



Characteristics of the Agency Covenant in Legal Review Civil

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Abstract

An agency agreement is an emergent and evolving one in society but not specifically arranged inside the file, which would be categorized as Innominaat covenant. The special arrangement of this agency has so far not existed, so When an issue arises, then it refers to a religious agreement made by the parties. When things were not specifically regulated in the covenant They were enforced Common rules concerning the giving of power as outlined in the civil code. This agency agreement has about the same characteristics as the comical agreement between Commissioner and committee. So the rules in KUHD regarding commission agreements are also Applicable in the agency agreement is not specifically in the covenant the agency of the party.

Keywords: *Agency Agreements; Powers*

Introduction

The 21st century is the age of globalization marked by openness and freedom in various areas of life. According to solly lubis, the word globalization comes from the "globe" - the earth in which humans live. The definition of globalization is the breaking down of boundaries and distances between nations, between countries and countries, between cultures one with another. In the current of globalization, humans will be closely associated in so-called local cultures, global markets, global families and so forth.¹

Globalization can bring about big changes especially in economics. One form is the many new pranata-pranata birth in practice but jurisdictionally no particular arrangement. An example of this is an agent. Agents are middlemen. The middleman's main job is to connect the producers with the consumer.²

¹ Abdul Manan, *Aspek-Aspek Hukum*, Kencana, Jakarta, 2006, hlm.58

² Sentosa sembinging, *Hukum dagang*, Citra Aditya Bakti, Bandung, 2008, hlm.117

For efficiency reasons, the manufacturer does not sell goods and services directly to the consumer, but sells them through middle man, agents, distributors, or licensed to produce and distribute goods and services through the franchise system.

In legal relations between producers and agents, the producers Holds in high esteem. An agent's definition is that a person ora company representing the other party (which is called by principals) for doing business (such as selling products) for and in the name of principals) to a third party in a particular region of marketing, where in return for his trouble, an agent gets a certain commission.

This agency is also in contact with international business laws, given that because of its limitations, foreign producers often point to marketing agents from its products in one country of marketing products. For most manufacturers, this is far more profitable and practical than she is opening her own branch in the region of marketing of her product.³

In legal relations between producers and agents, agents are in charge of expanding the marketing of goods and or services produced by the company. These relationships are bound in what is called a agency agreement. It is in this agency agreement that the rights and obligations are included

Each one.As a messenger does not yet have one particular rule, then This arrangement regarding the agency refers to some related rules With an agent. Among other things, the 1968 no.6 year law on investment, 1977 no. 36 year extension on the completion of foreign venture activities in commerce, is subject to the civil code rule, KUHD. Since there is no particular rule yet, then where there is an issue The characteristics of the agency agreement should be analyzed according to the rules that apply to the agency agreement. Based on what you call then in this study will be described as the characteristics of the agency agreement In the civil law study.

Formulation of the Problem

- 1.What is the concept of agency agreements in civil law studies?
- 2.How did the agency's covenant characterise in legal review civil?

Research Methods

The study is categorized into normative-law study types it is based on issues and or themes that are raised as research topics. As for the research approach used was philosophical and analitica, a study that focused on rational views, critical analytical and philosophical views, and concluded with conclusions aimed at producing new discoveries in answer to the established subject matter. And will be analysed using analytical analytics, which are illustrating the regulations of legislation that apply to the theory of law and the positive law enforcement practices that are associated with the problem.⁴

Discussion

Before discussing agency, it would be outlined first about middlemen in the process of distributing goods from producers to consumers. He said the rupiah was expected to strengthen to rp9,100 per dollar as foreign investors were careful in buying the local unit. He said the rupiah was expected to

³ Munir Fuady, *Pengantar Hukum Bisnis ; Menata Bisnis Modern di Era Global*, Citra Aditya Bakti, Jakarta, 2002, hlm.244

⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, 2011, hlm. 22

strengthen to rp9,100 per dollar in the Jakarta interbank spot market on Tuesday. Intermediaries are needed primarily because there are some gaps in between Producers and consumers. The gap is: ⁵

- 1) the gap, which is the gap caused by the pervading places of production and consumer location
- 2) time gap, which is the fact that purchases or consumption are made only at certain times while production (for effective) is continuous at all times.
- 3) the price of goods that could be produced economically by the producers is different from the normal quantity it wants or needs, while the manufacturers have no idea who or where the potential buyers are.

The disparity between the producer and the consumer can be illustrated as follows:

The Gap Between Producers And Consumers



Geographical gap;time gap;quantity gap; assortment gap;communication and information gap

In general, the medium is divided into two kinds, which is:

- 1) Merchant middleman merchant middleman is the middleman who has the goods for sale later. There are two main forms of Merchant middleman, who is:
 - a)Suppliers saler or distributors
 - b) Retailer
- 2) Agent middleman agent middleman is the middleman who only finds buyers, negotiates and deals on behalf of the manufacturer. So he doesn't have his own negotiable property.

The agency agreement comes from the two words' covenant 'and' agency '. The word covenant means an event in which a promise is made to another person or in which the two promise each other to accomplish something. The agency, on the other hand, comes from the word 'agent' who has the definition of a person who owns a company to make a deal (such as trade and trade) between a person who has a fixed relationship with the agent or is more commonly known by a third party or makes a commitment in the name of the principle.⁶

According to abdul kadir muhammad, the understanding of agents is people empowered by people called principled, to strike a deal with a third party It's a principle name. Most commonly, the agent's job is to strike a deal between his principles and a third party. According to the purwosutjipto, agents are those who serve several businessmen as intermediary agents.

The third. This man has a fixed relationship with the businessman and represents him for making and then entering into an agreement with a third party. ⁷

⁵ Philip Kotler dkk, *Manajemen Pemasaran Perspektif Asia*, Penerbit Andi, Yogyakarta, 2000, hlm.185

⁶ KRMT. Titodiningrat, *Ichtsar Hukum Perdata dan Hukum Dagang, pembangunan*, jakarta, 1963, hlm.113

⁷ H.M.N.Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia; Pengetahuan Dasar Hukum Dagang*, Djambatan, Jakarta, 1999, hlm.47

An agent's relationship with a businessman is not a Labour relationship, nor is it a periodic service relationship. Not labor because the relationships between corporate agents and companies aren't subordinate, not those like employers and laborers, but those of entrepreneurs with Businessman, so, same high as low. The relationship between an agent and a businessman is also not the periodic service because the relationship between a company agent and an entrepreneur is permanent, whereas in the periodical service the relationship is constant.⁸

Since a company agent also represents a businessman, so is here Conveying relationships. These conferential covenants are arranged in the xvi chapter Book iii kuhper, from chapters 1792 to chapters 1819. covenant It always contains vicarious elements (volmacht) of the potentate (chapters) 1799 kuhcivil). In this case agents of the company are the holders of power An agreement with a third party on behalf of a businessman. definition A gift-giving covenant is a covenant with a giver of power (authority) to another, who receives it, for and on his behalf Conducting an affair (section 1792 civil code).

Power or authority given to perform works The law in the name of others in the Dutch is called "volmacht", deep English is called "power of attorney". According to wirjono prodjodikoro,⁹ The understanding of power (lastgeving) is an agreement where ana To empower a b (which power is received by b) to Doing things for a and in the name of a, 'things for a' (een zaak) is generally defined as a legal act (rechtshandeling).

When it comes to doing an 'in the name' of the giver of power, it is debated, it is connected with the bestowal of power and representation. According to van brakel, that civil code named "the bestowing of power" (lastgeving) is an empowered power accompanied by victuals, while the second view views the words "in name" as though the words "in name" are not contained in chapter 1792 civil code, and allows for the enumeration to refer to the so-called and regulated "lastgeving" as being a general administration. To express this second opinion Hofman and vollmar.

The representative means that in the relationship between the beneficiary and the third party bound is the giver of the power. This representative does not exist if IC The beneficiary ACTS toward the third party as if it were for interest And in her own name, it's as if no one else is telling her to Thus. In other words, conferral without representation will only do Giving internal connections between the giver of power and the receiver of power, moderate The representative regarding the external relationship between the giver and the third party.

There is a close relationship between conferral and representation. The conferral isa proxy source, besides resources Others, laws and other covenants, such as covenants On the run. The giving of power does not necessarily create a representative, whereas Rather, it may arise from other covenants as well. In Agency agreements, there are characteristics of power-giving agreements, and di The inside also has a representative. In the agency agreement, principals Authorizes agents to sell goods and goods on sale To a third party it will be sent directly from principles. so This is the representative element.

Regarding the relationship between agent and entrepreneur, there are several Opinion between the two:

- a) Molengraaff, who said that relationships were a service Periodically.
- b) Polak, do not state categorically the legal nature of the relationship between agents A company with a businessman. He pointed to the verdict of the judge As with molengraaff, some say It's kind of a rush.

⁸ Ibid

⁹ Wirjono Prodjodikoro, *Hukum Perdata Tentang Persetujuan-Persetujuan Tertentu*, Sumur, Bandung, 1981, hlm. 151

- c) H.M.N. Purwosutjipto, saying the agent's relationship with the businessman is not periodic service, nor is it labor, for relationships remain not the nature of periodic service and relationships as high as low does not conflict with the nature of giving power.¹⁰

According to Munir Fuadi, the relationship between agents and principals, may be reconciled as follows:

- a) Agents act on principals. An agent would sell the goods or the services of and on behalf of the principals.
- b) An agent's income is a commission from sales consumer goods.
- c) In the matter of agency, goods are sent directly from principles to consumer. Then principals know who the consumer is.
- d) The principal would readily accept a monetary payment consumers without an agent.¹¹

As outlined above, that an agency agreement would be an agreement which to this day had not been strictly regulated. So to know the nature of this covenant, it would be seen from a covenant it's in the civil database. In the agency agreement, contained characteristic treaty of authorisation. There's even an opinion otherwise contains the characteristics of the empowering covenant, also contained covenants trade. So the agency agreement falls under the agreement mixed.¹²

To know what laws apply in mixed covenants known for three theories, namely the theory of accumulation, the theory of absorpsi and the theory of sui generis.¹³ This theory would be used if there was a dispute between principals and agents it is part of the agency agreement that has been made on both sides.

1) Theories of Accumulation

According to this theory, the elements of mixed treaties are twisted over long ago. Then for every element there is a provision special agreements within the corresponding ordinance. For example, to the elements. Purchase was in effect a regulation on the sale and the conferral of power passed regulations governing the inference of power.

2) Absorpsi Theory

According to this theory the law that applies to mixed agreements is the laws of the dominant element of the covenant. So if in agreement the agency that powers the dominant element of the covenant trade, and carry out the provisions within civil service.

3) The Sui Generis Theorem

According to this theory a mixed agreement is regarded as an agreement with a signature. Special agreements in civil records are treated in an analogue.

In the civil code records, the duties of the beneficiary are governed in chapters 1806 Civil Code. The iban shall be described as bertu:

- a) Beneficiary is obliged as long as he has not been released, implementing its power, and it bears all its cost, its loss and its interest. Suppose it could be due to the failure of that power. You he was also obliged to finish what he had started when the giver dies, if by no means immediate finishing it can result in a loss (1800 Civil code). The task that she had to fulfill had to be done properly and in the appointed time, otherwise the beneficiary can be required to compensate for

¹⁰ H.M.N. Purwosutjipto, op.cit, hlm. 48-19

¹¹ Munir Fuady, Pengantar *Hukum Bisnis; Menata Bisnis Modern di era Global*, Citra Aditya Bakti, Jakarta, 2002, hlm. 244-245

¹² Ibid.

¹³ Ibid.

any harm inflicted by negligence. with Thus, despite the death of the giver of power, the bestowal of power Ends, but the beneficiary of power must work continuously to finish His business is then free, after reporting the results to Those heirs and responsibilities were well received by them. It is Also contained in the agency's agency's agency's agreement Everything on the agency agreement as agreed, and It can be sanctioned as deep as disconnection between partners A certain period of time could not sell the product of principles. covenant The agency remains in force for the specified period of time A pact.

- b) The recipients of power are not only responsible for deeds Are done intentionally, but also of omissions made to wield its power. But it's a responsibility of omissions for one who freely receives power is not that Weight is something that one can ask for Wages (chapters 1801 Civil Code). In the agency agreement, the agreement The conferring of power is the covenant of power with wages. Where inside The agency's agreement clearly states the amount of commission that current agents receive He was able to make a trade selling goods to principled parties The third.
- c) In section 1802 kuhper is determined that the beneficiary of power is required to report to the giver of all that is done It is his duty. In the covenant Agency, this is a liability too. Agents have to report results Selling and accepting the principles he had on him, or report the number he has successfully sold to the party The third.

After describing the duties of the recipients of power, it will then It is described as the obligation of the giver, governed in chapters 1807-1812 Civil Code:

- a) In chapter 1808 the giver must replace the receiver The power of all advance payment and expense issued by si The beneficiary of power in doing his duty, also his wage which has been Promised. The obligation of the giver of power remains, despite the efforts of the IC The receiver of power to accomplish the intended goal, it's failure (failure) and that failure is not caused by The beneficiary's negligence. It's in the agency agreement too Explained clearly. AD fees, training and paid by principals or by agreement, whether they be borne together with an agent. The commission's magnitude is also strictly determined within the commission A pact.
- b) The end of the conferral of power is arranged in chapter 1813 of civil code Is determined on how the sharing of power ends, which is:
 - 1) Being uprooted by the giver of power;
 - 2) Because the recipient of the power willed it;
 - 3) On the basis of death on both sides, or Revealed under the patronage (curatele), or bankruptcy;
 - 4) On account of the woman, who became one of the parties, marrying.

There are also other ways to bring an end to giving Power, that is, when the authorization is made for a specific deadline, in which instances the giving of power is interrupted at the end of the grace, too Ends if he consigned to it (ontbindende voorwaarde).

- c) The elimination of the gift of power may be occasional and the giver Power can demand that the powers be handed back to him, which is to avoid the possibility of dishonest proxy, Continue the works as recipients of power (chapter 1814 Civil code). The extraction must be made known to the third party who It is associated with the bestowal of that power. The divining of power too May be done quietly (stilzwijgend). Article 1816 civil code to cite an example, that is, when the giver refers to a person Others as it is. The first authorization must be Presumed revoked.
- d) The termination of a proxy made by the beneficiary is not May it be done at an ungodly time, with the effect of the giver of power Will suffer harm (chapters 1817 civil code). In this case the receiver The power must compensate for that loss, unless it is the recipient of that power Himself would suffer rather great losses (aanmerkelijke schade) if he did Carry on his duty as the beneficiary of power.

In regard to this agent, its characteristics are also almost identical to two pranata The one in KUHD who acted as the go-between, commissioner and Broker. The commissioner is an intermediary between producers in the market or Sell the product to consumers arranged in KUHD. concerning Commissioner is organized in chapters v, section I, chapters 76 to 85a, book I KUHD. The commissioner is the guy who runs the company by making Covenants in his own name, procuring upon command and upon Financing others (section 76 KUHD).

Whereas the broker is a connected middleman A businessman with a third party to enter into multiple covenants. as Middleman or businesswoman, realtor has a relationship that's not permanent. The nature of his legal relationships is periodic service and empowered. in Having legal relations with a third party, the realtor ACTS on behalf His power-giver.¹⁴ contrast with the commissioner acting on his behalf Alone.

Conclusion

So from the foregoing, it can be drawn to a conclusion that:

- 1)The agency agreement is the same as the commission agreement is Special powers treaty. There are several agreement similarities The agency with the commission agreement, which is the gift covenant Special powers that reward, act on your own behalf, possess Privilege.
- 2)Since it is the covenant of special giving, it is the covenant Agency yields to the rules in book iii, xvi chapter, section ii and iii and in KUHD, book I, chapter v, section i. this agreement should be Well performed.
- 3)If there is an issue of the agency agreement, it can be settled Refers to covenants made by parties in the covenant The agency. For things not specifically arranged in the agreement It will then enforce the general rules inside Civil Code.

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