



Rental Agreements That Do Not Meet the Elements of a Halal Cause

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ABSTRACT

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The aim of the research is to evaluate the validity of rental agreements that do not meet the elements of a halal cause, to find the legal consequences for the parties of rental agreements that do not meet the elements of a halal cause, to evaluate the judge's legal considerations regarding leases that do not meet the elements of a halal cause. .

The research method is a normative juridical research type using a statutory approach and a conceptual approach.

Based on the research results, it was concluded that the validity of the rental agreement between Plaintiff Karwanto and Defendant Endra was invalid because one of the conditions for the validity of the agreement was not fulfilled in Article 1320 paragraph (4) of the Civil Code or Civil Code. The legal consequence for the parties of a rental agreement that does not fulfill the elements of a halal cause is that the rental agreement between the Plaintiff Karwanto and the Defendant Endra does not fulfill one of the objective elements, namely a halal cause which results in cancellation, namely that the agreement itself is null and void by law. The judge's legal considerations regarding leases that do not fulfill the elements of a halal cause are inappropriate in the Court of First Instance because the Panel of Judges does not consider the provisions of Article 1320 of the Civil Code relating to a halal cause as one of the conditions for the validity of the agreement.

KEYWORDS:

Rental agreement, fiduciary guarantee, default, lawful causes.

1. INTRODUCTION

The agreement must be drafted in detail, comprehensively, and not contain provisions that cast doubt on the parties. Rent is regulated in Article 1548 of the Civil Code. In the agreement there is also an achievement, namely the agreement between both parties that has been promised and agreed to be fulfilled. If a promise is broken in the contents of an agreement, the legal relationship will result in punishment in the form of compensation (Martha Eri Safira, 2017). An agreement is said to be valid if it meets Article 1320 of the Civil Code. There are 2 (two) forms of cancellation if any of these conditions are not met, namely the agreement can be canceled and the agreement is null and void (I Gede Yudi Arsawan, 2022).

As an example of a case whose legal facts are found in District Court Decision No.188/Pdt.G/2017/Pn.Pbr, where the element of halal reasons as a condition for the validity of

an agreement is not fulfilled. Plaintiff Karwanto rented a Toyota Avansa brand car, Type T:1300G M/T New 1 Ton MB/2012 No. Frame: MHKM1BA3JCK036544 Engine No.: DK49347 Police No. BM 1589 JO Metallic Black, Used Condition, BPKP and STNK a/n PT. Surya Darma Perkasa to Defendant Endra, the object used for the lease was the object of an agreement between Plaintiff Karwanto and Co-Defendant PT. Astra Sedaya Finance with Agreement Number 01.500.506.00.155592.5 obtained from financing facilities and Fiduciary transfer of ownership rights.

Based on the problems in District Court Decision no. 188/Pdt.G/2017/PN.PBR. Defendant Endra rented a car to Plaintiff Karwanto verbally on June 1 2017 and intended to return it on June 3 2017. However, until this lawsuit was filed, Defendant Endra had not returned the car rented to Karwanto on the grounds that it had been taken by force by Co-Defendant PT. Astra Sedaya Finance. According to Plaintiff Karwanto, Defendant Endra committed an act of breaking his promise or breach of contract, so Plaintiff Karwanto asked to return the car along with rental money, late fees and other rights that Plaintiff Karwanto had to accept.

Also Defendant PT. Astra Sedaya Finance filed an appeal. Deed of Appeal Statement Number 188/Pdt.G/2017.Pn.Pbr.

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In response, it is true that the car rental agreement was dated June 1 2017 to June 3 2017, with the aim of the Defendant Endra being to rent a car to take him to his family's house in Jambi. June 2 2017 Depcoleptor PT. Astra Sedaya Finance executed the car from the control of Defendant Endra on the grounds that Plaintiff Karwanto had neglected to fulfill the agreement with PT. Astra Sedaya Finance. As a result, Defendant Endra had difficulty finding a replacement car to return to Pekanbaru. According to Defendant Endra, Plaintiff Karwanto violated the law by renting out objects that were still under fiduciary guarantee.

That the lawsuit at the District Court was then upheld by the Pekanbaru High Court with Decision Number 110/PDT/2018/PT. PBR., dated 1 October 2018. Furthermore, the Cassation Petitioner submitted a Cassation Application Number 188/Pdt.G/2017/PN.Pbr., juncto Number 110/PDT/2018/PT.Pbr. The Plaintiff/Cassation Respondent is the fiduciary or debtor, the Co-Defendant/Cassation Petitioner is the fiduciary/creditor; that it turns out that the User/fiduciary provider has rented out the object of fiduciary security to the Defendant, this act of renting out clearly violates one of the Articles in Law Number 42 of 1999 concerning Fiduciary Guarantees. Related to the legal requirements of an agreement for a lawful cause, this is contrary to the law. With these problems, the author will discuss the validity of a rental agreement that does not meet the elements of a halal cause, what the legal consequences are for the parties of a rental agreement that does not meet the elements of a halal cause, and what the judge's legal considerations are regarding a lease that does not meet the requirements. elements of a halal cause.

II. MATERIALS AND METHODS

The type of normative juridical research used by the author to prepare this thesis is considering formal legal norms (Ani Purwati, 2020). The approach used is a statutory approach and a conceptual approach. Supporting data comes from literature studies in the form of secondary data consisting of primary legal materials and secondary legal materials (Peter Mahmud Marzuki, 2019).

III. RESULTS AND DISCUSSION

A. Validity of Rental Agreements That Do Not Meet the Elements of Halal Cause

The Civil Code states 2 (two) agreements, namely a written rental agreement Article 1570 of the Civil Code and an oral rental agreement Article 1571 of the Civil Code. A written rental agreement must be in writing and signed by two or more parties. Meanwhile, verbal agreements are not required to be made in writing, only the parties agree in words (I Gede Yudi Arsawan, 2022).

The validity of an agreement is regulated in Article 1320 of the Civil Code, namely the agreement of the parties, the ability to carry out an agreement, a certain thing, and good

intentions. The validity of an agreement arising from an agreement, namely, an agreement on the legal subject that binds oneself, the ability to make an agreement, a certain subject matter, and a cause that is permitted. An oral agreement that is not recorded in writing if it meets and does not violate Article 1320 of the Civil Code, then the agreement is considered valid. . The elements and conditions of an agreement can be considered valid if they fulfill the following, namely (Gloria Pepah, etc., 2020):

1. Consent of will
2. Authority (Proficiency)
3. Certain objects (achievements).
4. Purpose of the Agreement

As an example of a case that has entered the cassation level in Supreme Court Decision No. 1264 K/Pdt/2019 found the fact that at the first instance, District Court No. 188/Pdt.G/Pn.Pbr. There was a rental agreement between Plaintiff Karwanto who rented to Defendant Endra on June 1 2017 a Toyota Avanza brand car. Defendant Endra did not know that the car was still under fiduciary guarantee. Defendant Endra rented a car to Plaintiff Karwanto by making a verbal agreement and it would be returned on June 3 2017.

The formulation of Article 1337 of the Civil Code states that certain causes become invalid if they violate applicable legal provisions, or if they conflict with good moral values and the general order of society. In making an agreement, it must fulfill the requirements of a halal cause. That the agreement made between Plaintiff Karwanto and Defendant Endra is invalid because the object used in the rental agreement does not fulfill one of the legal requirements of the agreement as regulated in Article 1320 paragraph (4) of the Civil Code "a lawful cause".

B. Legal Consequences for the Parties of Rental Agreements That Do Not Meet the Elements of Halal Cause

An agreement is a bond made by 2 (two) or more legal subjects who mutually bind themselves to each other to do or not to do an act where the terms and sanctions have been agreed upon by both parties, either orally or in writing, to do something, accept something, both rights and obligations that have been agreed upon previously (Firman Floranta Adonara, 2021).

The rental agreement encountered a problem, where the car rental process did not meet the requirements because it was halal, proven by the fact that the car being rented was still under fiduciary guarantee as strengthened in Article 23 paragraph (2) of the Fiduciary Guarantee Law, hereinafter referred to as UUJF. By the act of not returning the car to Plaintiff Karwanto on the date agreed in the agreement, according to Plaintiff Karwanto, Defendant Endra committed an act of breach of contract or broke his promise. Thus, Plaintiff Karwanto has requested the return of the vehicle

along with rental fees, late fees and other rights that must be paid by Defendant Endra. The lawsuit filed by Plaintiff Karwanto could not be accepted by Defendant Endra who stated that Defendant Endra had not committed any breach of contract.

Plaintiff Karwanto did not do anything, namely renting out a car under a Fiduciary Guarantee, where the act of renting out did not meet the elements of a halal cause and was contrary to Article 23 paragraph (2) UUFJ. This action violated the law which resulted in Plaintiff Karwanto committing an act of breach of contract. As an assessor agreement, a fiduciary agreement has the following characteristics (Zuhriati Khalid, 2019):

- a. On the nature of dependency;
- b. Its validity is determined by whether or not the main agreement applies;
- c. This can only be done if the mandatory conditions in the main agreement have been fulfilled.

Plaintiff Karwanto is a party who does not fulfill the conditions for the validity of the agreement, namely article 1320 paragraph (4) of the Civil Code as an objective condition in entering into a rental agreement with Defendant Endra. That the legal basis used to file a lawsuit is that it is null and void and can be canceled as regulated in Article 1266 of the Civil Code which explains that the conditions that cause the cancellation of an agreement are always included in a mutual give and take agreement, if one party does not fulfill its obligations.

C. Judge's Legal Considerations on Leases That Do Not Meet the Elements of Halal Cause

The legal process in civil courts is the task of a judge who has the authority to consider whether a legal relationship that is the basis of a case actually exists or not. The judge has the right to decide which party in the case is obliged to provide testimony and for this evidence the judge must act wisely and prudently and be neutral, there is no defending between the parties in the case (Nazla Khairina and Kamaruzaman Bustaman, 2018). The decision must contain reasons for judging. This argument is used by the judge as a form of accountability to the community that the examination is carried out objectively, so that the decision has authority (Diego Amal Akbar, 2019).

Examples of cases in District Court Decisions relating to rental agreements that do not fulfill the elements of a lawful cause are regulated in District Court Decision No. 22/Pdt.G/2018/PN.JKT.PST and Supreme Court Decision No. 2750 K/Pdt/2018 in conjunction with District Court Decision No. 08/Pdt.G/2017/PN.Bla. Several Court decisions relating to rental agreements that do not fulfill the elements of a halal cause, one of which will be discussed is Decision No. 188/Pdt.G/2018/PN.Pbr. The Panel of Judges at the first level of the decision above considered the legal arguments related to the claim submitted by Plaintiff Karwanto to state

that Defendant Endra had committed a Default, which is explained as follows:

- a. Considering, because not all of the claims submitted by the Plaintiff can be accepted, the first claim is partially accepted;
- b. Rejecting the petition of Plaintiff Karwanto's lawsuit No. 2, 3, 4, 5, namely:
 1. Declare that the verbal agreement to lease a unit of Toyota Avansa Brand Car between Plaintiff Karwanto and Defendant Endra is valid and valuable;
 2. Declare that the Defendant has broken his promise (Default);
 3. Declaring that it is legally valid and correct that the Defendant, Endra, must return the rent to the Plaintiff in the amount of Rp. 16,500,000., (sixteen million five hundred thousand rupiah); And
 4. Sentencing the Defendant to pay a late fine of 5% of the amount of rent that should have been received by the Plaintiff, namely Rp. 16,500,000, from August until the Plaintiff received the car in good condition as before;
- c. Considering granting petition 6, 7, 8, namely:
 1. Considering, that the car that the Defendant rented from the Plaintiff was in the Defendant's possession, so the Defendant was obliged to return the car to the Plaintiff.
 2. Considering that the 7th and 8th petitions can be granted, the Defendant is sentenced to pay a forced fine (Dwangsom) in the amount of Rp. 100,000,- (One Hundred Thousand Rupiah) every day to the Plaintiff until the implementation of this decision takes place in accordance with the provisions, as well as ordering the Co-Defendant to obey and respect this decision.

The Defendant also submitted a request for cassation in the Supreme Court Decision No. 1264 K/Pdt/2019 regarding a rental that did not meet the elements of a halal cause with the following considerations:

1. Whereas in accordance with the provisions of Article 23 paragraph (2) UUFJ, fiduciary givers are not permitted to transfer, pawn or rent items that are the subject of fiduciary guarantees to other parties, unless they obtain prior approval from the fiduciary recipient;
2. Whereas in this case the Plaintiff/Cassation Respondent is the fiduciary or debtor, while the Co-Defendant/Cassation Petitioner is the fiduciary/creditor;
3. Whereas the Plaintiff/fiduciary has rented out the object of fiduciary security to the Defendant, this act of renting out clearly violates Article 23 paragraph (2) UUFJ. In accordance with the provisions of Article 29 paragraph (1) in conjunction with Article 15 paragraph (2) UUFJ that the fiduciary recipient can implement the provisions of the executorial title of Article 15 paragraph (2);

IV. CONCLUSION

Based on the problems that have been explained, the following conclusions can be drawn:

1. The validity of a rental agreement that does not fulfill the elements of a halal cause is that the rental agreement entered into between the Plaintiff Karwanto and the Defendant Endra is invalid because the conditions for the validity of the agreement in Article 1320 paragraph (4) of the Civil Code are not fulfilled, namely a halal cause.
2. The legal consequence for the parties of a rental agreement that does not fulfill the elements of a halal cause is that the rental agreement entered into between Plaintiff Karwanto and Defendant Endra does not fulfill one of the objective elements in Article 1320 paragraph (4) of the Civil Code which results in the rental agreement being invalidated in favor of laws and agreements are considered non-existent and have never occurred since the beginning of the agreement. Even though Plaintiff Karwanto rented out a car which is an item that is not halal or is still under fiduciary guarantee, Plaintiff Karwanto has violated Article 1320 paragraph (4) of the Civil Code which is contrary to Article 23 paragraph (2) UUJF. However, Defendant Endra still paid the losses mentioned.
3. The judge's legal considerations regarding leases that do not fulfill the elements of a halal cause are inappropriate in the Court of first instance because the Panel of Judges does not take into account the provisions of Article 1320 paragraph (4) of the Civil Code.

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