

Quo Vadis Citizen Lawsuits in Consumer Law Cases in Indonesia

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This paper entitled Quo Vadis citizen lawsuit is motivated by legal problems. There are philosophical, sociological and juridical issues. The philosophical problem is the unclear meaning of a citizen lawsuit in legislation currently in force in Indonesia. The sociological problem is that the consumer society in Indonesia wants to arrange a citizen lawsuit in the law and the juridical problem is that in the law in Indonesia does not regulate clearly and it is still vague of what is normal. Given the importance of protecting consumers and business people in Indonesia, the author raises this issue with two key research questions: first, what is the nature of a citizen lawsuit? Second, what is the current and future process of proceeding in a citizen lawsuit? To answer both research questions, normative juridical research methods will be used. The result is that a citizen lawsuit or individual lawsuit is essentially protecting consumer rights. Whereas the current citizen lawsuit process has not been detailed yet. In the future, it must be clarified and detailed.

Key words: *Citizen Lawsuit, Consumer Law.*

Introduction

Citizen lawsuits (CLS) are individual lawsuits that have not yet been accommodated in consumer cases because they are still a newcomer. However, in almost every case of consumer dispute with business actors as recognised by consumer laws, this individual lawsuit appears. As a result, the consumer always loses in court.

A citizen lawsuit is essentially a mechanism for citizens to sue the responsibility of state administrators for negligence in fulfilling the rights of citizens. Such negligence was postulated as an act against the law, so the citizen lawsuit was submitted to the scope of the general court; in this case a civil case. Therefore, on the basis of its negligence, then in the

positum of the lawsuit, the state is punished for issuing a regulatory policy so that negligence does not occur again in the future (Susanti, 2010).

The research in this paper uses the normative method by examining and analysing primary legal materials, in this case the 1945 Constitution of the Republic of Indonesia, Law number 8 of 1999 concerning consumers, and other regulations under the law. The way this research has been approached research is by comparing with other countries that have already applied citizen claims such as in the United States. Researchers also use a historical approach that examines the emergence of individual claims in Indonesia and in other countries. Another approach used in this research is the conceptual and philosophical approach. Researchers will use the concepts or ideas about a citizen lawsuit. Finally, the researcher uses a philosophical approach, which is to find the root of the problem or substance of the individual lawsuit in the legislation currently in effect.

Researchers believe in the originality of this study, because so far the researcher has used research questions that are different from previous researchers. There are similarities, especially those carried out by the research of researchers who first examined the problem of individual lawsuits.

Among them is a study conducted by Ni Luh Ayu Desi Putri Pratami I Nyoman Muda, on the Criminal Law Specialisation Program at the Faculty of Law at Udayana University with the title characteristics of a citizen lawsuit and its comparison with class action lawsuits. In this research, luha ayu sheds light on the equality and differences between individual claims or citizen claims and class action claims. Ni Luh uses the method of normative legal research because in writing this scientific work places the norm system as the object of study, where the law is conceptualised as a rule or norm (Amirudin and Zainal, 2008). Although the method is the same as the speaker, the approach used by Ni Luh Ayu Desi and researchers is very different. Ni Luh Ayu Dewi only uses two research approaches namely conceptual and statutory regulations, while the speaker uses philosophical and comparative or comparative.

The formulation of the problem is also different. Ni Luh Ayu only formulated two research questions namely: what are the characteristics of a citizen lawsuit? Secondly, how does the citizen lawsuit compare with a class action lawsuit (class action) (<https://ojs.unud.ac.id/index.php/kerthawicara/article/download/34224/20599>). While researchers raised different research questions, namely: first, what is the nature of citizen lawsuit. Second, what is the process of proceeding in a citizen lawsuit now and in the future?

The second research which is almost the same as this paper was conducted by Abdul Fatah entitled Citizens' Lawsuit as the Mechanism of Fulfillment of Human Rights and Constitutional Rights of Citizens (Abdul, 2013). This research raises the issue of the

fulfillment of human rights and the constitutional rights of citizens regarding the citizen lawsuit. Abdul Fatah's results concluded that a citizen lawsuit was a mechanism for the Fulfillment of Human Rights and Constitutional Rights of Citizens and it was possible for the Republican Constitutional Court to examine, try and decide upon a citizen lawsuit (citizen lawsuit) on the basis of the Judicial Power Act (Abdul , 2013).

The third study was conducted by Ahmad Safar, Harjono, S.H., M.H with the title Citizen Lawsuit in the Case of Congestion in DKI Jakarta (Harjono, 2017). The paper was published in the journal *Verstek* volume 5 number 1 in 2017 published by Sebelas Maret University. The method used was a case approach or case study; which is different from the author's research. The research question is also different because this research examines the court's decision in Central Jakarta Number: 53 / Pdt.G / 2012 / PN.Jkt.Pst.

While researchers address issues that are different from previous studies, in this background researchers at least find a legal problem, namely the existence of a legal vacuum (vacuum of norm), in the Consumer Act because there is no single article governing the lawsuit of citizens. That is why this paper will explore in depth through the normative method with four approaches namely, case, conceptual, historical, comparative and philosophical.

Discussion

Case study, historical approach, philosophical and conceptual approach will be used in answering the first research question, what is the nature of the citizen lawsuit? Whereas in the law known as equality before the law, which is more or less where all citizens have the same rights before the law, the rationale for a well-known legal expression is used as a foothold in civil lawsuits or individual legal issues known with a citizen lawsuit.

In general, civil lawsuits are divided into two, namely the first non-litigation lawsuit or carried out outside the court and the claim through the court or litigation often. Civil lawsuits are carried out directly by those affected by the case or those concerned and the second is brought forward by a stakeholder group known as group action (class action). For individual lawsuits and citizen lawsuits or citizen suits, it is one of the representative lawsuits or name bags. What is better known in the representative lawsuit in this case, civil law is Class Action, Actio Popularis, Citizen Lawsuit, Groepacties, and NGO's Standing.

In the legal system in Indonesia CLS, it is less popular when compared with other types of civil lawsuits. The birthplace of the citizen lawsuit in its history appears in a country that adopts the common law system; it is the earliest preceding this lawsuit for citizens to apply it in the field of the living environment. But in subsequent historical development, CLS was used in almost all legal cases including consumer disputes in the United Kingdom and other

Commonwealth countries; where the state was considered to have neglected in fulfilling the rights of its citizens.

There are several cases that are well known in the public with CLS; in the first beginning this lawsuit was carried out namely in the United States as a developed country, at that time there was a person who sued the United States regarding the preservation of one of the endangered animals namely a rare species of bats that will become extinct from earth. The government at that time granted the lawsuit of the citizen and the American government issued an Act on the Conservation of bats, which is rarely found or rare.

The second case is the case in India, which is a lawsuit by an Indian citizen for the negligence of the Government of India in preserving the river Ganges which is a holy river for Hindus. The result was an Indian government's ban on factories around the Ganges river polluting the river.

Then what exactly is the citizen lawsuit, from the search for primary and secondary tertiary legal material the researchers found that citizen lawsuit is a lawsuit which is essentially a mechanism for citizens to sue state administrators for negligence in fulfilling the rights of citizens. Such negligence was postulated as an act against the law, so the citizen lawsuit was submitted to the general court in this case the civil case. Therefore, for negligence, in the petition of the lawsuit, the state was punished for issuing a policy that is general regulating (regeling) so that such negligence does not occur again in the future.

Here the authors find some definitions of the citizen lawsuit or *Actio Popularis* lawsuit. Firstly, in some sense they are called *actio popularis*, namely the procedure for filing a lawsuit involving the public interest as a representative. A lawsuit can be reached with a reference that every citizen without exception has the right to defend the public interest (Sjahdeini, 2019). Second, the citizen lawsuit is the access of individual citizens for public interests including environmental interests to file a lawsuit in court in order to demand that the government enforce the law that is required of him or to recover public losses incurred. Intended to protect citizens from possible losses as a result of actions or omissions from the State or State authorities (Indro, 2019). Third, according to Gokkel *actio popularis*, it is a lawsuit that can be filed by every citizen, indiscriminately, with regulations by the State (Hermawanto, 2008).

Then in the opinion of Michael D. Axline, the Citizen Lawsuit gives citizens the power to sue certain parties (private) who violate the Act other than the power of citizens to sue the State and institutions (federal) who violate the Act legislation or who failed to fulfil their obligations in the implementation of the Act (Michael, 1991). Thus, every member of the citizen on behalf of the public interest can sue the State or the government or anyone who

commits an act against the law, which is clearly detrimental to the public interest and the welfare of the wider community. In *actio popularis*, the right to file a lawsuit for citizens in the name of the public interest is unconditional; so the person who takes the initiative to file a lawsuit does not have to be a person who has experienced direct loss, and also does not need a special power of attorney from the member of the community he represents.

Based on the study of the basic objectives, understanding and limitations of the Citizen Lawsuit as described above, then a conclusion can be drawn that the Citizen Lawsuit has certain characteristics, namely as an access of individuals or citizens to file a lawsuit in the Court for and on behalf of the overall interests of citizens or public interest. The purpose of the citizen lawsuit is to protect citizens from possible loss as a result of actions or omission from the state or state authorities. This citizen lawsuit will give citizens the power to sue the state and government institutions that violate the law or who fail to fulfil their obligations in implementing the law. Evidence of direct loss which is real, does not need to be proven by the plaintiff. Finally, with the claim of compensation from the plaintiff of the citizen lawsuit model, the judiciary tends to be reluctant.

Current Citizen Lawsuit practices in Indonesia

The process of proceedings in a citizen lawsuit now and in the future

The second case approach to answering the research questions still uses four approaches in normative legal research. Citizen lawsuits that have been carried out in Indonesia include the case of the Citizen Lawsuit (CLS) by the late Munir, namely the existence of Indonesian Workers (TKI), who were displaced in Nunukan Kalimantan. The workers were deported by the Malaysia government, but while in Nunukan the workers were displaced.

Munir and his friends when they filed a citizen lawsuit (CLS) were granted by the Central Jakarta Judges Council at that time the head of the assembly was Andi Samsan Nganro. As a result of the lawsuit being granted, the result was that the displacement of the workers was due to Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers (TKI).

The second lawsuit is the increase in fuel oil (BBM) made by the Legal Aid Institute (LBH) APIK, although the lawsuit citizen lawsuit (CLS) in the Central Jakarta State Court was not granted because of various reasons. The next lawsuit is about jurisdiction or operations of residents who do not have a National Identity Card (KTP) in Jakarta. The Jakarta Judicial Assistance Institute (LBH) filed a citizen lawsuit (CLS), but was also rejected by the Central Jakarta District Court Judges. Fourth, as long as the author's research is on CLS on the National Examination (Unas), this lawsuit was granted in part; the Government was asked to review the policy of holding the National Examination.

The rejection of the lawsuit was allegedly due to the fact that the plaintiff had not yet understood the mechanism or rules that should have been carried out. In addition, there are law enforcers in this case, that the judge does not understand about how to brush when there is an individual claim.

As for the mechanism and formulation of a citizen lawsuit (CLS), it has its own characteristics or character when compared to other claims models such as ordinary civil lawsuits, class action, judicial review and citizen lawsuit <https://masalahukum.wordpress.com/2013/08/25/citizen-law-suit/>. The form is a lawsuit of individual citizens. With the philosophy that for state administrators to improve policies that are considered detrimental, the interests of citizens. These individual lawsuits do not have real and measurable interests. The demand is for certain actions to take place in the implementation of legal obligations by state administrators. The subject of the plaintiff is a citizen, the defendant is the organiser of the state (President, Ministry, Ministry of SOE) and continues to state officials in the fields that are considered to have neglected in fulfilling their citizens' rights (Retnowulan and Iskandar, 1979). Parties other than state administrators may not be included as parties both as defendants or co-defendants.

The legal basis used in the formulation of a lawsuit for citizen lawsuit is regulated in article 100 of Law Number 39 Year 1999, which is written: every person, group, political party, mass organisation, NGOs, and others are entitled to participate. Article 7 paragraph (1) everyone has the right to use national legal remedies. Article 17 Law Number 39 of 1999: every person has the right to obtain justice by submitting a petition, complaint and lawsuit, whether civil, criminal, administrative.

Another legal basis, which forces the legal apparatus in this case the judge to examine legal cases with CLS lawsuits is in Ps. 4 paragraph (2) of Law Number 4 of 2004: trials are carried out simply, quickly and at low cost. Article 5 paragraph (2) of Law Number 4 of 2004: "the court helps justice seekers and tries to overcome all obstacles and obstacles". Article 16 paragraph (1) of Law Number 4 of 2004: the court may not refuse to examine, try and decide on a case. Article 28 paragraph (1) of Law Number 4 of 2004: Judges must explore, follow, and understand the legal values and sense of justice that lives in the community.

A higher regulation in the constitution is that every citizen has the right to file a citizen lawsuit, regulated in Ps. 28 D paragraph 1 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) that every person's right to recognition, guarantee, protection, legal certainty and equal treatment before the law. In article 2 of Law Number 39 of 1999, concerning Human Rights: "the Indonesian state upholds human rights". Law Number 11 of



2005 and U-U Number 12/2005: strengthen the recognition of civil political rights and economic and social and cultural (economic and social) rights as citizens' rights.

If traced further in the country of origin, namely the United States, then filing a Citizen Lawsuit, the plaintiff must have a "standing" to make this Citizen Lawsuit. If not, the Defendant can demand the cancellation of the Citizen Lawsuit suit if the plaintiff does not have a "standing" to be the Citizen Lawsuit plaintiff. In the legal system in force in the United States, the issue of "Standing" is an important issue because it is related to the authority or jurisdiction of the court. As said by Michael D. Axline "... because standing involves the question of whether a court has jurisdiction to hear a particular controversy, ... (Michael, 1991)

The United States Supreme Court recognises two types of standing, namely: a) Constitutional "standing" is needed in handling "case or controversy" (cases or disputes as stipulated in Article III of the United States Constitution. b) Prudential "standing" necessary in a case that does not involve the specific authority of the Congress based on the Citizen Lawsuit to call for the full attention of the judiciary for efficiency and aggressive advocacy. Any citizen (every citizen) in the legislation that establishes the existence of a cause for the filing of a lawsuit. In the laws and regulations that provide regulations on "Citizen Lawsuit" specifically formulated the right of "any person" (anyone) to make a lawsuit against violators.

In its decision as mentioned above, Chief Justice of India Bhagwati in the SH Gupta Case against the Union of India Air (1982) SC 149: asserted that any member of any community may file a lawsuit if: 1) There was a legal error or legal loss caused by due to a violation of the constitution or violation of certain legal rights or other acts that are punitive; 2) The occurrence of a legal error or act of imposing law carried out without legal authority; 3) Certain individuals or groups of people (class) for reasons of poverty, powerlessness or disability or if economically or socially in a disadvantageous position do not have the ability to file a lawsuit in the Court.

In the United States, the development of the "standing" law which was followed by an increase in the filing of the Citizen Lawsuit suit was based on opinions derived from the decision of the Supreme Court in the Sierra Club case against Morton combined with The Administrative Procedure Act, which determined that anyone "harmed" ("Aggrieved") with the actions of state institutions can file a judicial review against government agents for violations of obligations determined by Congress.

If there are other parties (individuals or legal entities) who are drawn as Defendants / Co-defendants then the Lawsuit is no longer a Citizen Lawsuit, because there is an element of

citizens against citizens. The lawsuit became a regular lawsuit that could not be checked by the Citizen Lawsuit mechanism.

Unlawful Acts argued in the Lawsuit are the negligence of the State Administrators in fulfilling the rights of citizens. In this case, the form of negligence that has been done by the state and the rights of citizens has failed to be explained. The plaintiff must prove that the State has carried out such illegal acts such as an ordinary civil suit.

Plaintiffs are citizens, acting in the name of citizens. The Plaintiff in this case is sufficient to prove that he is an Indonesian citizen. In contrast to class action, the Plaintiff does not have to be a group of citizens who are directly harmed by the state; therefore, the Plaintiff does not have to prove the material damage he has suffered as the basis of the lawsuit, in contrast to ordinary civil lawsuits. Besides that, the Plaintiff as a whole is representing an Indonesian citizen; it does not need to be separated according to groups of similarities in facts and losses as in the Class Action Lawsuit.

A Citizen Lawsuit suit does not require an Opt-Out notification after the lawsuit is registered as regulated in PERMA regarding Class Action. In practice in Indonesia, which is based on regulations in several common law countries, Citizen Lawsuit is enough to just provide a notification in the form of a summons to the organiser of the State. The content of the summons is that a Citizen Lawsuit suit will be filed against the State administrators for the state's negligence in fulfilling the rights of its Citizens and providing an opportunity for the state to fulfil if it does not want the lawsuit submitted. In practice, this subpoena must be submitted no later than 2 months before the lawsuit is filed, but because there is no formal regulation that regulates this matter, this provision is not binding.

Notification as Procedural Citizen Lawsuit Requirements Like the Class Action lawsuit, filing a Citizen Lawsuit suit also requires a Notification. However, it is different from Notification in a Class Action lawsuit, where notification is made by the class representative to class members with the intention to grant the right to class members to agree or reject as class members through an "Opt-in" or "Opt-Out" mechanism, then notification in the Citizen Lawsuit must be made by the Plaintiff of the Citizen Lawsuit to the Defendant.¹

In the United States, the regulations governing Citizen Lawsuit suits in the United States require that individual citizens must first notice the intent and purpose of filing a Citizen Lawsuit claim before registration and filing a lawsuit. Basically, the notice is a "mini-statement" (brief statement) about the case and is made in accordance with the notification requirements set forth in the relevant laws and regulations or other regulations governing this notification. The notification must identify the violations and specific demands which then

¹ Indro Sugianto, Op cit, h. 41



form the basis for filing a lawsuit, prepared by the plaintiff to be given to violators and agencies responsible for implementing the laws and regulations that give Citizen Lawsuit rights.

The purpose and purpose of notification in individual lawsuits in the United States is to provide encouragement / incentives for violators to start conducting adherence, provide fair opportunities to the defendant to submit a rebuttal in the earliest opportunity of the case handling process, failure to provide notification that meets the requirements can be used as an excuse to refuse a lawsuit and provide education to the plaintiff to file a lawsuit with accurate evidence and facts;

Citizen lawsuit in America also regulates the time limit, i.e. the notice must be sent no later than 60 days before the lawsuit is filed. Before 1989, in the practice in the world of justice in the United States there was a lot of controversy in setting the deadline for delivering this notice. But after 1989, that is, after the issuance of the Supreme Court's ruling in the Hallstrom case against Tillamook County, the controversy over this deadline could be overcome by literally interpreting the provisions regarding the notification set out in the Resource Conservation and Recovery Act 25.

The deadline for this notification becomes an important matter in the procedure for filing a lawsuit for Citizen Lawsuit because violations of the time limit of this notification will be used as a basis for filing a motion to reject the Citizen Lawsuit.²

Form and Content of Notification

In principle, "Notice of Citizen Suit must be written and must be sent to both the alleged violator and the agency responsible for implementing the statute being violated". (Citizen Suit notifications must be in written form and must be sent both to the accused offender and to the agency responsible for implementing the violated law). However, some Citizen Lawsuit provisions require that this notification is also sent to the state agency responsible for law enforcement.

A Citizen Lawsuit suit notification at least includes, among others: Information about the alleged offender and the institution which is relevant to the violation based on which the plaintiff intends to sue (Defendants / Defendants).

² In the verdict of this case the Supreme Court stated that the notification requirements were in accordance with the provisions in the jurisdiction of each relevant law. Initially, this regulation requires 30 days for prior notification as a requirement for law enforcement actions by citizens, but later changed by requiring 60 days to make advance notice of the purpose of the proposed citizen lawsuit.

Types of violations that cause a Citizen Lawsuit (object of lawsuit)

The Petition contains legal restoration and existence, meaning that a Citizen Lawsuit requires that Petition in the lawsuit may not ask for material compensation, because the citizen group that sues is not a materially disadvantaged group and has the same loss and the same legal facts as the lawsuit Class Action. The Petition Citizen Lawsuit must contain a request for the state to issue a policy that regulates the general regulation of the restoration of the position and the existence of the Law. So that acts against the law in the form of negligence in fulfilling the rights of these citizens in the future does not happen again. Citizen Lawsuit's Petition lawsuit may not contain a cancellation of a State Administration Decree (State Administration Decree) that is individual and final because it is the authority of the Administrative court.

Petition Citizen Lawsuit also may not request the cancellation of a law (Act) because it is the authority of the Constitutional Court (MK). In addition, Citizen Lawsuit may not ask for cancellation of statutory regulations under the Law (UU) because it is the authority of the Supreme Court (MA) as now stipulated in PERMA concerning Judicial Review of statutory regulations under the law. In Indonesia, the formulation of a lawsuit and mechanism have not yet been regulated in concrete regulations. However, based on several cases that have existed, the CLS claim mechanism procedure that has occurred can be described as follows: A Citizen Lawsuit suit based on several CLS cases that have been filed in Indonesia, are as follows:

Defendants in Citizen Lawsuit (CLS) are State Administrators, if there are other parties (individuals or legal entities) who are drawn as Defendants / Participants of Defendants then the Lawsuit will no longer be Citizen Lawsuit, because there are elements of citizens against citizens. The lawsuit became a regular lawsuit that could not be checked by the Citizen Lawsuit mechanism.

Unlawful Acts argued in the Lawsuit are the negligence of the State Administrators in fulfilling the rights of citizens. In this case, the form of negligence that has been done by the state and the rights of citizens has failed to be explained. The plaintiff must prove that the State has carried out such illegal acts, as an ordinary civil suit.

The Plaintiff is a citizen, acting in the name of the citizen. The Plaintiff in this case is sufficient to prove that he is an Indonesian citizen. Unlike the class action, the Plaintiff does not have to be a group of citizens who are directly harmed by the state, therefore the Plaintiff does not have to prove the material damage he has suffered as the basis of the lawsuit, in contrast to ordinary civil lawsuits. Besides that, the Plaintiff as a whole is representing an Indonesian citizen; it does not need to be separated according to groups of similarities in facts and losses as in the Class Action Lawsuit.

A Citizen Lawsuit does not require an Opt-Out notification after the lawsuit is registered as regulated in PERMA regarding Class Action. In practice in Indonesia, which is based on regulations in several common law countries, citizen lawsuit is enough just to provide notification in the form of a subpoena to the State administrator. The content of the summons is that a citizen lawsuit will be filed against the State administrators for the state's negligence in fulfilling the rights of its citizens and providing an opportunity for the state to fulfil if it does not want the lawsuit submitted. In practice, this subpoena must be submitted no later than 2 months before the lawsuit is filed, but because there is no formal regulation that governs it, then this provision does not apply binding.

Petition in a lawsuit may not ask for material compensation, because the group of citizens who sue is not a group that is materially disadvantaged and has the same losses and the same legal facts as the Class Action lawsuit. The petition for the Citizen Lawsuit must contain a request for the state to issue a general regulation so that acts against the law in the form of negligence in fulfilling the citizens' rights in the future do not happen again.

Petition Citizen Lawsuit may not contain a cancellation of a State Administration Decree (State Administration Decree) that is individual and final because it is the authority of the TUN court. Petition Lawsuit Citizen Lawsuit also may not request the cancellation of a law (Act) because it is the authority of the Constitutional Court (MK). In addition, Citizen Lawsuit may not ask for cancellation of statutory regulations under the Law (UU) because it is the authority of the Supreme Court (MA) as now stipulated in PERMA concerning Judicial Review of statutory regulations under the law.

Formulation in the Future

The formulation of a lawsuit by consumers if disputed or harmed by business actors is currently regulated in Article 46 paragraph 1 paragraph 2 and paragraph 3 of Law Number 8 of 1999 concerning Consumer Protection which is written as follows:

"(1) A claim for violation of a business actor may be made by: a) a disadvantaged consumer or heir concerned; b) a group of consumers who have the same interests; c) non-governmental consumer protection institutions that meet the requirements, namely in the form of legal entities or foundations, which in their articles of association expressly state that the purpose of the establishment of the organisation is in the interests of consumer protection and has carried out activities in accordance with its articles of association; d) the government and / or related agencies if the goods and / or services consumed or utilised result in large material losses and / or not a small number of victims.

(2) Claims filed by consumer groups, non-governmental consumer organisations or government institutions as referred to in paragraph (1) letter b, letter c, or letter d shall be submitted to the general court.

(3) Further provisions regarding large material losses and / or not minor casualties as referred to in paragraph (1) letter d are regulated by Government Regulation.

The current formulation of consumer's dispute resolution has been regulated in Law number 8 of 1999 concerning Consumer Protection in chapter ten of Article 45 paragraph 1, paragraph 2 paragraph 3 and paragraph 4 which are written as follows:

(1) Any disadvantaged consumer can sue a business actor through an institution tasked with resolving disputes between consumers and business actors or through a court of law within the general court environment.

(2) Settlement of consumer disputes can be reached through the court or outside the court based on the voluntary choice of the parties to the dispute.

(3) Settlement of disputes outside the court as referred to in paragraph (2) Does not eliminate criminal liability as regulated in the Act.

(4) If an effort to settle a consumer dispute resolution outside the court has been chosen, a lawsuit through the court can only be taken if the attempt is declared unsuccessful by one of the parties or by the parties to the dispute.”

CONCLUSION

1. A lawsuit against a person or Citizen Lawsuit in consumer protection is essentially a lawsuit made by any citizen, whether harmed or not harmed by the business person.

2. The formulation of a lawsuit against a person in Law No. 8 of 1999 has not been regulated in detail, the Law only regulates individuals who have been disadvantaged by business actors. This means that ordinary citizens who have nothing to do with losses caused by business actors cannot make a lawsuit individually. In the future, there must be an addition in Article 45 regarding individual lawsuits or Citizen Lawsuit, which is directly harmed by business actors or indirectly harmed by business actors.



SUGGESTIONS

1. In this article, only individuals who are affected or who are harmed cannot be sued individually, so that the individual lawsuit is not yet regulated in the Consumer Law. So that in the future it is necessary to add rules in the consumer law for individual lawsuit cases.
2. To law enforcers, namely the Police, Prosecutors, Judges and Advocates to jointly acknowledge the existence of an individual lawsuit in protecting consumers against actions taken by business actors.

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