

Consumer Protection Law of Circulation of Expired Food

Angga Karunia Putra*)

*) Master of Law, Faculty of Law Universitas Islam Sultan Agung , Email: angga_kape@yahoo.com

Abstract

This study aims to identify and analyze consumer protection for the circulation of expired food (At the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency); the factors that become obstacles in consumer protection for the circulation of expired food at the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency and the solution. This study uses sociological juridical research methods.

The conclusion in this study is that producers or business actors must carry out their business in accordance with predetermined production guidelines. Business actors who commit violations will be subject to sanctions in accordance with the provisions stipulated in Article 60 to Article 63 of Law No. 8 of 1999 concerning Consumer Protection.

Keywords : Law, Consumer Protection, Expired Food

1. Introduction.

National development aims to create a just and prosperous society that is materially and spiritually evenly distributed in the era of economic democracy based on the 1945 Constitution.¹ National economic development in the era of globalization must be able to support the growth of the business world so that it is able to produce a variety of goods and/or services that contain technological content that can improve the welfare of the community at large and at the same time obtain certainty of goods and/or services obtained from trade without causing consumer losses.²

The opening of the international market as a result of the process of economic globalization must continue to guarantee the improvement of the welfare and safety of the community as well as the certainty of the quality, quantity and security of the goods and/or services obtained by the public in the market.³ As it is known that recently expired food is circulating in supermarkets or in places where food is sold which can be harmful to human health, so that it can harm the interests of consumers.⁴

The benefits of the development of the globalization era in the national market like this are certain parties can provide benefits to consumers because the

¹Erman Rajagukguk, et.all, 2016, *Hukum Perlindungan Konsumen*, Bandung, CV. Mandar Maju, p. 23

² Zaeni Asyadie, 2012, *Hukum Bisnis (Prinsip dan Pelaksanaannya di Indonesia)*, RajaGrafindo Persada, Jakarta, p. 103

³ Hidataullah, Muhammad Faishal, dkk, 2014. "Efek Penggunaan Tepung Limbah Roti Tawar Sebagai Pengganti Jagung Terhadap Penampilan Produksi Itik Hibrida", *Jurnal Fakultas Peternakan, Universitas Brawijaya Edisi 2, Volume 1, 2014*, P. 45

⁴ Zaeni Asyadie, 2014, *Hukum Bisnis (Prinsip dan Pelaksanaannya di Indonesia)*, RajaGrafindo Persada, Jakarta.

consumer's needs for the desired goods and/or services can be fulfilled and this will open up more freedom to choose various types and quality of goods. and/or services in accordance with the wishes and abilities of consumers. Because consumers are not just buyers. However, all people (individuals or business entities) who consume goods and/or services. Consumers are also referred to as users of this word which emphasizes that consumers are the ultimate consumers.⁵

Based on the above background, this study aims to determine and analyze Consumer Protection for the circulation of expired food (At the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency); the factors that become obstacles in consumer protection for the circulation of expired food at the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency and the solution.

2. Research methods.

The approach method used is sociological juridical, namely analytical research in writing this journal using qualitative analysis techniques. This means that the data obtained is then arranged systematically so that a comprehensive picture will be obtained, where later the data will be presented descriptively, while the data collection method is by interviewing the head of the Kalijaga consumer protection agency, Demak Regency, results of interviews and legislation.

3. Research Results and Discussion

3.1. Consumer Protection Law on Circulation of Expired Food at the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency.

If there are consumers who feel that they have been harmed by business actors, and if they have not reached an amicable path with business actors so that they require mediation and advocacy to obtain compensation for the use of goods and services that are not in accordance with the requirements, then consumers need an advocacy movement and group support in the form of action classes. So consumers can complain to the Kalijaga Non-Governmental Consumer Protection Agency in the following ways:⁶

- Consumers submit their complaints
- Consumers fill in the guest list
- LPKSM Kalijaga submits a complaint form to be filled out or taken home by consumers
- Members of the Kalijaga LPKSM ask for a photocopy of valid proof of self (KTP, KK)
- Members of the Kalijaga LPKSM request that the complaint be accompanied by supporting evidence/documents.
- Members of the Kalijaga LPKSM include the conclusions of the study

⁵ Shidarta, 2014, *Hukum Perlindungan konsumen Indonesia* ,Jakarta, Grasindo, p. 6

⁶ Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak.

- If the complaint is related to one of the activities of the Kalijaga LPKSM, it will be followed up with the signature of a Power of Attorney.

In addition, consumers can make complaints regarding consumer disputes to the Kalijaga Demak Non-Governmental Consumer Protection Agency, consumers, LPKSM, and business actors can also file consumer dispute complaints through the National Consumer Protection Agency, the methods are as follows:⁷

- Come Directly to the National Consumer Protection Agency (BPKN)
- By phone
- By Mail (including email and fax)
- Through the BPKN 153 Call Center facility
- Other.

The SOP for consumer dispute complaints to BPKN based on an interview with Setyadi as the leader of the Kali Jaga Demak LPKSM is as follows:

- Complaints submitted and received by officers
- Complainant fills out guest list
- The officer provides a complaint form to fill in
- The officer asks for a photocopy of valid proof of identity (KTP/Passport)
- The officer asks for the complaint to be accompanied by supporting evidence/documents.
- The officer contains the conclusions of the results of his study:
- Complaints that are not under the authority of BPKN, will be notified to the complainant that will not be followed up.
- Complaints related to the substance of the UUPK will be followed up in accordance with the authority of BPKN to be used as recommendation material
- The response to the complaint is submitted to the complainant no later than 14 (fourteen) working days after the complaint is received by the officer.

The requirements for submitting a complaint are as follows:

- The complainant is domiciled in the Republic of Indonesia
- The party in the complaint is domiciled in the Republic of Indonesia
- The chronology of complaints submitted in writing
- The substance of the case complained of is the authority of BPKN
- Complaints by telephone are then submitted in writing
- Equipped with supporting evidence/documents.

Meanwhile, complaints that are not handled by BPKN if:

- The identity of the complainant does not exist
- The identity of the complainant does not exist
- The substance of the case complained of is not related to the UUPK and is not the authority of BPKN
- Does not explain the chronology of the case being reported
- Not equipped with supporting evidence/documents of a case that is being examined by a court or other authorized institution
- The case that was complained of had already received a decision from the Judiciary Agency or BPSK.

⁷ Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak.

As for how to resolve consumer disputes by the Kalijaga Demak Community Self-help Consumer Protection Agency, namely:⁸

a. Out of Court Settlement

The flow of Consumer Dispute Resolution based on the results of interviews with Setyadi as the leader of the Kali Jaga Demak LPKSM outside the court is as follows:

- Consumer Complaints received by LPKSM Kalijaga Demak
- The consumer makes a power of attorney for the dispute
- LPKSM Kalijaga Demak along with consumers who have been harmed carry out investigative actions to ensure the truth of the information.
- If the investigation is proven, then LPKSM Kalijaga Demak together with DINDAGKOP, BPOM and the Police to coordinate the findings and carry out the confiscation.
- LPKSM Kalijaga Demak, which has been given power of attorney to consumers, provides assistance / advocacy and with business actors regarding compensation suffered by consumers, if at this stage the problem has not been resolved, it will be brought to the realm of out-of-court settlement through BPSK.

LPKSM Kalijaga Demak resolves disputes through BPSK by:

• **Conciliation**

At the Conciliation level through BPSK intermediaries, the parties are brought together and the settlement is submitted by the disputing parties accompanied by an assembly that acts passively as a conciliator. At the Conciliation level, the Kalijaga Consumer Protection Agency (LPKSM) plays a role in assisting consumers and playing an active role in negotiations with business actors.⁹ However, at this level of conciliation, business actors do not want to be responsible for finding expired dry and wet bread.

• **Mediation**

Because the Conciliation level has not found a common ground, it is continued at the Mediation level, namely the process of resolving disputes outside the court through the BPSK intermediary (Consumer Dispute Settlement Agency) which brings together the disputing parties and the resolution is submitted by the disputing parties, accompanied by the acting assembly. act as a mediator. At this mediation level the problem still cannot be resolved with the result that business actors do not want to be responsible for expired goods (wet and dry bread) which are marked by the appearance of fungus around the bread, namely by replacing all losses caused by the bread that has been damaged. has expired and does not want to provide compensation to the affected families,

• **Arbitration**

Arbitration is a way of resolving a civil dispute outside the general court based on an arbitration agreement made by the disputing parties, which has long been known in Indonesia. In fact, the Indonesian National Arbitration Board (BANI) has been formed since November 30, 1977, based on the Decree of the Chamber of Commerce and Industry (KADIN) No. SKEP/152/DPH/1977.

⁸ Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak.

⁹ Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak.

Dispute resolution through arbitration is a step taken by LPKSM Kalijaga. The advantages of dispute resolution through arbitration are because the decision is immediately final and has permanent legal force and is binding on the parties.¹⁰This arbitration award has executive power, so that if the defeated party does not fulfill the decision voluntarily, then the winning party can request court execution.

3.2. Obstacles That Are Obstacles to LPKSM Kalijaga in Resolving Expired Food Problems and How to Solve them:

In terms of dealing with the problem of circulating expired goods in Mijen Subdistrict, Demak Regency, the Kalijaga Consumer Protection Agency (LPKSM) encountered the following obstacles:¹¹

- a. Lack of facilities and infrastructure to support performance in educating smart consumers to the public, because of the costs of self-help members themselves. The solution is by cooperating with business actors, community leaders and religious leaders, academics and government agencies as well as state agencies to take an active role together in order to create smart consumers and honest business actors according to the following provisions:
 - Law No. 8 of 1999 concerning Consumer Protection
 - PP No. 57 of 2001 concerning the National Consumer Protection Agency
 - PP No. 59 of 2001 concerning Consumer Protection
 - Presidential Decree No. 50 of 2017 concerning consumer protection strategies.

Lack of Guidance and Supervision of Consumer Protection from the Government In order to fulfill the objectives of the Consumer Protection Act as referred to in Article 3 of Law Number 8 of 1999 concerning Consumer Protection, it is necessary to provide guidance and supervision covering the business actors themselves, production facilities and infrastructure, the overall business climate, as well as consumers. However, this has not been implemented due to the lack of coordination between the Government and the Kalijaga LPKSM, Demak Regency. Solutions The government together with LPKSM Kalijaga, Demak Regency will provide guidance and supervision which is expected to ensure that the fulfillment of consumer rights can be guaranteed and conversely the fulfillment of the obligations of business actors as producers can be ensured.¹²

a. coaching

Guidance relating to the responsibility for fostering the implementation of Consumer Protection as a whole is in the hands of the government (Article 29 of the Consumer Protection Law), which in this case is carried out by the relevant technical ministers.

In Article 29 paragraph (4) of the Consumer Protection Act it is stated that the development of the implementation of Consumer Protection is intended to:

- Creating a business climate and growing healthy relationships between business actors and consumers.

¹⁰ Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak

¹¹ Interview with Bp.setyadi, Leader of LPKSM Kali Jaga Demak.

¹² Interview with Mr. Setyadi, Leader of LPKSM Kali Jaga Demak.

- Berkedepvelopment of non-governmental Consumer Protection institutions.
- Increasing the quality of human resources as well as increasing research and development activities in the field of consumer protection.

b. Supervision

According to Article 30 paragraph (1) of the Consumer Protection Act, supervision of the implementation of Consumer Protection as well as the application of the provisions of the legislation is carried out by:

- Government,
- Public,
- Non-Governmental Consumer Protection Agency.

In relation to Consumer Protection for expired food and beverages, the public can conduct a survey on the writing or inclusion of the expiration date of certain products circulating in supermarkets regarding:

- Does that particular product contain/include a lizzard periodexpired or not;
- Is the inclusion of the expiration period clear or not;
- Are products that have passed the expiration date still on display at the point of sale;

This information can be collected and then forwarded to the relevant government authorities, police officials or to non-governmental organizations. This is a form of community participation in supervision in relation to the enforcement of consumer protection.

4. Conclusion.

Based on the description of the research results and discussions that have been described previously, the authors can draw the conclusion that the Consumer Protection Law on the circulation of expired food at the Kalijaga Non-Governmental Consumer Protection Agency (LPKSM) in Demak Regency is in the form of wet and dry bread in Mijen District, Demak Regency, namely by provide assistance or advocacy in order to resolve the consumer dispute. If it turns out that it has not found a common ground, then the Kalijaga LPKSM goes through the BPSK (Consumer Dispute Settlement Agency) intermediary, namely through the Conciliation, Mediation and Arbitration levels, this is done by the Kalijaga LPKSM because it can be cost-effective, fast and uncomplicated, producers or business actors must carry out their business in accordance with predetermined production guidelines. Business actors who commit violations will be subject to sanctions in accordance with the provisions stipulated in Article 60 to Article 63 of Law No. 8 of 1999 concerning Consumer Protection.

The suggestions given by the author are:, LPKSM Kalijaga, Demak Regency together with the Government must often coordinate with expired goods, Consumers must be willing to learn about the importance of being smart consumers.

5. Reference

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