Perlindungan Konsumen Terhadap Praktik Gesek Tunai (Gestun) Pada Layanan Fintech BNPL (Buy Now Pay
Later): Studi Kasus Shopee PayLater
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PERLINDUNGAN KONSUMEN TERHADAP PRAKTIK GESEK TUNAI (GESTUN) PADA LAYANAN *FINTECH* BNPL *(BUY NOW PAY LATER)*: STUDI KASUS SHOPEE PAYLATER

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INTISARI

Penulisan ini bertujuan untuk menganalisis bentuk perlindungan hukum terhadap konsumen yang menjadi korban gestun dengan membandingkan pengaturan UUPK, BNPL, dan PBI APMK. Serta untuk menilai tanggung jawab platform *(Shopee*) dan penyedia jasa gestun.
Penulisan ini menggunakan metode penulisan 2 (dua) jenis penelitian, yakni penelitian normatif (penelitian hukum kepustakaan) dan penelitian lapangan. Penelitian normatif merupakan suatu penelitian yang memfokuskan kajian pada penerapan kaidah-kaidah atau norma-norma berdasarkan ketentuan dari hukum positif. Sedangkan penelitian lapangan merupakan penelitian yang dilakukan langsung dari responden dan narasumber yang telah ditetapkan.
Hasil penulisan menunjukkan adanya keterlibatan konsumen dalam transaksi gestun menjadi faktor yang dapat melemahkan pengaduan kerugian konsumen terhadap perlindungan konsumen secara maksimal, adanya kelemahan pada pemenuhan prinsip kehati-hatian dalam menjalankan usaha oleh lembaga *fintech* sebagai pihak penyedia pembiayaan BNPL Shopee PayLater, serta kelemahan dalam upaya mitigasi risiko oleh pihak pelaku usaha serta regulator. Berdasarkan perspektif hukum perlindungan konsumen dan prinsip kehati-hatian, diperlukannya larangan secara eksplisit sehingga dapat memudahkan konsumen untuk dapat memperoleh kepastian hukum terkait transaksi gestun Shopee PayLater tersebut. Terkait kerugian yang dialami oleh pihak pengguna/konsumen korban gestun, platform Shopee pada prinsipnya tidak memiliki tanggung jawab atas kerugian yang dikarenakan oleh perjanjian di luar platform antara pihak pengguna dan penyedia jasa gestun (*merchant)*. Secara eksplisit, Shopee menyatakan bahwa transaksi yang melanggar ketentuan layanan akan menjadi tanggung jawab pengguna atau pihak penyedia jasa gestun selaku pihak ketiga dari transaksi tersebut. Pihak penyedia jasa gestun memiliki tanggung jawab yuridis terhadap pihak korban. Tanggung jawab pihak penyedia jasa gestun tersebut idealnya adalah berupa pengembalian kerugian/ganti rugi dan/atau pemidanaan.

Kata Kunci: Perlindungan Konsumen, *Fintech*, BNPL, Shopee PayLater

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ABSTRACT

CONSUMER PROTECTION AGAINST UNAUTHORIZED CASH WITHDRAWAL (GESTUN) PRACTICES IN BUY NOW PAY LATER (BNPL) FINTECH SERVICES: A CASE STUDY OF SHOPEE PAYLATER

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This study aims to analyze the legal protection available to consumers who become victims of unauthorized cash withdrawal (gestun) practices by comparing the regulatory frameworks under the Indonesian Consumer Protection Law (UUPK), the regulations governing Buy Now Pay Later (BNPL) services, and Bank Indonesia Regulation concerning Card-Based Payment Instruments (PBI APMK). It also examines the legal responsibilities of the platform provider (Shopee) and unauthorized cash withdrawal (gestun) service providers.

This research employs two complementary research methods, namely normative legal research and empirical (field) research. Normative legal research focuses on examining legal principles, statutory regulations, and legal norms established under positive law. Meanwhile, empirical research was conducted through direct data collection from selected respondents and key informants.

The findings indicate that consumers' involvement in unauthorized cash withdrawal (gestun) transactions constitutes a factor that may weaken their claims for comprehensive consumer protection. The study further identifies shortcomings in the implementation of the prudential principle by fintech institutions providing BNPL financing through Shopee PayLater, as well as deficiencies in risk mitigation measures undertaken by both business actors and regulatory authorities. From the perspective of consumer protection law and the prudential principle, the study argues that an explicit legal prohibition of unauthorized cash withdrawal (gestun) transactions is necessary to provide greater legal certainty for consumers regarding the legality of such practices involving Shopee PayLater. With respect to the losses suffered by consumers, Shopee, as the platform provider, is generally not liable for damages arising from agreements concluded outside the platform between consumers and third-party unauthorized cash withdrawal (gestun) service providers (merchants). Shopee expressly stipulates that transactions conducted in violation of its terms of service remain the responsibility of the users or third-party unauthorized cash withdrawal (gestun) service providers involved in such transactions. Consequently, unauthorized cash withdrawal (gestun) service providers bear legal responsibility toward consumers who suffer losses. Such liability should ideally include restitution or compensation for damages and, where appropriate, the imposition of criminal sanctions.

Keywords: Consumer Protection, Financial Technology (Fintech), Buy Now Pay Later (BNPL), Shopee PayLater.

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