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A Juridical Analysis of the Regulation and Settlement of Breach of Contract in Civil Litigation: A Study of Decision Number 328/Pdt.G/2021/PN JKT.SEL

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Abstract: This research is titled "A Juridical Review of the Regulation and Settlement of Default in Civil Cases Based on Decision Number 328/Pdt.G/2021/PN JKT.SEL". The aim of this study is to understand the regulation of default as stipulated in the Civil Code (BW) and to analyze how the panel of judges assesses the fulfillment of the elements of default in the specific case. This research uses the doctrinal or normative legal method with a statutory approach and case approach, where the data used are sourced from primary, secondary, and tertiary legal materials. The analytical technique employed is descriptive qualitative, aimed at explaining the legal provisions related to sales agreements, the obligations of the parties, performance fulfillment, and payment guarantees inherent in the agreement. The case study analyzed involves a dispute between the plaintiff and defendant concerning a payment guarantee clause provided by the guarantor, which becomes a key point in determining the equality of responsibility between the principal debtor and the guarantor under Article 1832 of the Civil Code. The results of this research are expected to provide a more comprehensive understanding of the practice of resolving default disputes in Indonesia, as well as contribute to the development of academic studies in the field of civil law.

Keyword: Breach of Contract, Sale and Purchase Agreement, Payment Guarantee.

INTRODUCTION

Agreements are legal instruments that play a central role in civil law, particularly in regulating legal relationships between interested parties. In social practice, nearly all economic and business activities are based on agreements, whether written or unwritten. The purpose of an agreement is to create legal certainty, guarantee the fulfillment of the rights and obligations of the parties, and prevent future disputes.[1] Agreements are the primary means of establishing orderly and just legal relationships. The Civil Code (KUH Perdata), as the positive law governing civil relations in Indonesia, provides a normative basis for agreements.[2] Article 1313 of the Civil Code defines an agreement as an act by which one or more persons bind themselves

[1]Moch. Isnaeni, Sale and Purchase Agreement, (Bandung: Refika Aditama, 2016), p. 31.
[2]Mohamad Kharis Umardani, "Buying and Selling Based on the Civil Code and Islamic Law (Al Quran-Hadith) in a Non-Cash Manner", Journal of Islamic Law Studies, Vol. 4, No. 1, 2020, p. 19.

to one or more other persons. Furthermore, Article 1457 of the Civil Code specifically regulates a sale and purchase agreement as an agreement in which one party binds himself to deliver an object, and the other party to pay the agreed price. From these provisions, it can be understood that the essence of a sale and purchase agreement lies in the existence of an agreement regarding the object and price, even though the delivery of the object or payment has not yet been carried out.

In order for an agreement to have binding legal force, the agreement must fulfill the requirements for a valid agreement as regulated in Article 1320 of the Civil Code, namely the existence of an agreement between the parties, the capacity to make a contract, a specific object, and a lawful cause.[3]An agreement indicates a conformity of the will of the parties, competence relates to the legal capacity of the legal subject, a specific object indicates the clarity of the agreed performance, while a lawful cause confirms that the contents of the agreement do not conflict with law, morality, and public order. If these four conditions are met, then the agreement is valid and legally binding. The binding force of an agreement is affirmed in Article 1338 paragraph (1) of the Civil Code which states that all agreements made legally apply as law for those who make them.[4] The principle of *pacta sunt servanda* emphasizes that parties must perform an agreement in good faith. The promised performance can be in the form of giving something, doing something, or not doing something, as stipulated in Article 1234 of the Civil Code. Therefore, the performance of the performance is the primary indicator of whether an agreement is functioning as intended or whether it is creating legal issues.

In practice, the implementation of agreements does not always proceed according to the initial agreement. One of the most common forms of agreement violation is default. According to Subekti, default is a situation in which the debtor fails to fulfill their obligations as stipulated in the agreement, either by failing to fulfill them at all, performing them improperly, performing them late, or doing something that the agreement prohibits.[5] This opinion shows that default has a broad scope and is not limited to a total failure to fulfill obligations. R. Setiawan stated that default is a violation of an obligation that gives the creditor the right to demand fulfillment of the agreement, cancellation of the agreement, and compensation.[6] Thus, default is not merely a moral issue, but a violation of the law with clear legal consequences. The provisions regarding default in the Civil Code are reflected in Article 1238, which states that a debtor is considered negligent if he has been declared negligent through a summons or if the agreement itself stipulates so after the specified time has elapsed.

The legal consequences of default are further regulated in Article 1243 of the Civil Code, which gives creditors the right to demand reimbursement for costs, losses, and interest. Furthermore, Articles 1266 and 1267 of the Civil Code provide a legal basis for creditors to demand the cancellation of an agreement or to demand its fulfillment with compensation.[7]These provisions demonstrate that civil law provides legal protection for parties harmed by the failure to fulfill an agreement. In modern business practices, to anticipate the risk of default, parties often include collateral clauses in agreements, one of which is a payment guarantee. A payment guarantee serves as a safeguard for creditors, ensuring they retain their

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[3]Salim HS, Development of Innominaat Contract Law in Indonesia, (Jakarta: Sinar Grafika, 2003), p. 98.

[4]Djaja S. Meliala, Development of Civil Law Concerning Objects and Contract Law, (Bandung: Nuansa Aulia, 2007), pp. 99-100.

[5]Misael Leo Nard Haganta Tarigan, Elvira Fitriyani Pakpahan, Sarifuddin Gulo, and Adella Sitanggang, "Default in a House Sale and Purchase Agreement", Locus: Journal of Legal Science Concepts, Vol. 5, No. 2, 2025, p. 117.

[6]Laras Sutrawaty, "Force Majeure as a Reason for Not Executing a Contract from a Civil Law Perspective," Jurnal Legal Opinion, Vol. 4, No. 3, 2016, p. 6.

[7]Osgar M. Matompo and Moh Nafri Harun, Introduction to Civil Law, (Malang: Setara Press, 2017), p. 124.

rights if the debtor fails to fulfill their obligations.[8]In civil law, guarantees are regulated in Article 1820 of the Civil Code, which states that guarantees are an agreement in which a third party binds himself to fulfill the debtor's obligations if the debtor is negligent.[9]

However, the Civil Code also grants guarantors special rights, including the right to demand that the debtor's assets be first seized and sold, as stipulated in Article 1831 of the Civil Code. This privilege may be waived by the guarantor, as stipulated in Article 1832 of the Civil Code.[10]The waiver of these privileges results in the guarantor's position becoming equal to that of the principal debtor, allowing the creditor to directly demand fulfillment of its obligations from the guarantor without first having to collect from the debtor. Default issues involving payment guarantees often give rise to complex legal disputes, particularly if the guarantor fails to fulfill its obligations under the guarantee agreement.[11]These disputes must ultimately be resolved through judicial mechanisms to achieve legal certainty. In this context, the court's role is crucial in assessing whether a breach of contract has occurred, the legal standing of the parties, and the legal responsibilities arising from such breach.

One case that reflects this complexity is the case decided in Decision Number 328/Pdt.G/2021/PN South Jakarta.[12]This case started from the Cooperation Agreement for the Provision of BPO Smart Transportation Number 088/IN/PERJ/LEGL-CORP/2017 signed on April 10, 2017 between the Plaintiff and Defendant I. Based on the agreement, the Plaintiff is obliged to provide various transportation facilities and infrastructure, including dump trucks, wheel loaders, excavators, and fleet management systems, while Defendant I is obliged to make payments for the work in accordance with the terms of the agreement. As a form of security for Defendant I's payment obligations, the agreement requires a payment guarantee issued by Defendant II as an insurance company. The payment guarantee guarantees payment of 100% of the work value, which is Rp39,600,000,000.00. In the guarantee, Defendant II expressly waives its privileges as a guarantor as regulated in Article 1832 of the Civil Code, so that its position is equal to the main debtor.[13]In its implementation, the Plaintiff has carried out all of its obligations as evidenced by the Work Handover Report dated April 28, 2017. However, Defendant I did not carry out its payment obligations in full in accordance with the provisions of the agreement.[14]The First Payment, which was supposed to be 50% of the work value, was not fully paid, resulting in a remaining unpaid obligation. This situation indicates a breach of contract by Defendant I. The Plaintiff has taken legal action in the form of issuing a warning letter to Defendant I. However, by the specified deadline, this obligation has still not been fulfilled.[15]Therefore, the Plaintiff demands the disbursement of the payment guarantee to Defendant II as guarantor.

This issue then became the core of the dispute in the case, specifically regarding the guarantor's legal responsibility in the event of default by the principal debtor. Decision Number 328/Pdt.G/2021/South Jakarta District Court is relevant to study because it demonstrates how the court applies legal provisions regarding default, agreements, and payment guarantees in practice. Through this decision, we can analyze how judges assess the fulfillment of the elements of default, the enforceability of payment guarantees, and the legal standing of

[8]Sudikno Mertokusumo, Indonesian Civil Procedure Law, (Yogyakarta: Liberty, 2006), p. 149.

[9]Lucky Pangastuti, “The Responsibility of the Personal Guarantee Party Declared Bankrupt”, Jurnal Repertorium, Vol. II, No. 2, 2015, p. 148.

[10]Munir Fuady, Comparative Civil Law, (Bandung: Citra Aditya Bakti, 2005), p. 80

[11]Griselda Vaustine, Marina and Puja Ayu Purwanti, “Breach of Contract Dispute Resolution Mechanism in Indonesian Civil Law”, Rewang Rencang: Jurnal Hukum Lex Generalis, Vol. 5, No. 4, (2024), p. 5.

[12]South Jakarta District Court Decision Number 328/Pdt.G/2021/PN Jkt Sel

[13]South Jakarta District Court Decision Number 328/Pdt.G/2021/PN Jkt Sel

[14]South Jakarta District Court Decision Number 328/Pdt.G/2021/PN Jkt Sel

[15]South Jakarta District Court Decision Number 328/Pdt.G/2021/PN Jkt Sel

guarantors who have waived their privileges. Thus, this study is crucial for providing a comprehensive understanding of the regulation and resolution of default in civil cases.

Based on the above description, this research focuses on a legal review of the regulation and resolution of default in civil cases by examining Decision Number 328/Pdt.G/2021/South Jakarta District Court. This research is expected to contribute academically to the development of civil law and serve as a reference for legal practitioners in understanding the application of default law, particularly in agreements accompanied by payment guarantees. Based on the background description above, the problem formulation used in this research is as follows:

1. What is the relevance and application of the provisions on default in the Civil Code in Decision Number 328/Pdt.G/2021/PN South Jakarta?
2. What were the considerations of the panel of judges in assessing the existence of a breach of contract in Case Number 328/Pdt.G/2021/PN.JKT.SEL?

METHOD

The type of research used in this study is doctrinal or normative legal research, namely research that seeks to examine and analyze relevant legal materials to answer the problem formulation that has been formulated by the author.[16] This normative juridical research was chosen because the focus of the research is to examine the provisions of default as regulated in the Civil Code (BW) and how they are applied in practice, particularly through an analysis of court decision Number 328/Pdt.G/2021/PN.JKT.SEL relating to disputes over sales and purchase agreements and payment guarantees. This study uses several research approaches to gain a deep and comprehensive understanding. The approach used by the author is the Statute Approach.[17] Namely an approach taken by examining all relevant laws and regulations, especially those governing default in sales and purchase agreements as regulated in the Civil Code (BW), as well as provisions related to agreements, obligations of the parties, payment guarantees, and provisions for the implementation of performance in civil contracts in Indonesia. As well as Case Approach,[18] This approach involves examining concrete cases relevant to the research topic, specifically Decision Number 328/Pdt.G/2021/PN.JKT.SEL. The legal materials used are secondary data. This research utilizes legal materials.[19]The method of data acquisition used by the author is through studies libraries and also do searches on the internet. This research uses analysis techniques with qualitative descriptive methods, which aim to explain and describe the objects or subjects being studied in depth, comprehensively and in detail.

RESULTS AND DISCUSSION

Analysis of the Relevance and Application of Default Regulations in the Civil Code in Decision Number 328/Pdt.G/2021/South Jakarta District Court

Decision Number 328/Pdt.G/2021/South Jakarta District Court is one of the decisions that demonstrates the comprehensive application of the concept of breach of contract in Indonesian civil law. This dispute originated from the Smart Transportation BPO Provision Cooperation Agreement Number 088/IN/PERJ/LEGL-CORP/2017 made between PT Infomedia Nusantara as the Plaintiff and PT Cahaya Galih Sukses as the First Defendant. Based on the agreement, the Plaintiff is obliged to provide various facilities and equipment to support transportation operations, while the First Defendant is obliged to make payments according to

[16] Sukismo B., The Character of Normative and Sociological Legal Research, (Yogyakarta: PUSKUMBANGSI LEPPA UGM, no year), p. 8.

[17] Peter Mahmud Marzuki, Legal Research, (Jakarta: Prenada Media Group, 2018), p. 59.

[18]Ibid.

[19]CFG. Sunaryati Hartono, Legal Research in Indonesia at the End of the 20th Century, (Bandung: Alumni, 1994), p. 36.

the mechanisms and schedules agreed upon in the agreement. In addition, to guarantee the implementation of these payment obligations, the First Defendant submitted a Payment Guarantee issued by PT Berdikari Insurance as the Second Defendant.

From a contract law perspective, this case demonstrates a very close relevance to the provisions on breach of contract in the Civil Code, specifically Articles 1320, 1338, 1238, 1243, and 1832 of the Civil Code. These provisions serve as the primary basis for judges in assessing whether the defendants' actions can be categorized as breach of contract and in determining the legal consequences arising from it.[20] Therefore, the analysis of this decision cannot be separated from the theories of contract law that have developed in Indonesian civil law doctrine. According to the contract theory put forward by Subekti, a legally made contract will create a legal relationship that binds the parties like a law. This theory is a manifestation of the principle of pacta sunt servanda as regulated in Article 1338 paragraph (1) of the Civil Code. In the a quo case, the existence of the contract between the Plaintiff and Defendant I is not disputed by the parties. The contract meets the requirements for a valid contract as regulated in Article 1320 of the Civil Code, namely the existence of an agreement between the parties, the capacity to act, a specific object, and a lawful cause.[21] If these conditions are met, the agreement is binding and must be carried out by the parties in good faith.

Based on the facts revealed in the trial, the Plaintiff has carried out all of its obligations by providing goods and services as agreed. In fact, the implementation of the work has been proven by the Work Handover Report dated April 28, 2017. After the work was completed, Defendant I was obliged to pay the first installment of Rp21.78 billion including VAT. However, Defendant I only made a partial payment of Rp9.9 billion so that there was still a remaining obligation that had not been fulfilled. This condition shows that the performance that was Defendant I's obligation was not carried out perfectly as agreed. When linked to the theory of default put forward by Subekti, Defendant I's actions fulfill the category of default in the form of carrying out the performance but not as it should be and making delays in fulfilling the performance. Subekti explained that default does not always mean not carrying out obligations at all, but also includes imperfect or late implementation.[22] In this case, Defendant I did make a payment, but the amount was not as agreed and was made after the specified payment deadline. Therefore, legally, this action fulfills the elements of a breach of contract.

The application of Article 1238 of the Civil Code in this decision is also very relevant. This article stipulates that a debtor is considered negligent if he has been given a warning or summons but still does not fulfill his obligations. In this case, the Plaintiff has sent warning letters to Defendant I repeatedly since July 2017. In addition, the Plaintiff also issued various follow-up summons until 2020. Despite being given sufficient opportunity to fulfill his obligations, Defendant I still did not pay off the remaining payment obligations. This fact shows that the element of negligence as referred to in Article 1238 of the Civil Code has been fully fulfilled. In addition to the default committed by Defendant I, this case is also interesting because it involves a guarantor, namely PT Berdikari Insurance. In civil law doctrine, there is a theory of guarantee (borgtocht), namely an agreement in which a third party binds itself to the creditor to fulfill the debtor's obligations if the debtor does not fulfill their obligations.[23] This provision is regulated in Article 1820 of the Civil Code. Based on the payment guarantee issued by Defendant II, the guarantor is obligated to pay any obligations not fulfilled by Defendant I no later than thirty days after receiving the claim from the Plaintiff. However, in

[20]Halitatur Rahmaniyah and Sumriyah, "Legal Review of Default in Credit Agreements with Personal Guarantees", Student Research Science Journal 1, no. 1, (2023), p. 1014.

[21]Ahmadi Miru, Contract Law and Contract Drafting, (Jakarta: Rajawali Perss, 2007), p. 74.

[22]Djaja S. Meliala, Civil Law in the Perspective of BW, (Bandung: Nuansa Aulia, 2012), p. 177.

[23]Haga Irama Gulo, "Legal Analysis of Judges' Considerations in Decisions in Default Cases", Jurnal Panah Hukum 4, no. 1, (2025), p. 14.

reality, although the Plaintiff has filed a claim and issued several summonses, Defendant II has never disbursed the guarantee.

From the perspective of the legal theory of guarantees, Defendant II's actions can also be categorized as a breach of contract. This is further strengthened by the clause in the payment guarantee stating that Defendant II waives its privileges as stipulated in Article 1832 of the Civil Code. This waiver of privileges means that the guarantor can no longer demand that the principal debtor's assets be seized and sold before being held accountable.[24] In other words, Defendant II's position is more strongly tied to his payment obligations to the Plaintiff. Therefore, if Defendant II continues to refuse to release the payment guarantee, this action can legally be considered a form of breach of contract.

Analysis of the Panel of Judges' Considerations in Assessing the Existence of Breach of Contract in Case Number 328/Pdt.G/2021/PN.JKT.SEL

In Decision Number 328/Pdt.G/2021/PN.JKT.SEL, the Panel of Judges placed evidence as a central aspect in determining whether or not the defendants were in breach of contract. The judges' considerations demonstrate that the assessment of breach of contract is not solely based on the existence of a contractual relationship between the parties, but also on the fulfillment of all legal elements indicating that a contractual obligation has not been properly fulfilled.[25]When analyzed from the perspective of evidentiary theory in civil procedure law, the judge's considerations demonstrate the application of the principle of actori incumbit probatio, namely that the party alleging a right is obliged to prove its argument. This principle is reflected in the panel's considerations, which first examined the documentary evidence, witnesses, and experts presented by the Plaintiff to prove that the work that was the object of the agreement had been completed.[26] Once it was proven that the Plaintiff had fulfilled his obligations, the burden of proof shifted to the Defendants to prove that there had been no breach of payment obligations or the obligation to disburse the guarantee. However, during the trial, the arguments presented by the Defendants failed to dispel the primary fact that there were still outstanding obligations to the Plaintiff. Thus, the judge concluded that the element of breach of contract had been legally proven.

These considerations can also be analyzed using Gustav Radbruch's theory of legal certainty. According to Radbruch, one of the purposes of law is to provide certainty to the legal relationships established by the parties. In this case, legal certainty is achieved through respect for the previously agreed-upon terms of the agreement. The judge did not deviate from the substance of the contract, but instead adhered to the clauses that expressly stipulated payment obligations and the mechanism for disbursing collateral in the event of default. The judge's stance demonstrates that the contract remains the primary source for determining the rights and obligations of the parties. Thus, this decision demonstrates how the court's function extends beyond resolving disputes to maintaining legal certainty in contractual relationships.

Apart from the aspect of legal certainty, the judge's considerations in this case also show an orientation towards the protection of trust (protection of legitimate expectations) in contract law.[27]When the Plaintiff received the payment guarantee issued by Defendant II, legally there was a legitimate belief that if Defendant I failed to fulfill its obligations, the guarantee could

[24]I Gusti Ngurah Bagus Denny Hariwijaya, I Nyoman Putu Budiartha, and I Ketut Widia, "Bank Credit Agreement with Borgtocht Guarantee", Journal of Legal Construction 1, no. 2, (2020), p. 342.

[25]Sandrariana Hertanto and Gunawan Djajaputra, "Legal Review of the Settlement of Default in Sales and Purchase Agreements", UNES Law Review 6, no. 4, (2024), p. 10372.

[26]Aini Masfufah, Andika Prawira Buana and Sri Amlinawaty, "Legal Review of Bank Credit Granting with Personal Guarantee", Dialogica Journal 1, Issue 1, (2025), p. 5.

[27]Setyo Sardjono, Hulman Panjaitan, Hendri Jayadi, and Tomson Situmeang, "Legal Protection for the Release of Privilege Rights for Corporate Guarantee Holders Due to Default by Bank Debtors", Honeste Vivere Journal 33, Issue 1, (2023), p. 17.

be liquidated according to the agreed mechanism. The existence of a payment guarantee is basically intended to reduce the risk that might arise from the debtor's inability to fulfill its obligations. Therefore, when Defendant II refused to make payment even though the disbursement conditions had been met, this action not only violated contractual obligations, but also damaged the trust that had been built in the business relationship between the parties. In this context, the judge's consideration requiring payment of the guarantee can be understood as an effort to protect the legal expectations that were legitimately held by the Plaintiff.

Furthermore, the judge's considerations can also be examined through the risk allocation theory approach in contract law. This theory explains that one of the functions of a contract is to allocate risk to the party most appropriate to bear it. In the case a quo, the risk of payment failure was anticipated through the issuance of a payment guarantee by Defendant II. With this guarantee, Defendant I's risk of default was legally partially transferred to Defendant II as the guarantor. Therefore, if Defendant I fails to make a payment, the risk should be borne by the guarantor in accordance with the commitments made in the guarantee letter. The judge's consideration in requiring Defendant II to pay the guarantee demonstrates that the court respects the risk-sharing mechanism previously agreed upon by the parties. This approach is important because it provides certainty to the business world that the guarantee instrument has effective and reliable legal force.

From the perspective of the economic analysis of contract law, this ruling also holds significant value. In modern business relationships, contracts serve as a means of creating economic efficiency through ensuring the fulfillment of obligations. If a party that has fulfilled its obligations is denied legal protection when the other party fails to fulfill its obligations, uncertainty arises that can hamper economic activity. Therefore, the judge's decision to grant the guarantee payment demand can be seen as a step to maintain stability and trust in commercial transactions. This decision conveys the message that breach of contract will have real legal consequences, thus encouraging business actors to fulfill their obligations diligently. The panel of judges also focused not only on the formal aspects of the agreement but also considered the parties' behavior throughout the legal relationship. Several trial facts revealed that the Plaintiff had provided the Defendants with various opportunities to fulfill their obligations through summonses, warnings, and out-of-court settlement efforts. However, the Defendants did not optimally utilize these opportunities. From the perspective of the reasonableness principle, the Plaintiff's actions demonstrate a reasonable effort to resolve the dispute amicably before resorting to litigation. On the contrary, the failure of the defendants to provide an adequate response strengthened the judge's belief that there was indeed a breach of contractual obligations for which they were legally accountable.

On the other hand, the judge's considerations in this case also demonstrate the application of the principle of proportionality in determining the amount of the obligation to be paid. The judge did not immediately grant the entire guarantee value without taking into account the payments made by Defendant I. Instead, the judge calculated it based on the remaining amount of the obligation after deducting previous payments. This approach demonstrates that the judge attempted to maintain a balance between the interests of creditors and debtors. In the theory of distributive justice, a decision must provide each party with their due rights without providing excessive benefits to one party. Therefore, the determination of the amount of Rp29.7 billion as the amount to be paid demonstrates that the panel of judges attempted to achieve proportional justice based on the available facts and evidence. Upon closer examination, the judge's considerations in this case also contributed to the development of business dispute resolution practices in Indonesia. This decision emphasizes that the existence of a payment guarantee is not merely an administrative document, but a legal instrument with coercive power and real legal consequences. Therefore, the guarantor cannot avoid its responsibilities simply by providing reasons that do not directly eliminate the agreed obligation. This approach is important to maintain the credibility of the guarantee institution in business activities and provide adequate protection for parties who depend on the existence of the guarantee.

Based on the above description, it can be concluded that the Panel of Judges' considerations in assessing the existence of a breach of contract in Decision Number 328/Pdt.G/2021/PN.JKT.SEL were not only based on fulfilling the normative elements of a breach of contract, but also considered various broader principles of contract law, such as legal certainty, protection of legitimate expectations, risk allocation, propriety, proportionality, and economic efficiency. This approach shows that the judges did not simply apply the provisions of the Civil Code textually but also placed them in the context of business relationships that require effective legal protection. Therefore, this decision can be seen as an example of the application of the law of breach of contract that is not only oriented towards enforcing norms, but also towards achieving justice and legal certainty in modern contractual practice.

CONCLUSION

Based on the research results and discussions that have been described, it can be concluded that the provisions on default in the Civil Code have very strong relevance in resolving civil cases as reflected in Decision Number 328/Pdt.G/2021/PN.JKT.SEL. Provisions regarding the valid conditions of the agreement, the binding force of the agreement, the debtor's negligence, compensation for default, and guarantees are the main legal basis in assessing the legal relationship between the Plaintiff, Defendant I, and Defendant II. In this case, the legal relationship of the parties arose from the Smart Transportation BPO Provision Cooperation Agreement which has fulfilled the elements of a valid agreement as regulated in Article 1320 of the Civil Code. Defendant I was proven to have committed default because he did not fulfill his payment obligations according to the amount and time agreed. Although Defendant I had made some payments, the payment did not eliminate the existence of default because the performance carried out did not comply with the contents of the agreement. Furthermore, Defendant II, as guarantor, may also be held liable for issuing a payment guarantee and waiving its privileges as stipulated in Article 1832 of the Civil Code. This waiver of privileges places Defendant II in a position where it can be directly held liable for fulfilling its obligations if the principal debtor defaults.

The Panel of Judges in its considerations has correctly assessed the existence of a breach of contract by basing the decision on the evidence, the contents of the agreement, the implementation of the performance by the Plaintiff, the failure to pay by Defendant I, and the failure to disburse the payment guarantee by Defendant II. The judges' considerations demonstrate the application of the principles of proof, legal certainty, protection for creditors, and proportionality in determining the amount of obligations to be paid. The judge did not immediately grant all demands, but rather calculated proportionally the amount still to be paid, namely the value of the guarantee minus the payment that has been received by the Plaintiff. The recommendation from this study is that the parties in a business agreement should draft the agreement clauses clearly, in detail, and firmly, especially regarding the object of the agreement, the payment mechanism, the period of performance implementation, the legal consequences in the event of a delay, and the mechanism for disbursing the guarantee. The clarity of these clauses is important to prevent differences in interpretation that could lead to disputes in the future. In addition, the guarantor must fully understand the legal consequences of issuing a payment guarantee, especially if the guarantee contains a clause waiving privileges based on Article 1832 of the Civil Code.

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