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Legal Justice And Legal Accountability In Multi-Clause Franchise Disputes (Case Study: Saimen Sarolangun)

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Abstract: Currently, the business world is rapidly growing, as evidenced by the increasing application of business development through franchise systems widely adopted by entrepreneurs in Indonesia. The economic development of society in this technological era has certainly undergone various changes, resulting in business relations becoming more accessible to everyone. Therefore, adequate legal protection is needed to minimize potential problems that may arise, aiming to ensure justice and legal certainty within society. This means that the development of the business world must be accompanied by strong and sufficient legal protection to support potential legal issues in the future. In other words, regulations that provide legal justice and effective dispute resolution methods are required, which will particularly impact the parties involved, especially those who suffer losses, along with clear legal accountability so that violators can be held responsible for their actions. This research is normative legal research with a conceptual approach, and the data collection techniques used include literature study and a case study on decision No. 25/Pdt.G/2022/PN Srl. The findings show that dispute resolution in the case was carried out through litigation efforts, proving that the defendant committed a breach of contract in a franchise agreement that had already been notarized. This indicates that the franchise agreement was drafted by the parties into a legal document with strong evidentiary value. The document clearly establishes the legal relationship between the parties regarding their rights and obligations, created to ensure legal justice and to prevent future disputes. Furthermore, legal accountability was addressed in the judgment's ruling, which was considered sufficient to cover all losses suffered by the plaintiff.

Keyword: Legal Justice, Legal Accountability, Franchise Disputes.

INTRODUCTION

The economic development of society in the technological era has certainly undergone various changes, resulting in business relations becoming more easily accessible to everyone. Therefore, adequate legal protection is needed to minimize any potential problems that may arise, with the aim of ensuring justice and legal certainty within society. Robert T. Kiyosaki

stated that there are three main types of business systems that entrepreneurs can enter: first, the traditional business system where entrepreneurs develop their businesses independently; second, the franchise business system where entrepreneurs purchase an existing system; and third, the network marketing business system where entrepreneurs buy into and become part of an already established system[1].

Franchise agreements are based on the etymology of "Franc," which originated in the Middle Ages and means "privilege." In other words, engaging in franchise business offers a special advantage compared to standard business methods in today's society. The word "franchise" comes from Anglo-French, where the root word "franc" means "free." Under another interpretation, the term "franchise" also refers to "privilege" or "grant," originating from the Medieval era. Essentially, a franchise can be considered a marketing system for products or services. A franchise is an agreement between two parties—the franchisor and the franchisee—where the franchisor permits the franchisee to market specific products or services under its brand, trademark, or symbol in exchange for an initial fee, royalty fee, or both. Several factors support the use of franchises, one of which is the mutual benefit sought by the parties involved[2]. This means that franchise agreements are generally more profitable compared to other business agreements; however, it must be acknowledged that every action, including franchise agreements, carries its own consequences.

Franchising provides convenience for entrepreneurs in developing their business processes. According to Article 1 of Government Regulation No. 35 of 2024 on Franchises, a franchise is a special right owned by an individual or business entity over a business system that meets certain criteria, intended to market goods and/or services that have been proven successful and may be utilized by other parties based on a franchise agreement. Based on this definition, the franchisor and franchisee enter into a cooperation agreement with the purpose of business development.

Franchise agreements are regulated in the Indonesian Civil Code (KUHPer), specifically in Article 1237 regarding agreements to deliver goods, Article 1241 regarding agreements to perform an act, and Article 1242 regarding agreements to refrain from doing something[3]. This means franchise agreements must be clearly regulated, as obligations agreed upon by franchisors and franchisees are often violated. Article 1320 of the Civil Code affirms that an agreement contains fundamental principles agreed upon by two parties, not contradicting the law, and binding both parties as if it were law. In other words, the agreement serves as binding law for those who consent to it. However, in practice, breaches of contract often occur, leading to franchise disputes caused by negligence in fulfilling obligations previously agreed upon by both parties. Muhammad Utsman Mubarok, in his thesis, notes that in standard agreements (such as Little Chiclin), several aspects must be considered, including ownership, transfer of ownership, inheritance rights, dispute resolution, as well as procedures for extension, termination, and cancellation of the agreement. Furthermore, franchise agreements must also consider the rights and obligations of the parties, including intellectual property rights.

Franchise agreements often lead to disputes, such as location selection and encroachment, franchisee development rights, renewal of the franchise, allegations of undisclosed fees, and customer service issues. Therefore, franchise agreements must include

[1] Dwi Puji Astutik, "Legal Protection for Franchisees Who Are Harmed by Franchisors in Franchise Agreements" 2507, no. February (2020), p. 274.

[2] Ali Rahmad and Rahmi Zubaedah, "A Review of Civil Law Perspectives on Franchise Agreements in Indonesia," Journal of Law and Humanities 9, no. 1 (2022), p. 513.

[3] Chatrine Lidya Girsang et al., "Legal Analysis of the Implementation of Agreements and Protection of Parties in Franchise Agreements," Jurnal Media Akademik (JMA) 2, no. 2 (2024), p. 6.

dispute resolution mechanisms that provide a win-win solution for the parties[4]. Consequently, in franchise dispute resolution, legal authorities often offer alternatives to court litigation that are less costly and time-consuming, such as mediation or arbitration. These mechanisms allow the parties to select mediators or arbitrators to resolve disputes[5].

A franchise is a form of cooperation involving the owner of a trademark, product, or management system (franchisor) and another party (franchisee), in which the franchisee is granted the right to operate a business under the system established by the franchisor as the brand owner. In practice, franchise contracts often contain numerous clauses or a series of interrelated provisions that may cause confusion or conflict in the event of a breach. Ambiguity in these clauses can undermine legal justice and complicate the determination of legal accountability. Therefore, it is essential to examine how the principles of legal justice and legal accountability can be applied in resolving franchise disputes that involve multiple clauses, as illustrated in the case of *Saimen Sorolangun*.

METHOD

In this paper, the author uses "Normative Juridical" research (library research). "Normative juridical" research, namely research that primarily examines legal materials, positive legal provisions, legal principles, legal principles, and legal doctrines, in order to answer the legal issues faced[6].

RESULTS AND DISCUSSION

Case Position

The dispute began when Simon Daud, as the plaintiff, filed a lawsuit against Hj. Asiah as Defendant I and H. Ismail as Defendant II on November 21, 2022, which was received and registered at the Registrar's Office of the Sarolangun District Court on November 21, 2022, under Register No. 25/Pdt.G/2022/PN Srl. It should be noted that the plaintiff is the owner of a fried chicken business, restaurant, catering service, and bakery that has been operating since 1985 under the brand *SAIMEN*, which is registered at the Trademark Office of the Directorate General of Intellectual Property, Ministry of Justice and Human Rights of the Republic of Indonesia under No. 427705 dated December 18, 1997, and No. 431550 dated December 18, 1997.

The plaintiff entered into cooperation with other parties, including Defendants I and II, under a franchise scheme, whereby the franchisee was permitted to operate a business using the plaintiff's *SAIMEN* brand at an agreed location. The cooperation was formalized on December 1, 2018, by the plaintiff and Defendant I through a cooperation agreement signed by both parties under No. 1 before Mohammad Zen, Notary PPAT in Jambi City. The agreement was valid from December 1, 2018, until December 1, 2028, and was also approved by Defendant II as the husband of Defendant I, who was also present to sign the Franchise Agreement Deed.

Based on the deed, both parties were bound to fully comply with the agreed terms. Article 8.1 stated that the defendants, as franchisees, were obligated to pay engagement fees, royalty fees, and management fees to the plaintiff, as detailed in the case file of Decision No. 25/Pdt.G/2022/PN Srl. Articles 6.3, 6.4, and 6.5 of the Franchise Agreement stipulated that the construction of the store/outlet infrastructure, along with all equipment and supplies, was the responsibility of the defendants. However, at the opening of the *SAIMEN* Sarolangun

[4] Haris Djayadi, "Dispute Settlement Patterns of Poci Tea Product Franchises in Ponorogo," Invest Journal of Sharia & Economic Law 1, no. 1 (2021), pp. 29.

[5] *Ibid 29*-30

[6] Peter Mahmud Marzuki, Legal Research, 1st ed. (Jakarta: Prenada Media, 2005).

franchise outlet, part of the equipment and supplies were financed by the plaintiff, under the condition that all costs would later be reimbursed by the defendants.

The Grand Opening, originally planned to take about three months, was delayed and only held on October 10, 2019, due to delays in infrastructure construction and supporting equipment. The plaintiff covered these delays by providing investment loans to finance the outlet's infrastructure and equipment. Consequently, Defendant I had an investment debt of IDR 753,105,981, and before the opening, the plaintiff also covered the initial raw material supply costs amounting to IDR 270,724,440. Thus, before the opening on October 10, 2019, Defendant I owed the plaintiff a total of IDR 1,023,830,421. In the first month of operation (October 2019), sales revenue amounted to IDR 703,463,650, which went into the sales account. However, Article 8.9 of the Franchise Agreement No. 1 dated December 1, 2018, clearly stated: *"The second party is obliged to provide sufficient operational funds to run the business."*

Based on bookkeeping records, the plaintiff's total losses included an initial investment debt of IDR 293,481,194, raw material debt of IDR 323,151,220, and royalty fee debt of IDR 339,065,816, totaling IDR 955,698,230. In addition to material losses, the plaintiff also claimed immaterial losses of IDR 1,000,000,000 due to lost business opportunities and reputational damage. Full details can be found in the case file of Decision No. 25/Pdt.G/2022/PN Srl, page 10.

The plaintiff made several attempts to settle the dispute through non-litigation methods, including mediation and summons, but no resolution was reached. The defendants continued to use the *SAIMEN* trademark in their business despite no longer paying the agreed royalties. Consequently, the plaintiff pursued litigation, filing a lawsuit for breach of contract, seeking termination of the cooperation agreement, compensation for damages, and prohibition of the defendants from using the *SAIMEN* brand.

The ruling of Decision No. 25/Pdt.G/2022/PN Srl partially granted the plaintiff's claims, declared that the defendants had committed a breach of contract, ordered Defendant I to pay material damages amounting to IDR 955,698,230, declared the termination of Franchise Agreement No. 1 dated December 1, 2018, between the plaintiff and the defendants, and ordered the defendants to pay court costs amounting to IDR 1,738,000 jointly and severally.

Legal Justice in Multi-Clause Franchise Disputes

The benefits of franchising include marketing efficiency, cost reduction, and, more importantly, lower financial risks. When expanding into new areas through a franchise system, local franchisees provide insights into the market in which they operate. However, this also opens the possibility of disputes, as franchisors and franchisees may view issues from different perspectives. Thus, a dispute resolution mechanism that provides legal certainty for both parties is essential.

The provisions for drafting franchise agreements grant the parties freedom to formalize the agreement either in an authentic notarial deed or a private deed. Regulation of the Minister of Trade of the Republic of Indonesia No. 71 of 2019 on Franchises does not mandate that franchise agreements be drawn up in notarial form. The parties are free to draft the agreement in writing according to the Civil Code (KUHPer). Nevertheless, executing franchise agreements before a notary is considered necessary to ensure that the clauses are properly and legally framed.

Ideally, franchise agreements should take the form of standard contracts between franchisors and franchisees. A standard contract here refers to a written agreement that has been pre-standardized by the franchisor as the stronger party in the agreement. In other words, the franchisor determines the content of the contract, while the franchisee only has the

option to accept or reject it without participating in its drafting. This arrangement disproportionately benefits the franchisor and disregards the principle of fairness to the franchisee. Such a condition conflicts with Aristotle's view of justice, which holds that justice is about granting proportional rights rather than absolute equality. Proportional equality means giving each person rights in accordance with their abilities and contributions[7]. In the case under study, the agreement between the plaintiff and the defendants can be categorized as a standard contract, as the defendants were only given the opportunity to sign the agreement without participating in its drafting. This shows that the plaintiff indirectly gained an advantage without considering fairness for the defendants.

An agreement can be considered proportional if it is based on a fair exchange of rights and obligations between the parties. Proportionality can be assessed by examining the entirety of the agreed rights and obligations, such as:[8]

Table 1. The Characteristics Of The Principle Of Proportionality In The Formation Of Franchise Agreement Clauses

No	Clause	Description
1.	Franchise fee and royalty fee clauses	Not Fulfilled (This occurred because the defendant committed a breach of contract so that the total losses experienced by the Plaintiff included initial investment receivables of IDR 293,481,194, raw material receivables of IDR 323,151,220, and royalty fee receivables of IDR 339,065,816, with a total of IDR 955,698,230. Not only material losses, the Plaintiff also claims to have suffered immaterial losses of IDR 1,000,000,000 due to the loss of business opportunities and loss of business reputation. More details can be seen in the case in decision No. 25/Pdt.G/2022/PN Srl page 10)
2.	Clause on the Use of Franchise Materials or Products	Qualify
3.	Exclusive marketing area clause	Qualify
4.	Supervision clause	Qualify
5.	Confidentiality clause	Qualify

Based on this assessment, it can be seen that the franchise agreement formed by both parties does not comply with the principle of proportionality, as the defendant committed a breach of contract by failing to pay the royalty fee to the plaintiff, which clearly caused losses to the plaintiff as the owner of the SAIMEN trademark. Legal justice also means the application of law that is clear, stable, consistent, and sustainable, and not influenced by subjective factors. In short, legal certainty is a guarantee related to the law that includes justice. Rules that support justice must truly function as guidelines respected by society. Franchise regulations undoubtedly provide legal certainty for the parties entering into agreements, based on Government Regulation No. 35 of 2024 on Franchising and Minister of Trade Regulation No. 71 of 2019 on the Implementation of Franchising. The implementation of franchising is based on the following:

a. Franchising is carried out based on a written agreement between the Franchisor and the Franchisee in accordance with Indonesian law.
b. If the agreement is written in a foreign language, it must be translated into Indonesian.

[7] Doni Firmansyah, Aminah Aminah, and Irma Cahyaningtyas, "The Principle of Balance as an Indicator of Justice in Franchise Agreements," Notarius 13, no. 1 (2020), p. 267.

[8] Endang Prasetyawati Ifada Qurrata A'yun Amalia, "Characteristics of the Principle of Proportionality in the Formation of Franchise Agreement Clauses (2019), pp. 181-183.

c. The franchisee is an individual or business entity that obtains the right from the franchisor to use the franchisor's franchise. In the case of being entitled to appoint another franchisee, the franchisee must own and operate at least one (1) franchise business outlet.

Based on these various franchise regulations, it can be said that the rules regarding franchising should already provide legal certainty for the parties entering into a franchise agreement. The case in Decision No. 25/Pdt.G/2022/PN Srl concerns a breach of contract under a franchise agreement. In this case, the plaintiff, as the trademark owner, felt disadvantaged by the actions of the defendant and therefore chose litigation to resolve the franchise dispute. Based on the final decision stating that the franchise agreement in question is valid, it means that the agreement does not conflict with existing laws and regulations, nor does it contain any clauses prohibited by law. From the analysis conducted, when linked to the theory of legal justice, the panel of judges' decision provides legal justice for business actors in Indonesia. This is because the clauses in the agreement were clear, but the defendant committed a breach of contract that harmed the plaintiff. Therefore, the judges ruled in favor of the plaintiff's lawsuit, which in essence was considered to provide legal justice to both parties in the dispute.

Legal Liability of the Parties

Legal responsibility is an obligation that must be carried out by the parties bound to an agreement. In other words, responsibility covers aspects of obligations that must be accounted for, such as decision-making, expertise, skills, and compliance with legal obligations. The concept of *responsibility* and *accountability* are interrelated but distinct. Legal responsibility reflects the obligations that individuals and entities must comply with, while legal accountability refers to the consequences or liabilities that arise when those obligations are not fulfilled. In essence, legal accountability involves understanding how the law imposes sanctions or consequences on violators.

Negligence in a franchise agreement may include situations where the franchisee fails to fulfill their obligations. Articles 7 to 11 of Government Regulation No. 35 of 2024 on Franchising detail the obligations of the parties and the sanctions imposed in the event of violations, including administrative sanctions imposed by the Minister, Governor, Regent, or Mayor. This aligns with Hans Kelsen's view that the concept of obligation is inherently tied to legal accountability, whereby a person is deemed legally accountable when they receive sanctions for unlawful actions. Generally, sanctions are imposed on parties because of their own conduct, which obligates them to bear responsibility for their actions[9].

The Civil Code (KUHPer), particularly Article 1266, also regulates that in a franchise agreement, if one party commits a breach of contract (*wanprestasi*), the aggrieved party may seek legal remedies according to the agreement, either through the judiciary or arbitration and alternative dispute resolution[10]. This means that franchise disputes can be resolved through both litigation and non-litigation avenues. However, in practice, business actors often prefer non-litigation methods such as negotiation and arbitration, as these are generally more efficient. In franchising, disputes are usually resolved through negotiation first, and if no agreement is reached, arbitration is pursued with the assistance of an arbitrator. Such methods are based on the mutual agreement of the parties, as the law does not rigidly prescribe one method of dispute resolution. Nevertheless, if these efforts fail, litigation in a competent court may still be pursued.

[9] Imrokhatun Salsa Hanifah, Sanusi, and Muhammad Wildan, "Legal Responsibility of the Defaulting Party in a Franchise Agreement," Journal of Business and Management (JURBISMAN) 2, no. 1 (2024), pp. 262-270.

[10] Marselo V. G Pariela, "Default in Franchise Agreements," Season 23 (2017, p. 3.

Decision No. 25/Pdt.G/2022/PN Srl is an example of a franchise dispute that proceeded to litigation after non-litigation efforts failed. The plaintiff filed a lawsuit claiming that the defendant had breached the franchise agreement. The judgment partially granted the plaintiff's claims, declared that the defendants had committed a breach of contract, ordered Defendant I to pay material damages amounting to Rp955,698,230.00, declared the termination of the franchise agreement dated December 1, 2018, and ordered the defendants to pay case costs amounting to Rp1,738,000.00 jointly. This ruling created a new legal obligation for the defendant to the plaintiff as a consequence of their negligence as the franchisee.

From John Rawls' theory of justice, which emphasizes that every individual has equal rights to legal protection without discrimination and that justice ensures the protection of fundamental rights, the court's ruling sought to balance individual and collective interests by imposing fair sanctions on the violating party. Furthermore, the decision reflects the principle of *Equality Before the Law*, ensuring that the rights of both plaintiff and defendant are protected regardless of social status and that parties suffering losses from unlawful acts receive proper remedies[11].

CONCLUSION

Dispute resolution in a franchise agreement certainly has two paths, namely litigation and non-litigation, in the case of the SAIMEN franchise agreement was resolved through litigation, although previously the parties had made non-litigation efforts but still did not find a bright spot. The plaintiff filed a lawsuit on the basis of breach of contract and based on the decision the defendant was proven to have breached the franchise agreement agreed by the parties with a notarial deed as attached to the decision. This certainly shows legal justice, meaning that the franchise agreement was drafted by the parties into an agreement document that has strong legal evidence. An authentic deed serves as the strongest and most complete evidence. This document clearly establishes the legal relationship between the parties regarding rights and obligations, in other words, the existence of a notarial deed can prove that the agreement was made on the basis of legal justice which aims to prevent future disputes. On the other hand, the responsibility arising from the negligence of the parties will be decided by the authorized institution in accordance with the dispute resolution path chosen by the parties. In Decision No. 25/Pdt.G/2022/PN Srl, the defendant received responsibility in accordance with the ruling, this occurred because the default was carried out by the defendant who previously had the status of franchisee.

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[11] Muhammad Zaidan Amanullah, "Unlawful Acts in Food Franchise Agreements: Study of North Jakarta District Court Decision No. 3/PDT.G.S/2023/PN.JKT.UTR" (2024), p. 54.

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