

Protection of Personal Data of Consumers Using Financial Technology Services

Nurul Jaya Nugraha

Andry Wikra Wardana

Mamonto

Muhammad Azham Ilham

Faculty of Law, Universitas Muslim Indonesia, Indonesia

Faculty of Law, Universitas Muslim Indonesia, Indonesia

Faculty of Law, Universitas Muslim Indonesia, Indonesia

This research aims to examine and analyze legal provisions related to the protection of personal data of customers using financial technology services in Indonesian laws and regulations. Apart from that, this research also aims to compare the legal protection of consumer personal data in the regulations in force in Indonesia with the regulations in force in the United States. This research applies normative legal research methods. The data used comes from literature studies, including primary legal materials such as laws, Financial Services Authority Regulations (POJK), and Bank Indonesia Regulations (PBI), as well as secondary legal materials such as laws books and legal journals. The research results show that legal protection for the personal data of consumers using financial technology services in Indonesia has been regulated in Law Number 27 of 2022 concerning Personal Data Protection. This regulation reflects a progressive approach to law, which not only supports the use of technology but also provides protection for users to achieve legal certainty. Meanwhile, a comparison with regulations in the United States shows that personal data protection in the financial technology sector is based on the principle of "right to be alone" which is the main pillar of individual privacy. This principle emphasizes that privacy is a constitutional right of every citizen, as a form of respect and protection for this right.

INTRODUCTION

The modern digital world is increasingly develop Because various progress technology that enables We For get information and various convenience others . Indonesia has experience development significant technology since beginning century second tens one . Growth rapid internet users supported by the increase infrastructure telecommunication has open opportunity new For digital innovation and development . [1]

Development technology in Indonesia is also marked with emergence various e-commerce platforms that are changing method public shopping . Growth This No only push development digital economy , but also creates field Work new in the sector technology and logistics . [2] The Indonesian government also plays a major role active in push progress technology through various initiatives and policies . Developments technology is one of them occurs in aspects finance , Where society has know the name finance based on technology or called with Fintech. [3] Technology finance or Fintech in Indonesia has experience significant spike in some year last . As information collected by the Association Joint Fintech Funding Indonesia (AFPI), which currently This consists of of 102 fintech organizers , until June 2023, it was recorded that the total is Rp. 548 trillion has given to society , which is distributed to 104,271,293 accounts recipient fintech loans . [4] One of the condition main user fintech services , namely , mandatory For provide personal data . The usual steps involved in the process of submission borrow borrow online based is the first via , Account Registration , Submission Loans , Analysis and Valuation Credit , Approval and Signing Contract , Fund Disbursement , Settlement Loans , Loan Status Monitoring and Support Customers , and handling problem . [5]

On the contrary , Article 29 of the Law Personal Data Protection Law (PDP Law) Number 27 of

2022 regulates related uses of fintech with personal data in Indonesia. This article state that " the controller of personal data must ensure personal data protection from processing of personal data that is not legitimate ". Law Personal Data Protection Law (PDP Law) Number 27 of 2022 stipulates rule special that regulates personal data protection . When we compare The concept of Das sein in context personal data protection between Constitution Personal Data Protection Act (PDP Act) in Indonesia and regulations in America union , there is a number of aspect important that reflects differences and similarities in approach both countries against personal data protection . [6]

RESEARCH METHODS

Methods used in study law This categorized as type study law normative . [7] In research law normative studied is aspect theory , philosophy , role , structure / composition , consistency , explanation general and explanation on each articles , formalities and powers bound by the rules legislation as well as language used is Language law . [8]

DISCUSSION

Mechanism Completion Dispute Franchise If One Party Achievement Completion Dispute Through Litigation Path

In review this , litigation defined as a completion process disputes in court and its counterpart , non- litigation , as an out-of-court process court as called in Indonesian law . However , the term " litigation " may defined as a matter of process or case alone , without refers to a court . A consideration about the Power Act Justice States that power judiciary according to The 1945 Constitution of the Republic of Indonesia ..., for to organize justice use to uphold law and justice . " [9]

Principles of organization power judiciary including Article 2 paragraph (4), which states that " Justice done with simple , fast , and cost effective light " and Article 3 paragraph (1), which states that " in operate duties and functions of judges and constitutional judges must guard independence " Independence of the judiciary . " " judicial " is defined as No affected by the party outside and not affected by pressure physique or mental, as described here . The expectation of an independent judicial process is that justice operate in a way objective , free from subjectivity . In Article 4 of the Law the determined " (1) Court to judge according to law with No discriminate against people. (2) Court help seeker justice and endeavor overcome all obstacles and barriers For can achievement simple , fast and cost effective justice light " . [10]

Article 10 of the Powers Act Justice set procedure settlement dispute business , which states : "(1) The Court forbidden reject For examine , try and decide a the case filed with pretext that law No There is or not enough clear , but must For examine and try him . (2) Provisions as referred to in paragraph (1) does not close business settlement case civil in a way peace ." With Thus , the service court required For All case filed to court cause condition settlement disputes that are not proportional Because role court as channel settlement . In case this , principle fast , simple and cheap become very important.prohibited For reject examination . Process and results rated based on justice , certainty law , and benefits . Compiler find that time required For finish dispute business is six (six) months . Process Parameters and Results (decisions) of the settlement dispute .

Dispute will decided by the judge and decided through track litigation . According to Constitution Number 48 of 2009 concerning Power Justice , regulates about settlement dispute through litigation in court general and judicial special . In the system this , the judge must make decision For determine winner . Therefore That does not Possible For reach the solution that will beneficial to each party .

Completion Dispute Through Non- Litigation (Outside the Court). For give description to forms settlement dispute outside court , following This will outlined in a way short form of each form settlement dispute outside courts , both those that have mentioned in Constitution Number 30 of 1999 concerning arbitration and alternatives settlement dispute and a number of other APS variants . Some the form of the APS includes : Arbitration , negotiation ; Mediation ; Conciliation . Arbitration . Arbitration Article 1 paragraph (1) of the Law Number 30 of 1999 concerning Arbitration and Alternatives Completion Dispute explain that arbitration (referees) is method settlement a dispute civil outside court general based on agreement arbitration made in a way written by the disputing parties .

Arbitration used For anticipate possible disputes happen or those who are experience disputes that are not can completed in a way negotiation / consultation and through party third as well as For avoid settlement dispute through the Judicial Body which has been This felt need a long time . [11] Arbitration means the parties deliver settlement dispute they to party the third is neutral , which has authority For make decisions that are of a nature final and binding . The parties third , which is always called as arbitrator or arbitrator, given authority For participate in the arbitration forum based on agreement of the parties with sidelining the judiciary . The decision was rendered to party third (arbitrator), who distinguishes arbitration from method settlement dispute alternative like mediation and conciliation.In special . [12]

Procedure implementation decision arbitration in Indonesia is differentiated based on type the verdict , namely decision arbitration national and ruling arbitration international . Implementation decision arbitration national set up in Article 59 paragraph 1 of the Arbitration Law : " Within 30 days counted since date decision spoken , sheet original or copy authentic decision arbitration submitted and registered by the arbitrator or his power to clerk Court Country" . [13]Study in chapter the is decision Arbitration at the latest registered to receiving agency registration is Clerk of the District Court. Article 60 states : " The decision Arbitration is final and has strength law permanent and binding on the parties " meaning decision arbitration is "final and binding", this This based on agreement of the parties . And the agreement arbitration bind the makers as law . Intent of execution decision arbitration like decision court , can seen in Article 64 of Law Number 30 of 1999 which states " The Decision Arbitration that has been sprinkled with order Head of District Court, implemented in accordance provision implementation decision in case civil case whose decision has have strength law still "

Based on provisions of Article 1 paragraph (1) of the Law Number 30 of 1999 concerning arbitration , is method settlement dispute outside justice general based on agreement arbitration made in a way written by the disputing parties . The parties in agreement that requires settlement disputes that arise will completed with arbitration can using one of the of the two ways that can be open road the emergence arbitration that is :

Pact of Compromise or Act Compromise Because it is considered the most appropriate with need business , parties choose settlement dispute through arbitrage . profit from the arbitration process Because fast , can checked by experts , and safe.In addition there it is weakness among them only for Bona Fide parties , Benefits absolute on the arbitrator not There is precedent decision moreover before, and problem decision arbitration foreign . [3]

Negotiations , considered more as art For reach agreement than knowledge knowledge that can studied . Negotiation defined as a completion process problem through discussion (deliberation) in direct between parties to the dispute , with the results agreed upon by each party . In practice , negotiations done for 2 (two) reasons , namely :

For look for something new that is not can he did yourself , for example in transaction sell buy , party sellers and buyers each other need For determine price (here) No happen dispute); and for solve dispute or disputes arising between the parties . Invite Invite Arbitration and Alternatives Completion Dispute (UUAAPS) mentioned in Article 6 paragraph (2) UUAAPS states : " Settlement

dispute or different opinion through alternative settlement dispute as meant in Article (1) is completed in meeting directly by the parties in maximum time 14 (four) days twelve) days and the results poured out in a agreement written . Can concluded that negotiation is method settlement dispute outside a trial conducted by the disputing parties or his power alone , without party third as mediator . The disputing parties do negotiation or bid bid in a way direct For reach agreement together . [14]

Stage before negotiation started . To start a negotiation need done preparation as following : Main points problem what tends to arise in context general work that requires negotiations . Who is involved? in negotiation , is it negotiation required in problem said , how quality connection between parties the .

Stage ongoing negotiation : At the stage this , some matter need be considered by the negotiator , namely : Determining problem , Determine position beginning , Argumentation , Investigating Possibility , Establish proposal, Establish and sign approval , Stage After Negotiation concluded , Entering the implementation program into the the agreement that has been agreed by the parties , put together a team For review implementation Ensure adequate information and explanation (very important) For avoid misunderstanding) .

Mediation is method settlement dispute alternative where the parties a neutral third party , called a mediator, helps second split party reach agreement peace . This process create supportive environment communication open , reduce conflict , and encourage discussion . Mediation famous Because fast , confidential , and informal, which makes it effective and flexible .

The provisions governing mediation there is in Article 6 paragraph (3), paragraph (4) and paragraph (5) of Law no. 30 of 1999, and Article 6 paragraph (3) of Law no. 30 of 1999 is a process of activity as continuation from failure previous negotiations carried out by the parties based on provisions of Article 6 paragraph (2) of Law no. 30 of 1999 Mediators function as facilitator in the mediation process , helping second split party find problem main , explain interest them , and help they reach mutually beneficial solutions profitable . This process allow disputing parties reach agreement that meets each individual's needs with give they control on results end .

In practice There are 4 types or mediation model . Settlement Model or Compromise) Mediation intended use get closer difference mark bid on a Mediator agreement only Focused on the problem or the stated position of the parties . The function of the mediator is determine “Bottom Line” position parties and do various approach For encourage the parties reach point compromise . Usually the mediator is a person who has high status and this model No emphasize skill in process or technique mediation . [15]

Facilitation Model (Fcilitative) Model) . Provides facilities and direct to the parties the parties to the case so that as far as possible Possible finish Alone the problem . The mediator directs the parties from positional negotiation to interest based negotiation which leads to to mutually beneficial solution profitable . The mediator directs the parties For more creative and seeking alternative another solution . Mediator is necessary understand the mediation process and techniques without must expert in disputed area . The advantages are the parties when finished dispute will feel satisfied, because what was raised is his interests and not just thing in dispute only . The drawbacks is time required become long. The process more structured .

Therapeutic Focus on comprehensive solutions No limited only on completion dispute but also the reconciliation of the parties is expected is finished dispute and also the parties Correct Correct become good . The negotiation process that leads to taking decision No will begin before problem emotional between the parties the dispute is resolved . The mediator's function is For diagnose reason conflict and handling it based on aspect psychological and emotional to the parties who at odds can fix and increase return connection they are expected mediators own skills in counseling and also the process and technique mediation . The emphasis more therapy , good stages

premediation or his slackness in the mediation process . Usually used in family disputes such as divorce guardianship child .

Evaluative Court annexed more focus evaluative model. The parties come and expect the mediator to give kind of understanding that if case This Keep going in progress so who will who wins and who loses . More focuses on the rights and obligations of the Mediator usually expert in his field or expert in field law Because The approach taken is focused on rights . Providing advice to the parties in the form of advice advice law in the mediation process could also be something like place where the parties present and There is kind of draft decision from the mediator or kind of road exit carried out by the mediator. The downside are the parties will feel No own results signed agreement together .

Conciliation , such as as it is with mediation , conciliation settlement process dispute outside court between the two parties to the dispute with involving party the third one is not taking sides . Basically , the role of mediator and conciliator is assist the disputing parties communicate One each other for reach a solution that satisfies each of them they . Elements element conciliation usually connected with Article 130HIR and Article 154 R. Bg.In Article 1851 of the Civil Code in the implemented peace or conciliation is also demanded fulfil element element as following . There is agreement between party party as mentioned in Article 1320 of the Civil Code. The agreement becomes No legitimate if made with skill (Dwalin) coercion (Dwang) or with method fraud (Bedrog) as mentioned Article 1321 of the Civil Code

Agreement For do something must in accordance with Article 1851 of the Civil Code namely For deliver a goods . Agreement on peace on existing disputes as the Article 1851 of the Civil Code that is peace on the matter that has been There is good one is in progress walk in court or submitted to court so that No become case in court . If happens , then peace That must realized in A a word written that called Father 's act or Act of discord deed it was made without judge's approval .

conciliator No authorized make decision but only authorized make recommendations for implementation depends from faith both parties to the dispute That Alone reason reason settlement dispute through conciliation is : Editing problems and understanding facts and circumstances , Discuss problem , Understanding needs of the parties], Achieving agreement that can be accepted One each other

Condition For become conciliator listed in Chapter II of the Minister of Teanga's regulations Republic of Indonesia Regulation on Employment and Transmigration Number PER-10/MEN/V/2005 concerning appointment and dismissal conciliator and work procedures conciliation especially in the article 2,article 3,and Article 4.

As for the shortcomings alternative settlement dispute through conciliation This is that decision from institution conciliation This No tie so that depends completely to the parties to the dispute whereas excess conciliation This is a fast , cheap , and easy process can obtained effective results . In the diagram below This depicted a number of characteristics and specialties possessed Arbitration , negotiation , mediation and conciliation as following .

Form settlement many disputes used in finish dispute franchise

existence settlement dispute is one of factors taken into account before decide For do activity agreement business For prevent the occurrence default in operate a business . Mechanism settlement effective dispute resolution the regarding : Settlement forum dispute , good through court national , arbitration body national and international , as well as dispute resolution forums other alternative disputes ; Effectiveness validity from the law applied in dispute said ; The process of taking prompt decisions and reasonable costs ; Neutrality and professionalism of judges , arbitrators or party the three involved in the process of taking decision ; Effectiveness implementation or implementation decision courts , arbitration bodies and settlement bodies

dispute others ; Compliance of the parties to resulting decisions ; For ensure success implementation mechanism mechanism Alternative settlement dispute (APS), the prerequisites are factors key success (key success factors) must be known . Factors the among others are : Disputes Still within “ reasonable ” limits, Commitment of the parties , Sustainability Relationship , Balance position bid bid . [16]

The process nature personal and the results secret . In Law No. 30/1999 concerning arbitration and alternatives settlement dispute set mediation as one of the method settlement dispute outside court. mediation is method settlement more disputes short , cheap , and can assist the parties get access more wide to settlement disputes that can accepted and considered satisfy the sense of justice . [17]

Where is the amount settlement dispute through mediation In 2022 , the number of successful case reconciled through mediation in Indonesia reached 20,861 cases . This figure increased by 92.24% compared to with year 2021 thing This show that mediation is most favorite choice For to finish dispute business especially business franchise Because the process is peaceful, fast , cheap and efficient . so that the parties Still Can continue agreement his business . [17]

Mediation process allows the disputing parties in agreement franchise For apply decision they yourself and fix it thinking they For reach beneficial agreement for second split parties . Mediation is basically is a process of completion disputes that are based on agreement and are of a nature voluntary (voluntary). So, completion dispute through mediation depends on agreement and willingness second split parties . Mediation is method settlement the most flexible and innovative dispute resolution , and secondly party own total control over the process and its outcome . The mediator does not own authority For push or to force a results certain . [18]

Mediation process This done No only For look for truth or force enforcement law , but also for finish problem — or finish problem . Making the parties Work The same For finish dispute is objective mediation . Mediation This will invite second split party For see situation moment this and make plan for the future . This is a very different approach from trial court or arbitration , where a judge or arbitrator usually see the incident that has occurred happen previously or see to behind For evaluate who is right or wrong with analyze facts and evidence moment This For determine whether has happen violation Constitution or contracts . Various Indonesian law has use the term " mediation ", such as " Law No. 23 of 1997 concerning Management Environment , Law No. 5 of 1999 concerning Prohibition Monopolistic Practices and Unfair Business Competition , Law No. 8 of 1999 concerning Protection Consumers , Law No. 18 of 1999 concerning Construction Services , Law No. 36 of 1999 Even the law mentioned previously obligatory mediation For finish dispute Work before completed past decision court .

Mediation in court regulated " Law No. 48 of 2009 Article 10 paragraph (2) concerning Power Justice ", that " Provisions as referred to in paragraph (1) does not close business settlement case civil in a way peace " . Laly mediates outside court , in " Law No. 48 of 2009 concerning Power Judiciary ", regulated in Chapter XII of Articles 58-61.

CONCLUSION

Mechanism Completion dispute can done through two ways that is through litigation (court) that is regulated in Constitution Number 48 of 2009 concerning Power Judicial , and non- litigation (outside) court) which is regulated in Constitution Number 30 of 1999 concerning Arbitration and Alternatives Completion Dispute . Mediation is form settlement many disputes used in finish dispute franchise settlement process his peaceful dispute precise , effective and capable finish satisfactory and fair dispute resolution . The parties need comply mechanism settlement disputes that exist in clause agreement Good settlement dispute through litigation or non- litigation so that the settlement dispute become fast , flexible and effective for the parties . The need for choose a

mediator who has skills negotiation , understanding issue law or business related , and behave neutral and independent . So that the resolution dispute in progress fast flexible and effective .

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