



SENS CLAIR PRINCIPLE AS A LIMITATION ON THE INTERPRETATION OF CONTRACTS (CASE STUDY: BANDUNG STATE COURT RULING NUMBER 117/PDT.G/2021/PN.BDG)

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Sens Clair Principle; Interpretation of a Contract; Article 1342 of the Indonesian Civil Code. This research was conducted to examine the application of the sens clair principle contained in Article 1342 of the Civil Code in limiting the interpretation of a contract that has been agreed upon by the contract makers. This research was conducted using a normative juridical method sourced from secondary data, in the form of primary and secondary legal data obtained through literature study. The research approach is carried out using a statutory approach, a conceptual approach, and a case approach to the problems studied. The research results show that the principle of sens clair plays an important role in every contract making, so that by implementing this principle there is no difference in the fulfillment of achievements and no party is disadvantaged. One form of application of the sens clair principle is in Case Number 117/Pdt.G/2021/PN. Bdg, where the sens clair principle limits the interpretation of the legal domicile agreed upon by the parties.

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A. Introduction

Every relationship between companies and individuals today is not only based on verbal agreements alone. However, nowadays every agreement in the business world is outlined in an agreement or contract, whether a simple agreement or one made in front of an authorized official (Miru, 2016). An agreement can be made with at least two or more parties to reach an agreement to fulfill each other's obligations therein (Ramadhani, 2021).

In an agreement, even though at the time it was made the parties had agreed and signed the agreement. It is often found that provisions or articles are unclear, vague, overlapping, and so on. These problems can become obstacles or disputes for the parties to be able to carry out what was agreed upon (M. Farhan Gayo, 2021). Due to this, the Burgerlijk Wetboek or what is known as the Civil Code (KUH Perdata) in Indonesia has regulated several provisions regarding the interpretation of agreements

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to provide clarity on the meaning of an agreement (Suhardana, 2008). Regulations regarding the interpretation of this agreement are regulated in Book Three starting from the provisions of Article 1342-Article 1351 of the Civil Code (Sutisoyo, 2013).

In particular, the provisions of Article 1342 of the Civil Code states that "if the words in a contract are clear then it is no longer permitted to deviate from them by means of interpretation". This emphasizes that something that has been agreed has a fixed meaning which cannot be interpreted differently, so that in the formulation of the article the parties should have clarity so that this can provide certainty. This clarity of meaning or certainty of the provisions in an agreement is then known in the science of contract law as the principle of *sens clair* or the doctrine of clarity of meaning (plain meaning rules).

If an agreement is made in accordance with the principle of *sens clair*, of course in its implementation the parties can carry out their obligations to each other without any misunderstanding of the meaning of the agreement. This situation is actually an ideal situation, because the parties do not interpret a provision in the agreement differently. Rather, both parties have the same understanding in interpreting the agreement and carrying out achievements or obligations based on the agreement. However, in practice, violations of agreements are still often found in society. Among other things, this is due to different understandings or interpretations of the articles, this is what actually violates the principle of *sens clair* in an agreement.

One of the occurrences of deviations in interpretation can be found in the dispute in case no. 117/Pdt.G/2021/PN. Cf. Where the Plaintiff interpreted differently from the agreement that had been made between the Plaintiff and Defendant I in the Multipurpose Financing Agreement Number: 01200202003744190, dated 13 February 2019, so that the Panel of Judges at the *a quo* court handed down an interim decision to grant the relative competency exception submitted by the Defendant I. Regarding this problem, the author is interested in discussing the *sens clair* principle contained in Article 1342 of the Civil Code and the existence of the *sens clair* principle in proving the certainty of the meaning of an agreement in the Bandung Court Decision Number 117/Pdt.G/2021/PN.Bdg.

B. Method

The research was carried out using normative juridical research methods, namely by examining research problems by referring to legal norms and rules, statutory regulations, legal doctrine and other relevant literature materials. The data source obtained is secondary data, in the form of primary legal data and secondary legal data through literature study. The research approach is carried out using a statutory approach, a conceptual approach and a case approach to the problems studied.

C. Result & Discussion

1. The basis of Sens Clair in Article 1342 of the Civil Code

In the civil sector, of course a contract has an important role, especially when carrying out cooperation between the parties. Looking at the practice, the implementation of a contract often contains substance that is vaguely formulated, lacks clarity, contradicts the contents of the agreement, and so on (Fuady, 2005). This of course cannot be separated from several articles that have been contained in the Civil Code, where these articles regulate interpretation and how to take steps in interpreting contracts as a form of effort to obtain clear and easy meaning or meaning understood by the parties. In its implementation, the contract also requires further explanation either regarding several terms or all the terms in the contract. With this, it is known as interpretation or interpretation (Miru, 2016).

The Civil Code also contains provisions related to the specific interpretation of contracts, where these regulations are contained in the provisions of Articles 1342 to Article 1351 in the Third Book of the Civil Code. Referring to the provisions of Article 1342 of the Civil Code, it is stated that, "if the words in a contract are clear then it is no longer permitted to deviate from them by means of interpretation". This provision means that the substance of every contract made must be clear, so as to provide certainty for the parties. This provision is part of the science of contract law known as the *sens clair* principle (Sutisoyo, 2013). A legal expert and historian from Germany, Carl Von Savigny, stated that law is not merely created, but law is discovered. With this, the substance contained in a contract or agreement must of course be clear and cannot be interpreted to deviate from the substance of the agreement or contract (Rosyadi, 2013).

In carrying out legal discovery activities regarding various real events, especially regarding the relationship between laws in an agreement or contract, in this case of course the legal discovery must be based on justice, expediency and legal certainty in a proportional manner. However, there is often a discrepancy or tension between the three existing values. To minimize the tension that occurs between these values, it is necessary to pay attention that every time you carry out legal discovery activities regarding real events, justice must be the main pillar. This is of course because the law is intended for humans, not humans for the law (Hernoko, 2010).

Apart from that, one of the Private Law experts, Vollmar, also emphasized the importance of interpreting or applying the principle of *sens clair* in a contract. Bearing in mind that the language used or applied in the preparation of a contract, this language is difficult to describe, embody and interpret the intentions of the parties involved, so that events always arise that are not included in the formulation (Badriyah, 2019). In line with that, Prof. Yudha Bhakti stated that an interpretation is used to find the meaning or intention, either express or implied, contained in the relevant contract. Likewise with the interpretation of a contract, where the explanation of each term in the contract is found to have a double meaning, has a vague meaning or the parties have different intentions regarding the same term, then the interpretation aims to find and explain the meaning or interest that is different actually from each party (Tambunan). Therefore, interpretation certainly plays an

important role in finding the meaning of the words or substance contained in a contract.

2. Application of the Sens Clair Principle Article 1342 of the Civil Code in Bandung Court Decision Number 117/Pdt.G/2021/PN. Bdg

a. case chronology

The case in the Bandung District Court Decision Number 117/Pdt.G/2021/Pn.Bdg occurred between the Plaintiff and the Defendants which began with an agreement between the Plaintiff and Defendant I who entered into an agreement in the Multipurpose Financing Agreement Number: 01200202003744190, dated 13 February 2019. The Multipurpose Financing Agreement creates rights and obligations attached to the Plaintiff as Debtor and Defendant I as creditor. However, in the implementation of the agreement there were problems with fulfilling the Plaintiff's achievements as a Debtor, so that the Creditor took the vehicle as a credit facility (leasing) by force.

Regarding the taking of the vehicle, the Plaintiff considered that the Defendant had committed an unlawful act which was not in accordance with the provisions of the laws and regulations. For this reason, the Plaintiff filed a lawsuit against Defendant I as the Creditor in the Multipurpose Financing Agreement and the Financial Services Authority (OJK) as Defendant II because the OJK did not supervise Defendant I as the financing or leasing company properly, resulting in material and immaterial losses.

b. Application of the Sens Clair Principle Article 1342 of the Civil Code in Case Number 117/Pdt.G/2021/PN. Bdg

Based on the chronology of the case above, Defendant I filed an exception to the lawsuit filed by the Plaintiff. Where the Plaintiff filed his lawsuit, it was not in accordance with the legal domicile specified in the Multipurpose Financing Agreement agreed by the Plaintiff and Defendant. In Article 24 of the Multipurpose Financing Agreement, it is stipulated that the resolution of disputes or disputes that arise between the Parties (Plaintiff and Defendant I), if they are not resolved through deliberation, the settlement will be carried out at an Alternative Dispute Resolution Institution in the financing sector registered with the Financial Services Authority, then if an agreement is not reached then the legal domicile chosen by the Parties is the South Jakarta District Court.

Regarding the provisions of Article 24 in the agreement, when viewed from Article 1342 of the Civil Code which reads as follows: "if the words in a contract are clear then it is no longer permitted to deviate from them by means of interpretation". Therefore, the provisions in Article 24 of the Multipurpose Financing Agreement between the Plaintiff and Defendant I, clearly stipulate that the last resort in resolving disputes between the two parties will be resolved at the South Jakarta District Court. So with clarity in the meaning of the sens clair principle, the legal domicile in resolving disputes between the parties cannot be interpreted differently (namely the Bandung District Court) because the provisions of Article 24 clearly regulate which court has the authority.

In handing down the decision, the Panel of Judges at the Bandung District Court considered that Article 24 of the Multipurpose Financing Agreement clearly regulates relative competence based on the choice of domicile agreed upon by the Parties in the agreement, which needs to be interpreted properly in accordance with its statement that the legal domicile chosen by the Parties is the Court. South Jakarta State. So the Panel of Judges made a final decision to grant Defendant I's exception and stated that the Special Class IA Bandung District Court had no authority to try this case.

So it can be concluded that the clarity of meaning in an agreement that has been agreed upon by the Parties, as long as the words in the provisions are clear and can provide certainty, it is no longer permissible to carry out interpretations that deviate from the contents of the agreement.

D. Conclusion

The principle of *sens clair* has an important role to be applied in every contract making, this is considering that the formulation of the contents of the contract is sometimes found to be uncertain or unclear. Proper application of the principle of *sens clair* when formulating a contract can avoid other interpretations at a later date, so that the parties must submit to an interpretation that is in accordance with the contents of the agreement or in other words it is no longer permitted to carry out interpretations that deviate from the contents of the agreement. Therefore, each party entering into an agreement must have clarity regarding the formulation of the articles in a contract in order to comply with the contents of the agreement and are not permitted to make other interpretations that are not in accordance with the contents of the agreement. Application of the *sens clair* principle in Case Number 117/Pdt.G/2021/Pn. Bdg proves that if the parties have agreed on a clear formulation of legal domicile, then neither party can interpret differently the contents of the legal domicile that has been agreed upon in the agreement.

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