

Abuse of Circumstances as a Ground for Contract Cancellation: A Juridical Review of Lease Agreement Case No. 171/Pdt.G/2022/PN.Plk

Rizka Putri Gunawan¹, Lia Amaliya²

¹Faculty of Law, University of Buana Perjuangan Karawang. E-mail: bk21.rizkagunawan@mhs.ubpkarawang.ac.id

²Faculty of Law, University of Buana Perjuangan Karawang. E-mail: liaamalia@ubpkarawang.ac.id

Abstract: The Indonesian Civil Code (KUH Perdata) does not explicitly regulate the doctrine of misuse of circumstances (*misbruik van omstandigheden*). However, in legal practice, this concept increasingly serves as a basis to cancel agreements, especially when one party exploits the urgency, dependence, or weakness of another party often resulting in injustice. This doctrinal development is particularly relevant in cases involving lease agreements, where contractual imbalances are common. This research uses normative legal analysis and case study approaches, focusing on Decision No. 171/Pdt.G/2022/PN.Plk. Through document review and legal reasoning, it is shown how the judges considered the existence of an unfair advantage the lease agreement contained terms that significantly disadvantaged the tenant. The court found clear evidence of imbalance arising from the stronger bargaining position of the landlord relative to the tenant's vulnerable situation. Based on this, the judges accepted the misuse of circumstances as a valid reason to cancel the agreement and restore justice for the disadvantaged party. The findings highlight the crucial responsibility of judges to actively uphold justice and protect vulnerable parties in contractual relations, especially lease agreements. Moreover, the research suggests an urgent need for clearer and stricter regulation of the doctrine of abuse of circumstances in Indonesian contract law. Ensuring more robust legal provisions would enhance legal certainty and guarantee fairness for all parties involved in contractual agreements.

Keywords: Abuse of Circumstances, Agreement, Lease

1. Introduction

Indonesia is a country that makes law the main authority regarding the life of society and government. Along with the rapid progress of the times, not only the industrial and trade sectors are developing, but also legal science continues to experience updates. Basically, humans as living beings always try to maintain their survival. Therefore, humans always try to fulfill all their needs without stopping. If at any time there is a party who does not carry out the obligations or achievements that should be fulfilled, then automatically there will be other parties whose rights are not fulfilled.¹

A covenant is an event where one person gives assurance to another, or where two individuals commit to perform a certain action. In this way, a legal binding between the two parties is formed, which is referred to as an engagement. Consequently, an agreement serves as the basis for the formation of a bond of obligations and rights between the parties that make it. Overall, an agreement is formed through a series of sentences that contain commitments or statements of ability that can be conveyed orally or in writing.²

In legal practice in Indonesia, lease agreements are one form of agreement that is often encountered. In accordance with the regulations contained in Articles 1548 to 1600 of the Civil Code. However, in practice, lease agreements often face various legal problems, one of

¹ H. Moch. Isnaeni. *Perjanjian Jual Beli*, Refika aditama, Bandung. 2016. Hlm. 8

² Subekti. *Hukum Perjanjian*, Intermasa, Jakarta. 2005. Hlm. 1

which is the abuse of circumstances or the imbalance of positions between each of the parties to the agreement.

In an agreement, there are four conditions that can be said to be valid as an agreement in Article 1320 of the Civil Code, namely the agreement of two parties, the ability to carry out legal actions, the existence of certain conditions, the existence of valid reasons. The first requirement for the validity of an agreement is an agreement between the parties.³

An agreement can be declared invalid if it contains a defect of will, namely a condition where the consent given by the parties is not based on a free and pure will. Based on Article 1321 of the Civil Code, there is a defect of will if the consent is obtained due to delusion (*dwaling*), coercion (*dwang*), or fraud (*bedrog*). In addition, in legal practice, there is also the concept of abuse of circumstances (*misbruik van omstandigheden* or undue influence) as a different reason. In this situation, the intention of one person in the agreement is subject to undue influence, so that the agreement reached is not the result of his or her true will, but rather due to mistake, pressure, fraud, or abuse of circumstances.

What is meant by abuse of circumstances is an act committed against another person involved in an agreement by using the imbalance of positions between the two parties in order to gain economic benefits. With that, there is an unfree will. As a result, an agreement that has a defect in its will can be requested to be canceled through the court, because it does not fulfill the valid rules for the agreement described in Article 1320 of the Civil Code.⁴

According to Grotius, the principle of “*pacta sunt servanda*” is one of the most significant legal bases. The application of this principle is not absolute, because every implementation of the agreement must be based on the principle of justice which has been stipulated in Article 1338 Paragraph (3) which stipulates “contracts must be executed in good faith”.⁵

Until now, abuse of circumstances has not been included in the list of reasons for canceling an agreement in the Civil Code, but in practice in the field, this has been applied to the court level. There are some decisions that clearly state that an agreement is based on certain circumstances,⁶ The lack of fairness in the agreement resulted in an abuse of circumstances due to the unequal bargaining position between the parties involved.

There is a case that applies the doctrine of abuse of circumstances in dispute Decision Number 171/Pdt.G/2022/PN.Plk. The 2022 verdict in this case included considerations regarding the abuse of circumstances. The verdict in this case involved a plaintiff and a defendant who were in conflict over an agreement that had been made. H. Bachtar Rahaman as Plaintiff against PT Sembilan Tiga Perdana as Defendant I, Branch of PT Sembilan Tiga Perdana as Defendant II, and Notary Irwan Junaidi, S.H as Co-Defendant. The plaintiff submitted a lawsuit document on October 13, 2022, which was then received and registered at the Palangka Raya District Court Registrar on October 17, 2022 with Registration Number 171/Pdt.G/PN.Plk.

In this case, there was a plaintiff and a defendant involved in a civil dispute, with the plaintiff claiming a breach of the agreement that had been made. The plaintiff claimed that the Defendant was proven to have committed an act of abuse of circumstances (*misbruik van omstandigheden*) that could be detrimental based on the terms of the agreement, which

³ A. Rahim. *Dasar-Dasar Hukum Perjanjian*, Humanities Genius, Makassar. 2022. Hlm. 76

⁴ J. Satrio, “*Sepakat dan Permasalahannya: Perjanjian dengan Cacat dalam Kebendak*”, <https://www.hukumonline.com/berita/a/sepakat-dan-permasalahannya--perjanjian-dengan-cacat-dalam-kehendak-lt5a4c5a257a301/> , diakses pada 3 Januari 2018

⁵ Pangabean, Henry P. *Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) sebagai alasan baru Pembatalan Perjanjian*. Yogyakarta:Liberty, 2010. Hlm. 19

⁶ Endro Martono, *Penyalahgunaan Keadaan Sebagai Dasar Pembatalan Perjanjian*. Jurnal Yustisia Merdeka: Jurnal Ilmiah Hukum. Vol 1 No 2, 2016, h. 9

was the basis for filing a lawsuit in court. This decision provides an important precedent regarding the protection of tenants' rights in lease agreements, confirming that *Misbruik van omstandigheden* can be a basis to void the agreement and seek damages. The court accepted statements and evidence from each party. The ruling has legal consequences for both parties, including the possibility to appeal if either party feels unjustified by the outcome. The judgment is based on the principles of Indonesian civil law, including provisions on breach of contract and the rights of parties to a contract.

Research on the doctrine of *misbruik van omstandigheden* in Indonesia shows that there is a research space that has not been adequately filled, especially in the context of lease agreements. The Clarins study (2022) emphasizes that the application of the doctrine of abuse of circumstances in Indonesian court decisions is still inconsistent, especially in the interpretation of the elements of inequality of bargaining position, urgency, and psychological influence on the weak, thus causing legal uncertainty due to non-uniform evidentiary standards at various levels of justice. Meanwhile, Fadillah & Fatahillah (2021) analyzed the abuse of circumstances in bank credit agreements whose characteristics are different from lease agreements in bank loans, inequality is structural and influenced by OJK regulations, while in rent, inequality is situational depending on the urgency of needs, limited property choices, and economic dependence of tenants. Both studies are extensive and have not specifically examined the application of this doctrine to lease agreements involving significant economic and information gaps. Practice on the ground shows that tenants are often vulnerable to unfair clauses due to limited legal knowledge, urgency of need, and lack of alternative property options, so that legal protection for weakly positioned parties becomes an urgent need that has not been adequately met. Therefore, a juridical analysis of the abuse of circumstances in a lease agreement through the study of Decision No. 171/Pdt.G/2022/PN.Plk is important to fill the void in the literature as well as assess how judges apply this doctrine in lease-disputes that have different factual characteristics and legal relationships from credit agreements and other common cases.

Based on this preliminary explanation, the identification of this problem is how is the abuse of circumstances in a lease agreement according to Indonesian treaty law? And how is the judge's consideration in giving a decision on the abuse of circumstances in a lease agreement in case No.171/Pdt.G/2022/PN.Plk?

2. Method

This research is normative research using qualitative methods with a normative juridical approach. This normative juridical approach focuses on the study of law as a system of norms, including existing laws and legal doctrines. This research is descriptive-analytical, with the aim of examining the problem of misuse of circumstances in the perspective of the law of lease agreements, referring to Decision No. 171/Pdt.G/2022/PN.Plk. The data used is secondary, which is obtained from various sources of literature, including court decisions, books, and official documents. This data consists of primary legal sources such as laws and court decisions, secondary legal materials that include theoretical studies of legal experts and research results, and tertiary legal materials consisting of explanatory sources such as dictionaries, articles, and information from the internet. This research specifically applies normative legal research methods, which focus on analyzing court decisions. In this case, normative legal research examines legal documents by utilizing various secondary data, such as laws and regulations, court decisions, legal theories, and experts' views.

3. Results and Discussion

3.1. Abuse of Circumstances in a Lease Agreement According to Indonesian Treaty Law

An agreement made by two or more parties on a particular subject matter is known as an agreement. The general rules regarding agreements are regulated in the Civil Code in Indonesia. The basis for determining legal consequences depends on the will of the parties involved. Law III of the Civil Code provides freedom for all parties to make agreements, determine the terms, validity period, and form, both written and oral. Based on Article 1338 paragraph (1) of the Civil Code, "All those who legitimately enter into a contract are governed by the law of those who enter into it."⁷

In the Civil Code, there are general provisions that govern all types of agreements as well as provisions that only apply to certain agreements regulated by law. Some examples of such specific agreements are: sale and purchase transactions, leases, loans, employment contracts, and power of attorney.⁸ Lease agreements are regulated in Article 1548 to Article 1600 of the Civil Code. Based on Article 1548 of the Civil Code, a lease is defined as "an agreement by which one party binds himself to give the enjoyment of an item to another party during a certain time, with the payment of a price which the latter party undertakes to pay". A lease agreement can be canceled when there are valid legal reasons according to the Civil Code, including: defect of will, non-fulfillment of the legal requirements of the agreement, default, and the object of the agreement is lost or cannot be utilized.

The valid requirements in the agreement are stipulated in Article 1320 of the Civil Code which states four conditions, namely: first, there is an agreement between the two parties. second, the ability to take legal action. third, there is a clear object. and fourth legitimate reasons. The two subjective conditions in an agreement are conditions related to the parties involved, including agreement and ability. The first requirement for an agreement to be valid is an agreement, namely the harmony of intentions expressed between the parties. The intention itself cannot be seen or understood by others.⁹ In agreements that contain provisions for incompleteness of agreement, it is referred to as a defect of will.

When the agreement contains a defect in will, which is the existence of an agreement, but the agreement is reached without the application of free will.¹⁰ In accordance with the rules contained in Article 1321 of the Civil Code, an agreement is considered invalid if it is caused by mistake, coercion, fraud. Therefore, defects in will can occur due to the following things:¹¹

a. Error (dwaling)

Article 1322 of the Civil Code "Error does not result in the cancellation of an agreement other than if the error occurs regarding the nature of the goods that are the subject of the agreement".

b. Coercion (dwang/duress)

Article 1323 to Article 1327 of the Civil Code addresses this point, where Article 1323 specifically states "Coercion exercised against the person making an agreement,

⁷Renata Chirstha Auli, "Macam-Macam Perjanjian dan Syarat Sahnya", <https://www.hukumonline.com/klinik/a/macam-macam-perjanjian-dan-syarat-sahnya-lt4c3d1e98bb1bc/>, diakses pada 13 Desember 2024

⁸ Lukman Santoso Az, *Hukum Perjanjian Kontrak*, Cakrawala, Yogyakarta. 2012. Hlm. 9

⁹ Salim Hs, *Perkembangan Hukum Jaminan Di Indonesia*, Raja Grafindo Persada, Jakarta. 2004 Hlm.33

¹⁰ Ahmad Jalaludin Arroddi, "Konsekuensi Hukum Cacat Kehendak Dalam Pembentukan Perjanjian Sesuai Pasal 1320 KUHPerdata". Letterjilk:Jurnal Hukum Perdata. Vol.1. No.2, hlm.5.

¹¹ Lia Amaliya, *Hukum Perikatan*, Cipta Media Nusantara, Surabaya. 2022. Hlm. 48

is a reason for the cancellation of the agreement, also if the coercion is carried out by a third party, for the benefit of whom the agreement has not been made.”

c. Fraud (bedrog)

Article 1328 of the Civil Code "Fraud is a reason for the cancellation of an agreement, if the deception used by one party is such that it is clear and obvious that the other party would not have made the agreement without the deception. Fraud is not presumed but must be proven"

d. Misuse of Circumstances

Misuse of circumstances is a relatively new defect of will and has not been specifically established in the Civil Code. However, the abuse of circumstances can be found in jurisprudence. Abuse of circumstances can be stated as a rule that prevents or limits the formation of free will which is necessary as an agreement between the parties.

In the Civil Code, there is an important principle in the agreement, the principle is the principle of “pacta sunt servanda”. The principle of “pacta sunt servanda” itself comes from Latin which means “promises must be kept”. Article 1338 of the Burgerlijk Wetboek stipulates that “All legal agreements for those who make them shall apply as law”. This means that all agreements that have fulfilled the provisions as an agreement with legal value must be implemented based on the contents of the parties' agreement.¹²

Based on individualism, each individual has the freedom to get what they want. In treaty law, this is called “freedom of contract”.¹³ In the law of treaties, freedom of contract is a very fundamental principle. In line with the times, the principle of freedom of contract is no longer unlimited. The government has imposed some limitations on freedom of contract through laws and court decisions. This restriction on freedom of contract is influenced by two aspects, namely:¹⁴

- a. The growing importance of the principle of good faith now extends to all stages of a contract, from formation to execution.
- b. The widespread teaching on the abuse of circumstances “misbruik van omstandigheden”.

According to the doctrine of abuse of circumstances, an agreement can have an imbalance of power between the parties. Generally, the party who has more power often has power over the weak position of the one who lacks understanding, so that the party feels pressured to agree to the agreement. This practice results in an agreement that does not reflect the free will of the parties, contrary to the validity of the agreement in accordance with Article 1320 of the Civil Code. As a result, agreements in situations of abuse of circumstances can be canceled. The doctrine of abuse of circumstances was first known in England under the name Undue Influence emerged in the 15th century through the principle of equity. At that time, Common Law only recognized physical coercion as a defect of will, while psychological coercion was ignored. Later, this doctrine was adopted in the Netherlands under the term Misbruik Van Omstandigheden. According to Fockema Andrae's dictionary of terms, this term refers to actions that take advantage of another

¹²Mulida hayati, “Ajaran Misbruik Van Omstandigheden sebagai Alasan Hakim dalam Memperbaiki Suatu Perjanjian (Analisis Putusan Pengadilan Negeri Palangka Raya Nomor 160/Pdt.g/2016/PN.Plk)”, Unes Law Review, Vol. 6, No. 3, 2024, h. 2

¹³Lia Amaliya. *Op.Cit.* Hlm. 62

¹⁴Khairandy, Ridwan (II). 2013. *Hukum Kontrak Indonesia Dalam Perspektif Perbandingan (Bagian Pertama)*. Yogyakarta: FH UII Press. Hlm. 2-3

person's emergency, dependency, helplessness, or inexperience in performing legal acts that can harm oneself.

The emergence of this doctrine was due to the absence of specific rules in the Dutch Burgerlijk Wetboek, which resulted in judges often invalidating agreements that were contrary to custom. Jurisprudentially, the first application of this doctrine emerged through a High Court Decision in 1957 (BOVAG arrest II-HR) and was clarified in a High Court Decision in 1964 (Van Elmbt vs Feierabend). This decision affirms that an agreement can be annulled if there is an abuse of circumstances, without the need to meet the requirements of a certain form or amount of loss, as long as there is a utilization of the weak condition of the other party which makes the agreement contrary to the norms of decency.

In an agreement, there are generally two types of abuse of circumstances, namely: First, when individuals utilize their psychological power by using unfairness to urge the less powerful party to agree to an agreement that is not in accordance with what they actually want. Second, when an individual utilizes an improper position of position or trust to convince the other party to agree to an agreement.¹⁵

Legal doctrine and jurisprudence state that agreements with certain defects remain valid and binding on all parties involved. However, the party who feels that they gave a statement in such a defective state can submit a request to cancel the agreement. Thus, Article 1321 of the Civil Code reveals that if an agreement contains mistake, coercion, or fraud, it shows a defect in the agreement between the parties involved, so that the agreement can be canceled.¹⁶

The construction of misuse of circumstances as a defect of will has the effect that the agreement can be requested to be canceled (*vernietigbaar*) by the party who suffered the loss to the judge. As long as it remains in force, the agreement remains binding on all parties concerned. The request for annulment can be made in part or in full.¹⁷

Abuse of circumstances relates to the subjective terms of the contract. Where one party takes advantage of conditions that make the other party to the contract unable to express his will freely, Van Dunne classifies abuse into two categories, namely caused by economic advantage and psychological advantage as follows:¹⁸

- a. Conditions for abuse of economic benefits:
 - a) One party must have an economic advantage over the other.
 - b) The other party is forced to agree to do the deal.
- b. Conditions for abuse of psychological or psychiatric benefits:
 - a) A Person in the relationship takes advantage of existing dependencies, such as relationships based on special trust between husband and wife, parents and children, doctors and patients.
 - b) A person in the situation takes advantage of the special mental state experienced by the other party, such as the presence of mental disorders, lack of experience, careless actions, lack of knowledge, poor conditions and others.

The Civil Code has not provided specific provisions regarding abuse of circumstances, but there have been many decisions from the Supreme Court of the Republic of Indonesia that categorize abuse of circumstances as a defect of will, so that it can be used as a basis for canceling an agreement. Misuse of circumstances is an obstacle to the realization of free will,

¹⁵ Khairandy, Ridwan (II). *Op.Cit.* Hlm. 274

¹⁶ Rendy Saputra. *Kedudukan Penyalahgunaan Keadaan (Misbruik Van Omstandigen) Dalam Hukum Perjanjian Indonesia*, Gadjah Mada University Press, Yogyakarta. 2019. Hlm. 53

¹⁷ *Ibid* (tanpa halaman)

¹⁸ Pangabean, Henry P. *Op.Cit.* Hlm. 51

which is essential for the agreement of two parties. As explained in Article 1320 paragraph (1) of the Civil Code regarding the legal requirements of an agreement.

Abuse of Circumstances in agreement law is not only related to the content of the agreement itself, but also involves various other factors that arise at the time the agreement is made and can result in harm to one of the parties.¹⁹ In its development, abuse of circumstances in Indonesia is defined as a situation that can result in defects in the will of the various parties. This indicates that the existing agreement is not based on an agreement between the two parties, or in other terms there is a lack of freedom of choice from each party.²⁰

3.2. Consideration of Judges in Giving Decision on Abuse of Circumstances in Lease Agreement in Case No.171/Pdt.G/2022/PN.Plk

Based on Decision No. 171/Pdt.G/2022/Pn.Plk. That starting on October 14, 2019, there was a lease agreement between H. Bachtiar Rahaman as the Plaintiff against PT Sembilan Tiga Perdana as the 1st Defendant, PT Sembilan Tiga Perdana Branch as the 2nd Defendant, and Notary Irwan Junaidi, S.H as the Co-Defendant. With the object of land (land) where the Plaintiff is the land owner who leases to the Defendant as the tenant, as recorded in deed no. 17 dated October 14, 2019 made before the Co-Defendant Irwan Junaidi, S.H., Notary in Palangkaraya city. The Plaintiff filed a lawsuit document on October 13, 2022, which was officially entered and recorded at the Registrar of the Palangka Raya District Court on October 17, 2022 with Registration Number 171/Pdt.G/2022/PN.Plk.

Plaintiff H. Bachtiar Rahman is the owner of eight plots of land in Palangkaraya who then leased the land to PT Sembilan Tiga Perdana as Defendant I based on the deed of lease agreement number 17 prepared on October 14, 2019 before Notary Irwan Junaidi, S.H. This lease agreement is valid for 11 years, starting from September 30, 2019 to September 29, 2031, with the provision of an annual rental price of Rp. 166,666,666.67. The first and second year lease payments have been made, while the following years' payments are arranged in stages according to the agreement. In addition, this agreement also provides an option for Defendant I to purchase the leased land, where the rent paid will be calculated as payment of the land price if the purchase option is exercised.

The Plaintiff considered that the lease agreement made by Notary Irwan Junaidi, S.H. as Co-Defendant was unbalanced. There were many clauses that favored the Defendant and disadvantaged the Plaintiff. In one of the articles, if the Plaintiff exercises the option to purchase, the rent paid will be counted as payment for the land. If the Plaintiff terminates the agreement, the Defendant is burdened to return the rental price paid by the Defendant equally up to the date of termination of the lease agreement and a fine of 200% of the total value of the rental price for the remaining term of the terminated lease, whereas if the Defendant terminates the agreement, the money paid by the defendant is considered forfeited, this is an unfair agreement.

In this situation, the Defendant has coerced the Plaintiff to sell his land to the Defendant, so that PT Sembilan Tiga Perdana as a party with high economic power seeks to control power over H. Bachtiar Rahman and face each other as parties opposite to the contract. That PT Sembilan Tiga Perdana pressed its will on H. Bachtiar Rahman for its personal interests, resulting in the contents of the contract terms that were unbalanced or

¹⁹Rio Christiawan, "Penyalahgunaan Keadaan Dalam Hukum Perjanjian", <https://www.hukumonline.com/berita/a/penyalahgunaan-keadaan-dalam-hukum-perjanjian-lt678e813731c32/>, diakses pada 21 Januari 2025

²⁰ Sharon Clarins. 2022. *Penerapan Doktrin Penyalahgunaan Keadaan (Misbruik Van Omstandigheden)* Dalam Putusan Pengadilan Indonesia, "Dharmasysya", Jurnal Program Magister Hukum FHUI. Vol. 1, hlm 2151

unfair, so that it was said to be a form of abuse of circumstances (*misbruik van omstandigheden*).

The panel of judges who heard this case considered what constituted the basis for the abuse of circumstances as a cancellation of the agreement. People have the right to make any agreement, as long as it does not conflict with laws, norms and public order, as stated in Article 1338 of the Civil Code “that all agreements made legally serve as law for the parties involved”. Article 1338 of the Civil Code reflects the principle of freedom in formulating agreements (freedom of contract).

In this case, the panel of judges considered that the Defendant as a large company had used its economic advantage to pressure the Plaintiff, who was the weaker party and was unfamiliar with the law, resulting in an agreement whose contents were unfair and very burdensome to the Plaintiff. The panel of judges stated that these actions were contrary to the principles of justice and propriety, referring to the provisions in Article 1320 and Article 1338 of the Civil Code. Furthermore, the role of Notary Irwan Junaidi S.H as Co-Defendant was deemed not to have provided sufficient explanation regarding the contents and risks of the lease agreement to the Plaintiff, so that the Plaintiff signed the agreement under duress and without sufficient understanding. Based on these considerations, the Panel of Judges stated that the agreement could be canceled because it was made in a situation of abuse of circumstances and did not fulfill the correct principle of freedom of contract, as well as contrary to the principles of justice in Indonesian civil law.

Courts handling and considering cases concerning the basis of freedom of contract have full power to control the principle if it is considered contrary to the principles of justice in society. This is in line with the duties and responsibilities of judges who have autonomy in their freedom. The Supreme Court together with the Chairpersons of High Courts throughout Indonesia on March 25-26, 1986, have compiled and conveyed that the conditions that are a sign of abuse of economic power and abuse of circumstances, which can cause conditions of injustice, so that one party cannot freely express his wishes, when one party is in a position of urgency, one party is very lacking in understanding, there are unfair agreement provisions, or irrational agreement terms, the results and benefits of the agreement are not balanced, and the goods used as collateral are the only shelter.

The Judges' decision accepted the abuse of circumstances as a reason to rescind the agreement. The Panel of Judges adopted this doctrine because it considered that abuse of circumstances is a recognized reason to rescind an agreement in Indonesia based on Jurisprudence No. 3666.K/PDT/1992 and No. 275.K/PDT/2004. The Panel of Judges was of the opinion that the Plaintiff's condition of being in a situation of economic hardship had been considered to be used by the Defendant for legal steps that benefited themselves. The Plaintiff or benefited himself. It was found that the Defendant had committed an abuse of circumstances (*misbruik van omstandigheden*), which then implied that the legal steps taken by the Plaintiff could be considered invalid. Thus, the Panel of Judges concluded that the Defendant was involved in an abuse of circumstances in the lease agreement.

The author agrees with the Panel of Judges who stated that there was an abuse of circumstances in the decision of case No. 171/Pdt.G/2022/PN.Plk. This conclusion was based on the imbalance of rights and obligations found in the lease agreement, where many clauses favored the lessee and placed a burden on the lessor. The inclusion of a purchase option clause that treated the rent as payment for the land, the transaction's burden on the plaintiff in case of a breach, and the exploitation of the defendant's stronger economic position contributed to this finding. Additionally, the plaintiff, as a party unfamiliar with the law, was not provided with adequate explanations by the notary, resulting in the signing of the agreement under unequal conditions and without a full understanding of the associated

risks, which created an element of coercion. Therefore, the clauses in question were declared to constitute an abuse of circumstances. The Panel of Judges has provided the reasoning underlying the abuse of circumstances as the basis for annulling the agreement, citing the principle of freedom of contract and jurisprudence.

Nieuwenhuis said that there are four conditions for assessing whether there has been an abuse of circumstances in an agreement, namely:²¹

- a. Certain situations, such as emergency conditions, dependent relationships, neglect, instability, and lack of knowledge.
- b. A clear fact
- c. Abuse

According to Van Der Burght, abuse of circumstances occurs due to certain influences that affect when the agreement is made, where the individual who suffers the loss must face an unfair burden, which arises due to the influence of circumstances and situations that are exploited by the other party. Abuse of circumstances is closely related to the conditions when the agreement is made, not just the contents of the agreement itself. This condition can affect the will of one of the parties, which ultimately makes their agreement defective.

According to Z. Asikin Kusumah Atmadja in a speech on November 21, 1985 in Jakarta, he stated that abuse of circumstances is an element that can reduce or hinder freedom of will in making agreements between parties, in accordance with Article 1320 of the Civil Code.²²

With these doctrines, the author believes that the Panel of Judges has correctly recognized the existence of abuse of circumstances in decision 171/Pdt.G/2022/PN.Plk that the lease agreement imposes very high interest and burdensome guarantees, where one party has an economic advantage and it is exploited, so that the conditions stipulate unfair conditions for unilateral benefit. Therefore, the Panel of Judges can cancel or revise the agreement based on the doctrine of abuse of circumstances in order to maintain justice and freedom of contract.

4. Conclusion

Abuse of circumstances (*misbruik van omtandigheden*) is a factor that can hinder or damage the creation of free will needed to reach an agreement between the two parties, although this teaching has not been clearly regulated in the Civil Code. However, abuse of circumstances can be found in doctrine and jurisprudence. In an agreement, abuse of circumstances refers to subjective conditions, namely a situation where one party takes advantage of conditions that make the other party unable to express their wishes freely.

The Judge's consideration in Decision No. 171/Pdt.G/PN.Plk accepted the doctrine of abuse of circumstances which is used as a reason to cancel an agreement. The Judge adopted this teaching because he was of the opinion that abuse of circumstances could be a reason to cancel an agreement known in Indonesia through Jurisprudence No. 3666.K/PDT/1992 and No. 275.K/PDT/2004 which is based on a forced agreement with an imbalance between the parties. The Plaintiff successfully proved that the Defendant had taken advantage of its economic advantage to include clauses that contained an imbalance between the parties in the lease agreement, that the agreement did not fulfill the principles of justice, propriety, and

²¹Pangabeau, Henry P. Op.Cit. Pg. 76

²²Nuraini, H., Dauri, D., & Andreas, R. 2020. *Paradigma Interpretif Konsep Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) Pada Perjanjian Kredit Perbankan*. Refleksi Hukum: Jurnal Ilmu Hukum. Vol. 4. No. 2, hlm 259-280.

freedom of contract in accordance with the provisions of Articles 1320 and 1338 of the Civil Code. The author hereby agrees with the Panel of Judges that there has indeed been an abuse of circumstances in the lease agreement, because it is reinforced by several doctrines that explain the abuse of circumstances and that is in line with what was explained by the Panel of Judges.

References

- Amaliya, Lia. *Hukum Perikatan*. Surabaya: (Cipta Media Nusantara, 2022).
- Arrodli, Ahmad Jalaludin. *Konsekuensi Hukum Cacat Kebendak Dalam Pembentukan Perjanjian Sesuai Pasal 1320 KUHPerdata*. Letterlijk: Jurnal Hukum Perdata. Vol.1, No. 2, hlm. 5 (2024): <https://journal.fhukum.uniku.ac.id/letterlijk/article/view/68/64>
- Auli, Renata Chirstha. *Macam-Macam Perjanjian dan Syarat Sahnya*. Hukum online, (2024) <https://www.hukumonline.com/klinik/a/macam-macam-perjanjian-dan-syarat-sahnya-lt4c3d1e98bb1bc/> Vol. 1, No. 2, hlm. 5.
- Az, Lukman Santoso. *Hukum Perjanjian Kontrak*. (Yogyakarta: Cakrawala. 2012).
- Christiawan, Rio. *Penyalahgunaan Keadaan Dalam Hukum Perjanjian*. Hukum online, (2025) <https://www.hukumonline.com/berita/a/penyalahgunaan-keadaan-dalam-hukum-perjanjian-lt678e813731c32/>
- Clarins, Sharon. *Penerapan Doktrin Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) Dalam Putusan Pengadilan Indonesia*. Dharmasiswa: Jurnal Program Magister Hukum FHUI. Vol. 1, hlm. 2151 (2022): <https://scholarhub.ui.ac.id/dharmasiswa/vol2/iss2/1/>
- Hayati, Mulida. *Ajaran Misbruik Van Omstandigheden sebagai Alasan Hakim dalam Memperbaiki Suatu Perjanjian (Analisis Putusan Pengadilan Negeri Palangka Raya Nomor 160/Pdt.g/2016/PN.Plk)*. Unes Law Review. Vol. 6, No. 3, (2024): <https://review-unes.com/index.php/law/article/view/1746/1423>
- Hs, Salim. *Perkembangan Hukum Jaminan Di Indonesia*. (Jakarta: Raja Grafindo Persada. 2004).
- Isnaeni, H. Moch. *Perjanjian Jual Beli*. (Bandung: Refika Aditama. 2016.)
- Khairandy, Ridwan (II). *Hukum Kontrak Indonesia Dalam Perspektif Perbandingan (Bagian Pertama)*. (Yogyakarta: FH UII Press. 2013.)
- Martono, Endro. *Penyalahgunaan Keadaan Sebagai Dasar Pembatalan Perjanjian*. Jurnal Yustisia Merdeka: Jurnal Ilmiah Hukum. Vol 1 No 2, (2016): https://unmermadiun.ac.id/repository_jurnal_penelitian/yustisia%20merdeka/YUSTISIA%20VOL.1%20NO%202.pdf
- Nuraini, H., Dauri, D., & Andreas, R. *Paradigma Interpretif Konsep Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) Pada Perjanjian Kredit Perbankan*. Refleksi Hukum: Jurnal Ilmu Hukum. Vol. 4, No. 2, (2020): <https://ejournal.uksw.edu/refleksihukum/article/view/3352>

- Pangabean, Henry P. *Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) sebagai alasan baru Pembatalan Perjanjian*. (Yogyakarta: Liberty. 2010).
- Rahim, A. *Dasar-Dasar Hukum Perjanjian*. (Makassar: Humanities Genius. 2022).
- Saputra, Rendy. *Kedudukan Penyalahgunaan Keadaan (Misbruik Van Omstandigen) Dalam Hukum Perjanjian Indonesia*. (Yogyakarta: Gadjah Mada University Press. 2019).
- Satrio, J. *Sepakat dan Permasalahannya: Perjanjian dengan Cacat dalam Kehendak*. Hukum online, (2018) <https://www.hukumonline.com/berita/a/sepakat-dan-permasalahannya--perjanjian-dengan-cacat-dalam-kehendak-lt5a4c5a257a301/>
- Subekti. *Hukum Perjanjian*. (Jakarta: Intermasa. 2005).