

Legal Protection Against Victims Tracked in Online Loans

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Abstract

The existence of technology has made it easier for people to carry out their activities, even now it has become part of their basic needs. Another convenience offered is borrowing funds. People who require funds, both in terms of meeting needs, business capital, or in a state of urgency, will take advantage of the existence of online loan applications. The conditions are even very easy as well as the disbursement process. This is what makes people tempted to use the application. However, it does not guarantee legal protection due to the absence of legal instruments in an agreement made by both parties. This study used the descriptive qualitative method. The goal is to understand the existence of legal protection for consumers, especially those affected by online loans. The result is that laws and regulations are governing online loans. It also includes consumer protection. The government has taken firm steps in collaboration with OJK and Kominfo to eradicate illegal fintech crimes. This is to protect the public and grow the public regarding financial education.

Keywords

technology; online loans; law



I. Introduction

The rapid development of technology has brought major changes to people's lives. This can be seen in how their daily activities are facilitated by the presence of this technology. This indicates that technology has become one of the basic needs of society. All kinds of things can be done, from interacting through social media, communicating remotely, obtaining information quickly and briefly, developing one's potential and talents, to earning money. In this case, technology can also be used as a source of money-making or managing a career (profession). The existence of this technology will have a positive impact on those who can master it. But it will have a bad impact when enslaved by him. So, someone must learn and understand how to manage technology well so that their production time is not wasted just because they are too busy comparing themselves on social media. In cyberspace, the principle is the same, but the power of technology provides another advantage, namely users are no longer obstructed by place and space. Users can view people's profiles and send e-mails anytime and from any computer (Khairifa, 2019). The internet and social media are seen as having the potential to expand public sphere, territory or domain where discourse takes place involving citizens openly. However, the existence of the Internet public sphere tends to be seen as a contestation space where corporate and state forces try with various ways to control and dominate it (Bo'do, 2019). Based on these important reasons, this study aims to examine how social media culture affects knowledge transfer; social media culture in influencing work performance; and knowledge transfer in influencing knowledge transfer (Marbun, 2020).

Communication through social media promises a comfortable state of communication, where someone who cannot compose words can be someone who is very poetic, with a very relaxed appearance and state, someone can carry out communication activities with others, lecturers, or someone when we communicate with it must take care of all things, appearance and style of language, but communicating through social media do not have to pay attention to it, sit back with a cup of coffee and use casual clothes a person can carry out communication activities (Marlina, 2020).

Today, technology is not only a part of life but also a savior. The power of technology including digitalization and automation continues to grow and change the pattern of production, distribution, and consumption (Pramusinto, 2020). The development of technology and information at this time is very rapid and bring changes to human life. The development of technology in the field of information and communication has given an impact on non-cash payments with new innovations in payments (Lubis, 2019). For example, there is someone who needs fast funds, whether it is to meet needs, business capital or pays debts. They are aware that their ability and guarantee are minimal to borrow from an official financial institution such as a bank, so shortcuts with requirements are easy to take. In the world of fintech (financial technology), the presence of peer-to-peer lending is an option for those who are in need. These very easy and unsecured requirements are what the company lures to attract potential customers. Debtors only need to get a victim's identification card, which is then followed by a brief interview regarding the borrowing mechanism, interest, and method of return. Next, they asked for an account number and finally, the agreement resulted in the money being transferred.

In the process of disbursing these funds, of course, it will be very easy considering that borrowers need money in a state of urgency. This in the end puts aside the risks he will receive in the future, making his life even more uneasy. In some cases, the majority experienced by those who are stuck in payments are threats both verbally and in writing. The most common threat is the dissemination of personal data or photos of the victim to friends or relatives. They will be humiliated until they finally pay off their arrears. It is understood that the interest offered by P2P Lending is quite high and very stifling. Even the fines imposed are no less large. This is what makes creditors feel heavy in paying off these payments. Indeed, obtaining funds is easy, but they forget the big risks they will face in the future. Careful educational steps are needed regarding the negative impacts of this online loan.

Then the government is trying to socialize the bad impact of online loans and persuade the public to borrow funds from official financial institutions so that it will not hurt the community. From this background, problems will be found regarding the existence of guaranteed legal protection for victims who are trapped in online loans. Considering they do it consciously and agree to go through the risks involved. Then the next researcher will try to dissect the legal rules and mechanisms regarding online loans and guarantee legal protection for customers who have already fallen and are facing the negative impacts of online loans.

II. Review of Literature

2.1 Legal Review

In this study, we will review from a legal point of view, including the Financial Services Authority Regulation (POJK) Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. Next is the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector. Then there are also the main principles of Covenant Law according to the Criminal Code, and Law No. 8 of 1999 or the Consumer Protection Law (UUPK).

2.2 Legal Review

The research method used in this study is a qualitative descriptive method. In the understanding put forward by Sugiyono (2016: 9), this method is based on the philosophy of postpositivism which is used to research in natural object conditions where the researcher is the key instrument. The technique of collecting data, is done by triangulation, is inductive/qualitative, and the results of this study emphasize meaning rather than generalization. This qualitative descriptive research aims to describe, describe, explain, describe, explain, and answer in more detail and depth about the problems to be studied by studying as much as possible an individual, group, or event. In this study, humans are instruments in research and the results of the research are in the form of words or statements that are following the actual existence of facts. The law turns out to be able to provide solutions to so many impasse problems that cling to the human mind (Hartono, 2020).

III. Discussion

The current rise of online lending has brought quite a disturbing impact. Those who are still able to pay will certainly avoid the problems that arise in the future. But those who cannot pay will always be haunted by the uneasy feeling that their lives are being terrorized. They were humiliated and threatened as if the organizers had power over their victims. This is what people need to be aware of and try to avoid borrowing money. They must imitate aloud and seek the widest possible information to avoid the catastrophe caused by making the wrong decision.

In law enforcement, the government through the Financial Services Authority can only provide education, socialization, and awareness. This is because there are many illegal P2P Lending sites and applications. This is also exacerbated by the ease with which some people are tempted by the lure of easy borrowing so that they are very susceptible to being influenced by this organizer. The target is for those who lack insight or are in a state of urgency. This technology-based lending and borrowing activity have been regulated in Article 1 Number 3 of POJK 77/POJK.01/2016 which states "Information Technology-Based Money-Lending Services is the provision of financial services to bring together lenders and loan recipients to enter into loan agreements. borrow in rupiah currency directly".

So, all kinds of loans are of course based on an agreement as well as a guarantee so that in the stage of making installments, the borrower will have motivation based on the contents of the agreement as well as the goods that are guaranteed to pay off their responsibilities. However, in online loans, this seems to be ruled out. The guarantee used is only personal identity so that instant and easy money acquisition can be immediately disbursed. It is this convenience that makes people more inclined to use these services when in official or legal institutions, the requirements are still considered difficult.

In an agreement, this has been regulated in the main principles of Covenant Law in the Civil Code of which there are 5 main principles, namely:

- a. The principle of freedom of contract (freedom of contract);
- b. The principle of consensual (consensual);
- c. The principle of binding strength (pacta sunt servanda);
- d. The principle of good faith (good faith); and
- e. Principles of personality (personality)

So it can be understood that in carrying out an agreement, all parties need to understand the legal principles of the agreement so that feelings arise that will respect each other and comply with the agreement to avoid default by one of the parties. Furthermore, in Article 1338 of the Civil Code, it is stated that "all agreements made legally apply as law for those who make them". In the understanding in the article, it is explained that the agreement that

has been agreed will legally apply as law for those who carry it out, so this agreement will bind the parties to be fully responsible for implementing the points of the agreement that have been signed.

Therefore, in the regulations above, it has been shown for the organizers and borrowers when they are going to carry out transaction activities (borrowing), an agreement or agreement on paper is needed with various points that must be obeyed. This is to prevent violations of the law between both parties. The organizer can file a lawsuit when there is no good faith from the creditor to pay the arrears and this has been regulated in Article 1243 of the Civil Code (KUHPer) concerning Default. So simply, there is an official law that will assist in resolving the case fairly.

However, this does not apply to online loans wherein its application ignores the legal requirements such as agreements and guarantees. The debtor realizes that the existing conditions will be difficult to implement because it will not be able to provoke consumer interest to enter into his trap. However, as legal and official fintech, of course, they must comply with both the POJK and the applicable law as a service measure to the public, and consumers also feel protected as regulated in the Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Services Sector. Finance.

However, consumers do not get maximum protection from these regulations considering the incident they did was intentional and conscious. In addition, the absence of a letter of agreement based on law also makes it more difficult for the government to protect consumers. This has also been regulated as a requirement in Article 1320 of the Civil Code, namely agreements, skills, legal causes, certain things in this case the process of administering loans between the giver and the recipient have agreed and explained in both written and electronic documents. Even if there is a law that provides protection, of course, concrete and legal evidence is needed based on the existing legal rules.

In addition, because of the many cases involving online loans and their mushrooming providers, this security is quite difficult. Therefore, the government's concrete steps through the OJK can only prevent the impact of these online loans through education and socialization. The steps that are being pursued by the government are the hunt for Illegal Fintech to the revocation of its operational license. The government's firm steps were taken because these illegal debtors had violated at least 14 types of violations of law and human rights that needed to be followed up because they were disturbing and detrimental. The 14 violations include:

1. Very high interest;
2. Threats of slander, fraud, and sexual harassment;
3. Billing that is not only made on the loan or emergency contact included by the borrower;
4. Dissemination of photos and loan information to contacts on the creditor's smartphone;
5. Theft and dissemination of personal data;
6. Takeover of almost all axes contained in the owner's cellphone;
7. Unclear contact and location of the organizer's office;
8. Admin fee is not clear;
9. Borrowers who have paid their loans but have not been deleted because of not being included in the system;
10. Application changes name without notification to the borrower, but interest continues to grow;
11. Applications that cannot be accessed even suddenly disappear from the downloaded application when it is due;
12. Billing is done by different people;

13. ID card data is used by online application providers to apply for loans to other applications; and
14. The absence of the operator's operational permit.

Therefore, to minimize the spread of violations that occur to protect consumers from virtual crime, through the Investment Alert Task Force (Satgas WI) which is a combination of the OJK in collaboration with the Indonesian National Police-Criminal Investigation Agency (Research and Criminal Investigation Agency of the Republic of Indonesia Police) and Kominfo (Ministry of Information), strict action is taken by blocking applications that are not licensed or registered with the OJK following POJK No.77/POJK.01/2016. In addition, other concrete steps are inviting people to borrow money in a legal and registered place, educating people to be technology literate and smart in managing and managing finances. This is important as the government's effort to build public awareness of the various dangers contained in illegal fintech and their threats.

V. Conclusion

The rapid development of technology has become part of one of the basic needs of society. This makes community activities easier because of technology. Even now, the use of technology is not only helping, but also obtaining funds. Like when they pursue a career or profession, to obtain loan funds, it can be done only through the hand. However, the convenience offered by online loans is not worth the convenience and security it provides. Not a few cases of default led to acts of terror organizers.

There are so many organizers of this application, the handling becomes slow, but continues to cause casualties. The absence of a written agreement with legal conditions and the lack of public education and insight are the core problems of the rampant action. Therefore, both the government, POLRI, and OJK collaborate through regulations, laws, and strict action to create security, comfort, and protect the public. Educating and raising public awareness to be careful in managing finances is carried out to create a conducive atmosphere.

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