and the breach of contract committed by Defendant I and Defendant II. Article 1338 of the Civil Code (KUH Perdata) emphasizes that agreements made by the parties have binding legal force. In the trial, the Panel of Judges stated that the Statement Letter made by the members of the social gathering, including

Defendant I and Defendant II, was valid and binding on the parties.

Article 1234 of the Civil Code (KUH Perdata) explains that every obligation creates obligations for the parties, whether it is giving something, doing something, or not doing something. In this case, Defendant I and Defendant II were negligent in fulfilling their obligation to pay the arisan contribution that had been paid in advance by the Plaintiff. This action is a form of breach of contract, namely the failure to fulfill the performance in accordance with the agreed agreement.

Default, or failure to fulfill the performance in accordance with the agreement, can result in various legal consequences for the party committing the default (debtor). The debtor can be required to pay compensation to the creditor, or even the agreement can be canceled by the court.

In this case, Defendant I and Defendant II were declared negligent in fulfilling the performance agreed in the agreement, namely paying the arisan contribution after receiving the arisan benefits.

The Panel of Judges heard witnesses who provided information regarding the role of Defendant I in the arisan who always chose the first withdrawal position, as well as Defendant I's non-compliance in paying the contribution after receiving the benefits. This fact shows a reluctance to fulfill obligations in accordance with the agreed rules, so the judge is of the opinion that the actions of the Defendants constitute a breach of contract.

The Panel of Judges, in its decision, has:

Granting part of the lawsuit filed by the Plaintiff.

1. Affirming the validity of the Statement Letter that has been made by all members of the arisan.

2. Declaring that Defendant I and Defendant II have committed a breach of contract.

3. Sentencing Defendant I and Defendant II to pay compensation of Rp317,325,000,- (three hundred seventeen million three hundred twenty five thousand rupiah) to the Plaintiff.

4. Sentencing the Defendant to pay court costs of Rp970,000,- (nine hundred seventy thousand rupiah).

The decision reflects the judge's efforts to uphold justice by considering a valid agreement between the parties. This decision also confirms the

principle of *pacta sunt servanda* in the Indonesian legal system, which requires the parties to comply with the agreed agreement. Violation of the agreement will result in sanctions in the form of an obligation to provide compensation to the injured party.

## CONCLUSION

Based on the formulation of the problem and discussion regarding the validity of the agreement in this study, it can be concluded that: Agreements made online are recognized as valid by positive law in force in Indonesia. In the case of the online arisan "Emaster", the Agreement has met all the requirements for the validity of the agreement as stipulated in Article 1320 of the Civil Code (KUH Perdata), which includes the agreement of the parties, the capacity of the parties, a specific object of the agreement, and a lawful cause. Even though it is done online, the arisan agreement must still meet the four requirements for a valid agreement as stipulated in Article 1320 of the Civil Code (KUH Perdata), namely: (1) agreement of the parties, (2) capacity of the parties to carry out legal acts, (3) clear and specific object of the agreement, and (4) lawful cause. Thus, the agreement is valid and legally binding. The validity of this online agreement is also in accordance with the principle of consensualism in contract law which prioritizes the agreement of the parties as the main basis for an agreement. 2. Decision Number 41/Pdt.G/2021/PN Pwd is based on legal considerations in accordance with applicable law in Indonesia. In the decision, the Panel of Judges stated that Defendant I and Defendant II had committed a breach of contract, namely not fulfilling their obligations in the "Emaster" online arisan agreement. The Panel of Judges sentenced Defendant I and Defendant II to pay the mandatory arisan contributions that had not been paid. This decision provides legal certainty for the Plaintiff and upholds his rights that have been violated by the Defendant.

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