

Consumer Protection in the Building Materials Sector from the Perspective of Contractor Business Actors Who Are Consumers

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Abstract. *As a developing country, construction services are essential to Indonesia's economic growth. Based on current conditions, consumer protection in Indonesia's construction/building materials sector still faces challenges such as low consumer awareness and weak supervision of business actors. This research aims to analyze how norms are implemented in the law of engagement between consumers and business actors in the building materials sector, the view of the law of engagement towards retail consumers of building materials or contractors, and how the law protects retail consumers of building materials who are also business actors. The research method used is the normative legal research method, which aims to identify legal rules, principles, and doctrines as answers to emerging legal problems. The results of this research explain that the construction services sector is regulated by various regulations, such as Law No. 2 of 2017 concerning Construction Services, which regulates responsibilities, quality standards, and protection mechanisms in construction services. In this context, contract law and consumer protection play a central role in ensuring justice and legal certainty, especially for consumers of building materials who act as business actors. As a consumer, you have the right to clear information, product quality that meets standards, and security guarantees, as regulated in the Consumer Protection Law (UU No. 8 of 1999) and the Civil Code (Civil Code). On the other hand, business actors are obliged to ensure that the products sold are safe and fulfill the agreement. In implementing engagement legal norms, law enforcement involves mediation, arbitration, courts, and administrative and criminal sanctions.*

Keywords: *Business; Construction; Consumer; Protection; Services.*

1. Introduction

As a developing country, construction services are essential to Indonesia's economic growth. The role of the construction services sector can open up job opportunities, contribute to infrastructure development, and increase investor interest in sustainable development (Asyafiq, 2019). The construction sector is fourth in contributing to the Indonesian economy. This industry is expected to continue to grow in the future (Cintya Lauren, 2023). In the first quarter of 2024, the percentage of the construction sector in Indonesia's Gross Domestic Product (GDP) was recorded at 10.23 percent (BPS, 2024).

The legal basis for construction services in Indonesia is regulated in Law (UU) No. 2 of 2017 concerning Construction Services, which officially replaces the Construction Services Law Number 18 of 1999. The enactment of Law No. 2 of 2017 is no longer limited to matters in the PUPR sector but also construction work in Indonesia. There are several essential regulations covering the implementation of construction services businesses that are fair, healthy, and open through a pattern of healthy competition. (Pane, 2017)

As stated in Article 1 paragraph (1) of Law no. 2 of 2017 concerning Construction Services, construction services are construction consultancy services and/or construction work. Construction service business actors themselves, as stated in Article 39, paragraph (1), are individuals or entities that carry out business and/or activities in the construction services sector. All forms of building construction service activities must comply with the following rules:

- 1) The Construction Act ensures contractors take full responsibility for building failures caused by their fault.
- 2) Contractors as providers of construction services, need building material suppliers. In this case, the contractor is the consumer of the building material supplier in terms of the engagement
- 3) Legal protection for contractors as consumers of building material suppliers is guaranteed by law.

The massive development of the construction sector in Indonesia certainly demands attention to consumer protection, especially in building materials transactions. In this context, contract law and consumer protection are essential in ensuring legal certainty for consumers. According to (Verheyen, 2019), consumer protection aims to prevent an imbalance in the bargaining position between consumers and business actors. In detail, several legal bases underlying this are:

- 1) Consumer Protection Law (Law No. 8 of 1999). Consumer protection under this law is based on the principle of responsibility of business actors for the products or services produced. Consumers have the right to clear information, security, and comfort in using goods/services.
- 2) Civil Code (Law of Engagement). As regulated in Article 1233 of the Civil Code, the law of engagement states that engagement arises from agreements and laws. In building material transactions, binding agreements between consumers and business actors must meet the legal requirements as regulated in Article 1320 of the Civil Code. According to (Verheyen, 2019), in consumer protection, principles of good *faith* or good faith are essential in the engagement to prevent abuse of position by contracting business actors.
- 3) Construction Services Law (Law No. 2 of 2017). This law regulates quality standards and the responsibilities of business actors in the construction sector, including contractors, in providing building materials that comply with agreed specifications.

In implementing construction services business activities in Indonesia, there are still complex problems related to the role of legal subjects. The tendency for irregularities to occur in construction service matters is an important matter that needs further review. In its implementation, consumer protection in the building materials sector in Indonesia also still faces challenges such as low consumer awareness and weak supervision of business actors. For this reason, implementing the Consumer Protection Law and the Civil Code principles must be strengthened by consumer education, strict supervision, and effective dispute resolution mechanisms. The author will answer how to implement contract law norms and protect the law between consumers and business actors in the building materials sector

2. Research Methods

This research uses normative legal research methods, namely a process that aims to identify legal rules, principles, and doctrines as answers to emerging legal problems (Irianto, 2017). The approach applied is the statutory regulation approach (*statute approach*), by reviewing all laws and regulations that are relevant to the legal issues discussed (Nasution et al., 2023), especially those relating to the legal protection of consumers from business actors in the building materials sector in terms of contract law.

3. Results and Discussion

3.1. Implementation of Norms in the Law of Engagement Between Consumers and Business Actors in the Building Materials Sector

Implementing norms in the law of engagement between business actors in the building materials sector is an important thing that must be achieved to guarantee justice, legal certainty, and smooth transactions. This norm is regulated in contract law based on the Civil Code (Civil Code), laws related to construction services, and agreements agreed upon by the parties. The main points for implementing these norms include (1) the principle of consensualism, (2) freedom of contract, (3) good faith, and (4) balance.

The principle of consensualism is that an agreement takes effect after an agreement is reached between business actors. In other words, each party agreeing must agree regarding the main things in an agreement. There are two important things to consider when implementing this norm: agreements and engagements. Article 1313 of the Civil Code states, "Agreement is an act by which one or more people bind themselves to one or more other people."

(Safitri, 2023) believes that the existence of an agreement issues an agreement, or in other words, an agreement can be said to be the source of the agreement. Furthermore, an agreement can also be said to be an agreement because two parties agree to do something. This is also stated in Article 1233 of the Civil Code, which explains that engagement occurs based on an agreement/agreement.

(R. M. T. A. D. Wicaksono, 2021) explains that there are 4 elements contained in an agreement, namely:

1) Essentialia

Essential elements are essential and central to an agreement. Without an essential element, an agreement will be invalid and not binding. For example, the essential

elements in an agreement between a consumer and a building materials business actor are the existence of a material product and a selling price.

2) Natural

Elements that have been regulated in the Law but which the parties can replace with other alternatives/are not mandatory. Even without including this condition, the agreement remains valid and does not result in the agreement becoming non-binding. The parties are also allowed to fulfill different obligations. For example, arrangements regarding payment methods for building materials, time and place of delivery, as well as transportation and installation costs.

3) Accidental

This element is a remarkable thing that exists in an agreement based on agreement to party. This means that this element can be loaded or not, depending on each party's wishes. In other words, this element is complementary because the parties can provide additional provisions in their agreement, but it is not regulated in the law. For example, discounts for building material products if purchased in a certain quantity.

Furthermore, the principle of freedom of contract means that the parties can determine the content and form of the agreement as long as it does not violate the law, public order, or morality. From a legal perspective, a contract not only acts as a legal document but also as a guideline that explains the terms of the transaction. (Priyanto & ThoatMin, 2021) argues that based on civil theory, a transaction is a legal act involving two parties who need each other for something that has economic value and is realized through an agreement called a contract. This shows that a contract can be a "tool" to secure a transaction.

A contract is legally valid if the requirements have been fulfilled subjectively and objectively. The contract can become null and void if one of the conditions cannot be fulfilled, both objective conditions or requirements are not met and not fulfilled. As stated in Article 1320 of the Civil Code and contained in Article 18 of Law Number 8 of 1999 concerning Consumer Protection, generally states that there are four things for an agreement to be considered legally valid, namely the existence of an agreement and legal skills as subjective requirements as well as halal causes and particular objects as objective requirements.

Furthermore, the principle of good faith, as stated in Article 1338 paragraph (3) of the Civil Code, states that "an agreement must be implemented in good faith." This implies objectively that the existence of an agreement must be based on norms of propriety and include Indonesian laws and regulations. Good faith in a contract/agreement is crucial because it can provide legal protection for the parties involved in an agreement. On the other hand, the parties who are not good must suffer the consequences of his dishonesty.

(Erwandi et al., 2023) argues that good faith can be seen at the time the legal action begins, or at the time the rights and obligations contained in the legal relationship are implemented. Thus, good faith is a social *force* that provides regulations regarding social relations, and every citizen must act in good faith toward all citizens (Kurnia et al., 2023). In relations between consumers and business actors in the building materials sector, business actors must engage in good faith, such as not hiding

deficiencies in the building materials sold. On the other hand, consumers must fulfill payments as stipulated in the contract.

Finally, the engagement must provide balanced benefits for the parties, avoiding dominance by one party. The principle of balance is a situation where each party involved in an agreement has the same position and without domination of each party. In other words, achieving a balanced bargaining position is based on each party's position and the parties' existing rights, obligations, and interests.

There are several elements of engagement in the relationship between business actors in the building materials sector and consumers, consisting of:

1) Purchase Agreement.

Building materials business actors are often bound by sale and purchase agreements regulated in Article 1457 of the Civil Code. In this agreement, the seller is obliged to deliver goods according to specifications and the buyer pays the agreed price.

2) Procurement Contract.

These engagements usually involve large projects, such as building construction. Related norms refer to the terms of the contract, such as delivery time, quality of materials, and penalties in the event of delays.

3) Product Liability.

Manufacturers or distributors of building materials are obliged to ensure that the goods they sell are safe and comply with standards. If loss occurs due to product defects, responsibility can refer to Article 1365 of the Civil Code (Unlawful Actions).

4) Governing Regulations. Apart from the Civil Code, several other relevant regulations include:

a. Law Number 8 of 1999 concerning Consumer Protection (UU PK). Regulates the obligations of business actors to provide correct, non-misleading information and guarantee the quality of goods.

b. Indonesian National Standard (SNI). All traded building materials must meet quality standards according to government regulations.

c. Business Competition Law. Regulated in Law Number 5 of 1999, to prevent building materials business actors from carrying out monopolistic or cartel practices.

Case studies of problems that often occur regarding consumers and business actors in the building materials sector, for example, contractors buy cement from distributors in housing construction projects. If it is discovered that the cement does not meet standards and causes cracks in the building, the distributor may be subject to prosecution under Article 1365 of the Civil Code. Business actors are also obliged to pay compensation by Article 1243 of the Civil Code if they fail to fulfill contractual agreements.

3.2. Views on Contract Law for Retail Consumers of Building Materials or Contractors

The basic definition of engagement is translated into Dutch as "*commitment*." Furthermore, *Verbintenis* has several meanings, namely: (1) Engagement / each party is mutually bound by an obligation/achievement (used by Subekti and Sudikno), (2) Debt which means there is a debt and receivable relationship between the parties (used by Sri Soedewi, Vollmar, Kusumadi) and (3) Agreement/ *agreement* (used by Wiryono Prodjodikoro).

(Karunia Fitriadi & Khalimi, 2022), in the Principles of Engagement Law, explains that Engagement law is the rules that regulate legal relationships in the field of property law (*property law*) between two or more people who give the right (*right*) to one of the parties (creditors) and provides obligations (*duty*) to the other party (debtor) above a performance.

Meanwhile, according to (Pohan, 2020), the Law of Engagement is a legal relationship between a limited number of legal subjects in connection with which one or several persons bind themselves to behave in specific ways toward other parties entitled to such an attitude.

Thus, contract law is generally a legal relationship between two parties, where one party demands something (the creditor), and the party is required to provide something (the debtor). In contract law in Indonesia, the regulation of relations between retail consumers of building materials, individuals and contractors, and suppliers of goods can also refer to the Civil Code (Civil Code) and Law No. 8 of 1999 concerning Consumer Protection (UUPK).

Article 1233 of the Civil Code states that obligations arise from agreements and laws, so the relationship mechanism between creditors and debtors is regulated therein. This relationship can be a form of sale and purchase agreement as regulated in Article 1457 of the Civil Code, where the seller is obliged to deliver goods according to the promised specifications, while the buyer is obliged to pay the price according to the agreement. If one of the parties violates, a breach of contract may occur, which may result in demands for fulfillment of the agreement or compensation as per Article 1243 of the Civil Code.

In the context of consumer protection, UUPK gives consumers the right to obtain goods that meet quality standards, are suitable for use, and are not dangerous. As regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection (UUPK), in particular letter b, which states "the right to choose goods and/or services and obtain said goods and/or services by the exchange value and conditions and guarantees promised," as well as letter c which states "the right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services."

The two paragraphs in Article 4 of the UUPK clearly show that consumers have the right to all promises offered by business actors in activities to promote goods and/or services and have the right to all information related to goods and/or services. So, business actors must provide correct, transparent, and honest information about the condition of goods and guarantee their quality.

Thus, the building materials transaction agreement mechanism between the seller and the buyer expands the concept of a sale and purchase agreement regulated in the Civil Code. This creates a bond between the seller and the buyer to produce an achievement. Next, a clause on the rights and obligations of each party involved arises. This means that rights can be controlled by each party, as are obligations that are mandatory for implementation by each party.

Therefore, in the context of engagement law, a comprehensive understanding of the clauses regarding the rights and obligations of each party is critical and deserves attention to prevent default. Article 4 of Law No. 8 of 1999 concerning Consumer Protection states this. (Kristiyanto, 2016) stated that the provision of consumer rights, namely the right to obtain security (*the right to safety*), apart from other rights, namely the right to obtain information (*the right to be informed*), the right to vote (*the right to choose*) and the right to be heard (*the right to be heard*) is one of the fundamental rights recognized internationally.

Violations of consumer rights can be subject to administrative, civil, or criminal sanctions if the civil process contains elements of the Criminal Code. Meanwhile, in relations with contractors, if the agreed-upon building material specifications are violated, the contractor can sue the building materials business actor based on the principle of breach of contract or violation of UUPK.

Case studies of problems that often occur regarding consumers and business actors in the building materials sector, for example, contractors buy cement from distributors in housing construction projects. Suppose that at any time, it is discovered that the cement does not meet standards and causes cracks in the building. In that case, the distributor can be charged under Article 1365 of the Civil Code, which states, "Every act that violates the law and causes loss to another person requires the person who caused the loss through his fault to compensate for the loss."

The implementation of this article can indirectly be interpreted as an effort to balance the position and role of consumers with business actors in the context of consumer protection. Apart from that, another thing that can also be observed is that the UUPK has changed the paradigm of thinking from the obligation of caution to buyers (*caveat emptor*) to changes to business actors who must be careful (*beware of the seller*).

This leads us to the legal context of product liability / "*Product Liability*" within the consumer protection framework. Product liability can be classified as an attempt to violate the law, resulting in losses felt by other people, in this case, consumers. So that every action taken by a business actor who produces/sells a product and the product causes harm to the consumer who buys it, the business actor is obligated to compensate the consumer/party who is harmed.

(Eleanora & Ahmad, 2023) defines product liability as civil liability from the producer of goods (can be another party in the distribution chain) to compensate certain parties (can be buyers, users, or even third parties) for damage to objects, injury and/or death as a result. Use products produced by the manufacturer. Of course, this product responsibility is due to losses experienced by consumers due to product defects or negligence in producing/distributing goods that do not comply with what was promised to consumers.

As in Article 4 of Law Number 8 of 1999 concerning Consumer Protection (UUPK), letter B clearly states "the right to choose goods and/or services and obtain these goods and/or services by the exchange value and conditions and guarantees promised," then product responsibility is crucial in the context of consumer protection.

As for product implementation liability in the UUPK, business actors who cause harm to consumers can be subject to civil sanctions as in Article 19 UUPK, which includes responsibility for compensation for damage, responsibility for compensation for pollution, and Responsibility for compensation for consumer losses, therefore, business actors are responsible for all losses experienced by consumers.

According to (Lubis & Tarina, 2023), several main elements cause product liability laws, namely, (1) Producers/Business Actors (*Producer*), (2) Consumers (*Consumers*), (3) Products (*Product*), (4) Damage (*Defect*) and (5) Losses. (*Damage*). Product liability is an essential focus in the context of legal protection, considering that every individual or group, in certain circumstances, will be in the position of a consumer of a product or service.

Therefore, product liability law protects consumers from the potential or occurrence of negligence/defaults towards a consumer. Article 19 UUPK explains that product *liability* can accommodate dispute resolution in the context of consumer protection for retail building materials. Considering the massive development related to construction services in Indonesia, it cannot be denied that there are opportunities for disputes between building materials business actors and building materials retail consumers who also act as contractors.

Dispute resolution can be done through non-litigation channels, such as mediation, the Consumer Dispute Resolution Agency (BPSK), or court. With this legal protection, consumers have a strong basis to demand justice if violations occur while encouraging business actors to comply with standards of quality and honesty.

3.3. Legal Protection for Retail Consumers of Building Materials Who Are Also Business Actors

The meaning of consumer protection is correlated with legal protection. Therefore, consumer protection can be seen as the presence of the state in providing rights for its citizens because it contains legal aspects, as stated in the Consumer Protection Law (B. P. Wicaksono & Suryono, 2024). Legal protection for retail consumers of building materials who also act as business actors has a unique dimension because they are in a dual position: as buyers who need consumer protection and as business actors who are bound by obligations towards their final consumers. This is also regulated in Law No. 8 of 1999 concerning Consumer Protection (UUPK) and the Civil Code (KUH Perdata).

Consumers have the right to protection as regulated in Article 4 UUPK, namely the right to goods that comply with quality standards, guarantees for product specifications, and correct, transparent, and honest information from suppliers or sellers of building materials. Suppose the building materials purchased are found to be defective. Suppose it is not of suitable quality or is misleading. In that case, the company can sue the initial business actor through legal channels based on breach of

contract (Article 1243 of the Civil Code) or unlawful act (Article 1365 of the Civil Code). However, as business actors who resell building materials or use goods in specific projects, they also have obligations to end consumers. UUPK Article 7 requires business actors to provide safe goods, meet standards, and comply with agreements with their consumers. If the final consumer experiences losses due to a product defect, the business actor can be held responsible even though the defect originates from the original supplier. This often forms the basis of chain lawsuits (*product liability*).

To protect themselves, retail consumers of building materials who are also business actors can make clear agreements with suppliers, including quality guarantees (*warranty*), return of goods, or compensation in case of loss. They can also use institutions such as the Consumer Dispute Resolution Agency (BPSK) to resolve disputes without going to court. With this dual position, understanding the rights and obligations of both sides is the key to minimizing legal risks and losses in the business chain.

Furthermore, consumers are in a weak and inferior position compared with business actors. Therefore, legal protection is essential for consumers due to their weak bargaining position. (Putra & Waluyo, 2023) explains that legal protection for consumers shows bias towards a weaker bargaining position. In the context of consumer protection, UUPK functions to ensure legal certainty to protect consumers.

Forms of legal protection related to retail consumers of building materials must fulfill the following elements:

1) Information Disclosure. One of the main elements in consumer protection is information disclosure. Business actors are obliged to provide clear, non-misleading and complete information about the quality, specifications and benefits of the building materials they sell.

2) Quality Guarantee and Responsibility. Business actors are obliged to provide quality guarantees according to agreed standards. If defects or losses are found resulting from building materials, business actors are responsible for repairing or replacing them in accordance with the provisions of Article 19 of the Consumer Protection Law.

2) Sanctions and Dispute Resolution. In the event that business actors fail to fulfill their responsibilities, consumers can demand compensation through legal mechanisms. (Hutabarat, 2023) highlighted the importance of the existence of the Consumer Dispute Resolution Agency (BPSK) as an alternative dispute resolution that is faster than the court process.

Law enforcement in the implementation of engagement legal norms involves:

1) Mediation or Arbitration. If a dispute arises, the parties can use mediation or arbitration before taking the case to court.

2) Court. Disputes can be submitted to the general court or Commercial Court if they relate to bankruptcy or business competition.

3) Administrative and Criminal Sanctions. If they violate the Consumer Protection Law or other provisions, business actors may be subject to fines, license revocation or criminal penalties.

In general, according to (Ikejiaku, 2014), the relationship between business law and business actors is explained by emphasizing the importance of legal awareness in running a business. Modern entrepreneurs are faced with the challenge of complying with various legal regulations, both at national and international levels, relating to contracts, compliance with laws and the management of business relationships.

The business law theory in this book also covers aspects such as:

- 1) Contract Law. Highlights how valid and legally sound contracts are the foundation of every business relationship.
- 2) Compliance Law (*Compliance Law*). It is important for entrepreneurs to understand regulations to prevent legal violations that could lead to conflicts or sanctions.
- 3) Consumer Protection and Business Competition Law. Discusses how businesses can maintain ethics and integrity in interactions with consumers and competitors.

A practical approach is also needed to help business people utilize legal principles to increase efficiency and professionalism in managing their businesses.

4. Conclusion

The construction sector supports Indonesia's economic growth through job creation, infrastructure development, and sustainable investment. In its significant contribution to GDP, this sector is regulated by various regulations, such as Law No. 2 of 2017 concerning Construction Services, which regulates responsibilities, quality standards, and protection mechanisms in construction services. In this context, contract law and consumer protection play a central role in ensuring justice and legal certainty, especially for consumers of building materials who act as business actors. Consumers have the right to clear information, product quality that meets standards, and security guarantees, as regulated in the Consumer Protection Law (UU No. 8 of 1999) and the Civil Code (Civil Code). On the other hand, business actors must ensure that the products sold are safe and fulfill the agreement. The challenges still faced, such as weak supervision and low legal awareness, require education, strengthening supervision, and effective dispute resolution through legal channels or mediation. Therefore, legal protection, which includes information disclosure, quality guarantees, responsibility of business actors, as well as strengthening legal enforcement mechanisms, is a strategic step to maintain sustainability and justice in the construction services sector in Indonesia.

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