

Legal Remedies of Victim of Online Sales and Buying Fraud and Authority To Block Account of Criminal Banks

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ABSTRAK

Information technology has grown rapidly lately, especially in the internet media. There are so many positive benefits with the presence of this internet media, which is that it can simplify one's work or communication, including buying and selling which is usually done face-to-face, which is now sufficient through the internet media. Even though it has a positive impact, buying and selling online also has a negative impact, namely that someone can commit fraud. There have been many victims as a result of online buying and selling fraud committed by irresponsible individuals or parties so that it is hoped that this article can provide insight and knowledge to practitioners and the general public regarding what legal measures can be taken to restore their rights. This article uses a normative juridical writing method with a statutory approach and a conceptual approach. The result of this writing is that if someone feels aggrieved and is a victim of online buying and selling fraud, that person can make a police report and then can submit an application to the bank to block the account of the criminal buying and selling online.

Keyword : Online Buying, Selling Fund, Block Bank Account.

1. INTRODUCTION

The development of information technology that is growing rapidly lately can affect the pattern of human life because with this technology, people can easily obtain information without any limitations on distance, space and time. Along with the development of this information technology is not only used as a means of communicating with each other but also as a means of socializing.

The development of technology called the internet has changed the community's communication pattern which was initially carried out through face-to-face but has now replaced with video calls (virtual meetings) so that this has also caused human interaction to begin to change and these changes have entered into various fields, namely : economic, social, business and cultural interactions. The presence of the internet has a positive impact, namely there is no need to be present in person in a place to interact, thereby saving costs and time. Although it has a positive impact, in fact it also has a negative impact, namely being used as a means of fraud. The development of internet communication technology is considered as a new loophole for criminals to carry out their actions in committing fraud, especially in buying and selling activities or what is commonly called buying and selling online (Rudianto & Roesli, 2019).

Buying and selling online can be well accepted by the public, because buyers can easily pick and choose goods and do not need to go to the seller's location to buy goods. It only remains

to choose the desired item then the money is transferred to the seller and then the goods can be sent by the seller. This convenience is what gave birth to many sellers in Indonesia. There are several types of online shopping sites, namely online shops (one seller), social networks, buying and selling forums (multiple sellers), websites, online communities, messengers and mailing lists / mailing lists. (Asosiasi Penyedia Jasa Internet Indonesia, 2015).

As for the promotional activity model in offering an item, we can find it on various pages, as follows: (Fauzi, 2018)

e-Retail

An online shop with its own website address (domain) where the seller has stock of products / services and sells them online. Example: Blibli.com, Lazada.co.id, Tiket.com.

Online Advertising

Is a classified ad site, where the site concerned does not facilitate online transaction activities. Example: Kaskus, OLX.co.id.

Market Place

A business model like this is a website that not only helps advertise merchandise, but also facilitates online money transactions for online merchants. Example: Blanja.com, Tokopedia,

Bukalapak.com.

Existing online buying and selling sites make the flow of buying and selling online the goal of some buyers. The many benefits of buying and selling online have risks that cause concern for online buying and selling actors. This risk arises because transactions between sellers and buyers are carried out without going through face to face, but through the internet (cyberspace), which is often difficult to trace. Therefore, the most common risks are related to security issues, fraud and dissatisfaction. (Pusat Data dan Sarana Informatika Kementerian Komunikasi dan Informatika, 2013).

It is not uncommon for fraud perpetrators to use banking facilities to store the proceeds of their crimes in certain bank accounts so that victims find it difficult to get back the money that has been transferred to the perpetrator of the fraud. The chronology of online buying and selling fraud in general is as follows:

After the buyer gets the item to be purchased, the buyer contacts the seller to communicate further regarding the details of the item and the price of the item.

After the buyer and seller agree on the goods and price, the seller sends the account number to the buyer as payment for the purchase of the goods. After the buyer sends a certain amount of money to the seller, it turns out that the seller has not delivered the goods. With this, it is very clear that the buyer is the victim and suffers losses as a result of the online buying and selling, so that the buyer as a party with good intentions must be protected and their rights restored.

2. RESEARCH METHODS

This type of research uses normative legal research, normative legal research is research conducted to collect and analyze secondary data. In normative legal research, usually only secondary data sources are used, namely books, diaries, laws and regulations, court decisions, legal theories and opinions of leading legal scholars (Marzuki, 2005), related to the authority to block the bank account of the criminal buying and selling online .

This research is a descriptive library research, which is to reveal the contents of legislation that has been systematically described (Muhajir, 1998). This method aim to collect data and information with the help of various books, legal magazines, legal articles, and other documents (Soekanto, 2010). The research approach is carried out so that researchers get information from various aspect to find the issues to be answered, while the approach in the research is: Statute approach or a juridical approach, namely research on legal products (Nasution, 2008). This statutory approach is carried out to examine all laws and regulations related to the research to be studied. This statutory approach will open up opportunities for researchers to study whether there is consistency and suitability between one law and another.

Conceptual approach (Ibrahim, 2007), this approach is taken because there is no legal rule or rule of law for the problem approached, this conceptual approach departs from the views and doctrines developed in legal science, thus giving birth to legal notions and legal principles that are relevant to the problem under control.

3. RESULT AND DISCUSSION

Online fraud is in principle the same as conventional fraud, except that the difference is in the means of action, namely using Electronic Systems (computers, internet, telecommunication equipment). So that legally, online fraud can be treated the same as conventional offenses regulated in The Criminal Code (Arifiyadi, 2019). Pasal 378 The Criminal Code: “Items with the intention of unlawfully benefiting themselves or others, by using a false name or false dignity, by deception or with a series of lies to motivate another person to give up something given, or to give a debt or write off a debt, is threatened because of fraud by maximum imprisonment of 4 years.”

Meanwhile, if charged with using Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, as follows:

Article 28 paragraph (1) ITE law:

“Everyone knowingly, and without right, spreads false and misleading news that results in consumer losses in Electronic Transactions.”

Regarding the criminal threat of online fraud in Article 28 paragraph (1) of the ITE , that is:

Article 45A paragraph (1) ITE law :

"Anyone who knowingly and without right spreads false and misleading news that results in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be sentenced to imprisonment of up to 6 (six) years and / or a maximum fine of Rp. 1,000. 000,000.00 (one billion rupiah). "

With regard to proving a criminal act online, electronic evidence and / or printouts can be used as an extension of evidence as described in: Article 5 ITE law :

Electronic Information and / or Electronic Documents and / or printouts thereof are valid legal evidence. Electronic information and / or electronic documents and / or printouts thereof as referred to in paragraph (1) constitute an extension of valid evidence in accordance with the applicable Law of Procedure in Indonesia.

Electronic information and / or electronic documents shall be declared valid if using Electronic System in accordance with the provisions regulated in this Law.

Provisions regarding Electronic Information and / or Electronic Documents as intended in paragraph (1) do not apply to:

a letter which according to the law must be in writing; and

a letter and its documents which according to the law must be made in the form of a notary deed or a deed prepared by the deed maker official.

With regard to bloking account at a bank, it can be refer to Bank Indonesia Regulation Number 2/19/PBI/2000 Concerning Requirement and Procedures for Granting Written Orders or Permits to Open Bank Secrets (PBI 2/19/PBI/2000) Article 12 paragraph (1) PBI 2/19/PBI/2000:

“Blocking and / or confiscation of Deposits on behalf of a Depositor who has been declared a suspect or defendant by the police, prosecutors or judges, may be carried out in accordance with the prevailing laws and regulations without requiring permission from the Management of Bank Indonesia.”

For parties or victims who have been harmed by the occurrence of this online sale and purchase, they can make a complaint or report to the police, this has been regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code, as follows:

Article 1 paragraph (24) the Criminal Procedure Code:

"A report is a notification given by a person due to a right or obligation based on law to the competent authority regarding whether a criminal event has occurred or is currently or is suspected of occurring."

Article 108 paragraph (1) the Criminal Procedure Code:



"Every person who experiences, sees, witnesses and or is a victim of an incident which constitutes a criminal act has the right to submit a report or complaint to the investigator and / or the investigator, both orally and in writing."

4. CONCLUSION

Basically, every person who becomes a victim and suffers loss as a result of a criminal act can report to the police both orally and in writing. Regarding the criminal act of buying and selling fraud carried out conventionally has the same thing as the criminal act of buying and selling fraud online in accordance with Article 378 The Criminal Code it's just that the criminal act of buying and selling fraud online is regulated in Article 28 paragraph (1) ITE Law done by electronic means or the internet. Regarding the criminal threat of criminal acts, online buying and selling is regulated in Article 45A paragraph (1) of the ITE Law with a maximum imprisonment of 6 (six) years and / or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). higher when compared to the criminal act of fraud in Article 378 of the Criminal Code with a maximum imprisonment of 4 (four) years.

Regarding the mechanism of blocking an account, blocking deposits at a bank can be done only if the depositing customer has committed a criminal act and has been declared a suspect or defendant, whereas in practice it is not uncommon for banks to apply their own rules regarding the account blocking mechanism in the account opening form that has been signed by the customer. so that if the victim of online buying and selling fraud wants to block the perpetrator's account, the victim can report the perpetrator to the police and then based on the Police Report Certificate, the victim can apply for blocking the perpetrator's account to the bank or the victim can also ask the police to apply for a block. the perpetrator's bank account.

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