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Legal Validity and Consumer Protection in Split Payment Transactions Outside Marketplaces in Indonesia

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Abstract

The proliferation of sale and purchase practices outside marketplaces using digital payment mechanisms, particularly split payment, raises the risk of breach of contract due to the absence of an escrow system that guarantees the fulfillment of obligations by the parties. This study examines the validity of sale and purchase agreements outside marketplaces as well as the civil legal protection and the form of the seller's liability to the buyer in cases of breach of contract. The research employs an empirical juridical method with statutory, conceptual, and case approaches. The results show that sale and purchase agreements outside marketplaces with split payment schemes are legally valid because they fulfill Article 1320 of the Civil Code and are recognized as electronic agreements under Law No. 1 of 2024 on Electronic Information and Transactions (EIT Law). However, through Hadjon's framework, the existing regulation only marginally fulfills the preventive dimension of legal protection, while the repressive dimension is normatively available yet practically ineffective; from Radbruch's perspective, the three values of legal certainty, justice, and expediency are not yet harmoniously realized. Sellers still bear civil liability for breach of contract under the Civil Code and Law No. 8 of 1999 on Consumer Protection (UUPK). It is therefore concluded that such transactions are legally valid but weak in consumer protection, so that regulatory strengthening on identity verification, mandatory escrow systems, and accelerated dispute resolution is needed in accordance with Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions.

INTRODUCTION

Innovations in information and communication technology have significantly impacted the shift in transaction patterns. Conventional transaction mechanisms that require the physical presence of the parties have now transformed into digital systems that offer advantages in accessibility, speed, and flexibility.[1] Sale and purchase transactions no longer depend on the physical presence of the parties but can be conducted through various electronic media, both through marketplace platforms and outside of marketplaces. In practice, transactions outside of marketplaces are increasingly utilized because they are considered simpler, more flexible, and are not bound by the systems or provisions of third parties.

The development of digital transactions has given rise to electronic contracts as a legal relationship between sellers and buyers formed through electronic media, such as social media, instant messaging applications, and digital payment services. Electronic contracts possess legally binding force as long as they fulfill the requirements for the validity of an agreement pursuant to Article 1320 of the Indonesian Civil Code (ICC/KUHPerdata). Therefore, even though transactions take place without physical meetings and do not use conventional written documents, the legal relationship formed still gives rise to rights and obligations for the parties and can trigger legal liability in the event of a breach of contract.[2]

In the practice of electronic transactions outside of marketplaces, the payment methods used by the parties are highly diverse, including bank transfers, virtual accounts, digital wallets, Cash on Delivery (COD), and staged payments based on the agreement of the parties.[3] Each payment method possesses different legal risk characteristics. In bank transfer, virtual account, or digital wallet methods, the risk tends to lie with the buyer because payment is made before the goods are received. Conversely, the COD method relatively provides greater protection to the buyer because payment is made at the time the goods are delivered. Meanwhile, transactions through marketplaces generally have a better level of protection due to the existence of an escrow system or joint account that functions to hold funds temporarily until the parties fulfill their respective obligations. These differing characteristics indicate that digital transactions

[1] Jeffriansyah Dwi Sahputra Amory, Muhtar Mudo, and Rhena J, "Transformasi Ekonomi Digital Dan Evolusi Pola Konsumsi: Tinjauan Literatur Tentang Perubahan Perilaku Belanja Di Era Internet," 2025, 1.
[2] S Vebriani and A P L Danyathi, "Keabsahan Hukum Perjanjian Jual Beli Melalui E-Commerce Di Indonesia: Perlindungan Konsumen Dan UU ITE," *Kertha Desa: Journal Ilmu Hukum* 13, no. 10 (2025): 1008–20.
[3] Andrian Ridha Riawan, *Penyelesaian Wanprestasi Dalam Jual Beli Di E-Commerce Marketplace Tokopedia*, 2023.

outside of marketplaces have varying levels of legal protection depending on the payment method utilized.

One of the payment patterns developing in transactions outside of marketplaces is staged payment (split payment) based on the agreement of the parties. In this research, split payment is defined as a payment mechanism conducted in several stages before all goods are received by the buyer.[4] This payment pattern has several characteristics that can be identified as transaction elements, namely the division of payment into several stages, a time gap between payment and the delivery of goods, the absence of a third party as a transaction guarantor, and a high dependence on the element of trust between the parties. Furthermore, this mechanism also has the potential to cause an imbalance in the positions of the parties because one party can disproportionately control the payment or the goods. Such conditions indicate that the legal relationship formed is highly dependent on the good faith of the parties, thereby opening opportunities for default or fraud.

This vulnerability is reflected in the practice of electronic transactions conducted outside of marketplaces. Based on the results of preliminary interviews with victims in 2026, practices of sale and purchase transactions through social media X (Twitter) using the split payment method were found to result in losses for the buyer. In such transactions, the buyer and seller agreed to make payments in stages via digital wallets outside of a marketplace. At the beginning of the transaction, the seller did indeed send the goods, but the quantity was incomplete or differed from what was agreed upon. This condition indicates a deviation in the execution of the agreement that initially appeared to be based on good faith but resulted in losses for the buyer. These empirical data are used as one of the objects of study to obtain a factual portrait regarding transaction practices and the types of losses suffered by consumers.

From a civil law perspective, the validity of an agreement depends on the fulfillment of four cumulative requirements regulated by Article 1320 of the Indonesian Civil Code (ICC), including the consent of the parties, the capacity to enter into an obligation, a specific object, and a lawful cause.[5] In the context of digital transactions outside of marketplaces, the fulfillment of these requirements becomes a crucial issue because

[4] A Saputra, "Perlindungan Hukum Bagi Konsumen Dan Pelaku Usaha Dalam Transaksi Jual Beli Online Dengan Menggunakan Metode Cash On Delivery," *Indragiri Law Review* 2, no. 3 (2024): 9–16.
[5] Nafa Amelsi Triantika, Elwidarifa Marwenny, and Muhammad Hasbi, "Tinjauan Hukum Tentang Pelaksanaan Perjanjian Jual Beli Online Melalui E-Commerce Menurut Pasal 1320 Kuhperdata," 2020, 121.

transactions are conducted without identity verification or third-party supervision.[6] This condition has the potential to cause defects in consent, identity theft, or ambiguity regarding the object of the agreement, which can affect the validity of the legal relationship formed.

This issue is not limited to the aspect of the validity of the agreement but also concerns the regulations governing electronic transactions. The provisions of Article 1320 of the ICC as the legal basis for agreements basically do not yet specifically regulate digital transactions conducted outside of marketplaces. In addition, Law Number 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE) has affirmed the legality of electronic transactions and positioned electronic documents as valid evidence under the law. Meanwhile, Law Number 8 of 1999 concerning Consumer Protection (UUPK) regulates the guarantee of consumer rights to obtain accurate, transparent, and non-misleading information, along with the right to claim compensation if they suffer losses due to a transaction.[7] Nevertheless, the absence of regulations specifically governing staged payment schemes outside of marketplaces causes legal uncertainty, both regarding the validity of the agreement and the mechanism of liability of the parties when a default occurs.

Empirically, the most dominant issue in transactions outside of marketplaces is default (wanprestasi). Referring to Article 1234 of the Indonesian Civil Code (ICC), an obligation has the purpose of giving something, doing something, or not doing something. If one of the parties fails to perform their obligations, that party can be qualified as committing a default and is obliged to compensate for losses pursuant to Article 1243 of the ICC. In the context of electronic transactions, the form of default varies, including goods not being sent, delayed delivery, or the goods sent not being in accordance with the contents of the agreement.

Furthermore, based on Article 1267 of the ICC, the aggrieved party is given the right to file a claim in the form of fulfillment of the agreement, rescission of the contract, or compensation for losses. From a consumer protection perspective, business actors can also be held liable to provide compensation, replacement of goods, or a refund for the losses experienced by the buyer. However, in the practice of transactions outside of marketplaces, the implementation of these rights often encounters obstacles because the

[6] Safirah Maharani Putri and Muhammad Rizal Rustam, "Tinjauan Hukum Terhadap Jaminan Harta Pihak Ketiga Dalam Kepailitan Yang Dijadikan Harta Pailit Oleh Kurator," *Jembatan Hukum: Kajian Ilmu Hukum, Sosial Dan Administrasi Negara* 2, no. 1 (2025): 13–25.
[7] Suwari Akhmaddhian and Asri Agustiwi, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual Beli Secara Elektronik Di Indonesia," *UNIFIKASI: Jurnal Ilmu Hukum* 3, no. 2 (2016): 40–60.

perpetrator is difficult to track, terminates communication, or uses unverifiable identities. This situation indicates that although regulations regarding default and consumer protection already exist, their implementation in digital transactions outside of marketplaces still meets a number of practical obstacles.

The urgency of this research is reinforced by data showing the high number of online fraud cases in Indonesia. The National Criminal Information Center (Pusiknas) of the Indonesian National Police Criminal Investigation Department recorded 10,583 reported online fraud cases in the period from January to March 2026.[8] Additionally, the Financial Services Authority (OJK) noted that as of October 15, 2025, there were 297,217 reports of online fraud with total losses reaching IDR 7 trillion, based on data from the Indonesia Anti-Scam Center.[9] These data show that crime in digital transactions has developed into a widespread problem and causes significant economic losses to the public.

This condition is further exacerbated by the absence of an escrow system in split payment transactions outside of marketplaces. In fact, escrow serves an important function as a mechanism for holding funds, verifying transactions, recording payments, and as a means of dispute resolution if a conflict arises between the parties. Without such a mechanism, the risk of loss in a transaction can shift entirely to the consumer. Consequently, private transactions through social media become more vulnerable to default and fraud compared to transactions conducted through marketplaces with a joint account system.[10]

Research regarding the position and validity of electronic agreements from a civil law perspective utilizes a normative juridical method with a statutory and conceptual approach. The results confirm that electronic agreements are valid and binding if they fulfill the requirements of Article 1320 of the ICC, namely consent, capacity, a certain matter, and a lawful cause, which in practice is realized through a click or check-box mechanism. That research only examines validity *in abstracto* based on positive legal norms without touching upon field practices. The difference with this research lies in the method and focus. This research uses an empirical juridical method to examine the gap *in concreto* in cases of fraud involving split payment schemes outside of marketplaces.

[8] Pusiknas Bareskrim Polri, "Modus Penipuan Online Kian Canggih, Ribuan Kasus Terjadi Tiap Bulan," 2026, https://pusiknas.polri.go.id/detail_artikel/modus_penipuan_online_kian_canggih,_ribuan_kasus_terjadi_tiap_bulan.

[9] MetroTV News, "OJK Terima 297 Ribu Laporan Penipuan Online, Kerugian Capai Rp7 Triliun," 2025, https://www.metrotvnews.com/read/K5nC73Ap-ojk-terima-297-ribu-laporan-penipuan-online-kerugian-capai-rp7-triliun.

[10] S S Mazaya, D Djumardin, and L W P Suhartana, "Perjanjian Pinjam Dana Online Pada Platform Belanja Shopee (Studi Tentang Shopee Pinjam)," *Jurnal Education and Development* 11, no. 2 (2023): 471–79.

The object of study is also more specific to staged payment mechanisms without escrow, rather than electronic contracts in general.[11]

The research titled *Analisis Hukum Keabsahan Kontrak Elektronik* also uses a normative juridical method by examining the UU ITE, Government Regulation (PP) No. 71 of 2019, and PP No. 80 of 2019. The results state that electronic contracts are valid as long as they fulfill Article 1320 of the Civil Code (BW) and Article 46 paragraph (2) of PP No. 71 of 2019, and recognize electronic documents as valid evidence. However, implementation has not been effective due to the hesitation of law enforcement officials regarding the evidentiary strength of electronic contracts.[12] The fundamental difference lies in the output. That journal is general and normative, whereas this research is specific and empirical. The novelty of this research is the use of primary data in the form of victim interviews and transaction evidence to prove that a formally valid agreement does not necessarily provide material protection for consumers in the practice of private transactions.

Research by Bhagaskara and Tarina (2023) concerning consumer protection on unofficial marketplaces uses a normative juridical method based on the UU ITE and UUPK. This research emphasizes the importance of public education to recognize sellers with fraudulent motives. Its focus is on general consumer protection on unofficial platforms.[13] Differing from that research, this study is more specific regarding the validity of agreements and legal liability in split payment schemes according to the ICC, rather than just preventive education. This research fills the gap by analyzing the civil liability of the seller when a default occurs in a private transaction.

Research by Matarani and Sudarwanto (2023) regarding default in electronic agreements is applied in nature, referring to the South Jakarta District Court Decision No. 629/Pdt.G/2020/PN Jkt.Sel. The results show that the seller was declared in default for failing to deliver goods despite payment having been made. That research proves the gap in consumer protection despite the existence of digital regulations. The difference is that the aforementioned research examines a concrete case in formal e-commerce, whereas this research examines split payment transactions conducted entirely outside of

[11] Aulia Fikrina et al., "Adapting Contract Law to the Digital Era: The Indonesian Context," *Melayunesia Law* 9, no. 1 (2025): 1–15.
[12] Javandalas Nanda Yasser Fatahillah et al., "Analisis Hukum Keabsahan Kontrak Elektronik Sebagai Salah Satu Bentuk Kesepakatan Transaksi Elektronik Berdasarkan Perundang-Undangan Di Indonesia," *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 2, no. 4 (2025): 227–38.
[13] Kevin Adwitiya Bhagaskara and Dwi Desi Yayi Tarina, "Perlindungan Konsumen Terhadap Permasalahan Transaksi Online Dalam Platform Marketplace Tidak Resmi Consumer Protection of Online Transaction Problems on Unofficial Marketplace Platforms," *Jurnal USM Law Review Vol* 7, no. 1 (2024).

marketplaces without an escrow system.[14] Thus, this research expands the scope of study to private transaction motives that have not been accommodated by court decisions or existing e-commerce regulations.

Based on the explanation of the four previous studies, it can be concluded that prior studies are still predominantly normative and discuss formal e-commerce. There has been no research that specifically examines the validity of agreements, consumer protection, and seller liability in split payment schemes outside of marketplaces using an empirical juridical method. Therefore, the novelty of this research lies in the empirical proof that an agreement that is valid according to Article 1320 of the ICC and the UU ITE does not automatically guarantee material protection for consumers when the transaction is conducted without escrow and identity verification. More specifically, the novelty of this research is articulated in three interrelated contributions. First, this research empirically demonstrates the discrepancy between the formal validity of an agreement under Article 1320 of the ICC and the EIT Law and its substantive ineffectiveness in protecting consumers in private digital transactions, a gap that has not been mapped through primary data in prior Indonesian legal scholarship.[15] Second, this research focuses specifically on split payment schemes outside marketplaces as a transaction typology that differs structurally from formal e-commerce examined in earlier studies, in which there is no neutral third party, no escrow mechanism, and no platform-level identity verification. Third, this research integrates the theoretical frameworks of legal protection by Philipus M. Hadjon and legal certainty by Gustav Radbruch to evaluate the existing regulatory gap and propose a normative reconstruction directed toward mandatory escrow, identity verification of business actors, and accelerated dispute resolution mechanisms for private electronic transactions.

Based on this description, there appear to be legal issues related to the validity of sale and purchase agreements conducted outside of marketplaces, specifically those using a staged payment pattern (split payment). This issue intersects with the fulfillment of the requirements for the validity of an agreement according to the ICC, the status of electronic transactions within the scope of the UU ITE, and legal protection along with the form of seller liability to the buyer based on civil law and consumer protection law. On that basis, this research aims to analyze the validity of sale and purchase agreements

[14] R Suryo Putro Matarani and Albertus Sentot Sudarwanto, "Wanprestasi Dalam Perjanjian Elektronik: Analisis Pertanggungjawaban Penjual Dalam Transaksi e-Commerce," *Indonesian Journal of Social Sciences and Humanities* 5, no. 1 (2025): 76–82.
[15] Republik Indonesia, "Kitab Undang-Undang Hukum Perdata," n.d.; Devi Anjheli, "Privasi Digital Dan Kejahatan Phishing Di Indonesia: Evaluasi Kritis Terhadap Efektivitas UU ITE Dan UU PDP," *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam* 4, no. 1 (2024): 165–89.

outside of marketplaces as well as to examine the legal protection and liability of the seller toward the buyer in said transaction practices

METHODS

This research employs an empirical juridical legal method, which is a study that examines the implementation of legal norms in the midst of societal practices.[16] The selection of this method is based on the research focus on sale and purchase practices outside of marketplaces that utilize various online payment methods and have the potential to raise legal issues, particularly regarding the validity of agreements, consumer protection, and seller liability. More specifically, the conceptual approach in this research is operationalized through the following doctrines and legal theories: (1) the doctrine of the validity of agreements under Article 1320 of the ICC; (2) the principle of *pacta sunt servanda* under Article 1338 of the ICC; (3) the doctrine of default (*wanprestasi*) and civil liability under Articles 1234, 1239, 1243, and 1267 of the ICC; (4) the doctrine of consumer protection derived from Articles 4, 7, and 19 of the UUPK; (5) the theory of legal protection developed by Philipus M. Hadjon, which distinguishes between preventive legal protection (*perlindungan hukum preventif*) and repressive legal protection (*perlindungan hukum represif*); and (6) the theory of legal certainty by Gustav Radbruch, which posits that law must harmoniously fulfill three fundamental values, namely legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and expediency (*Zweckmässigkeit*).[17] These doctrines and theories collectively serve as the analytical lens for assessing both the normative validity of split payment agreements and the substantive adequacy of consumer protection. The approaches used in this research include the statute approach, the conceptual approach, and the case approach. The statute approach is used to examine norms contained in the Indonesian Civil Code (ICC/KUHPerdata), the Electronic Information and Transactions Law (UU ITE), and the Consumer Protection Law (UUPK). The conceptual approach is used to examine doctrines regarding the validity of electronic agreements, default, consumer protection, and civil liability. Meanwhile, the case approach is applied to analyze sale and purchase practices outside of marketplaces with staged payment schemes (split payment) based on concrete cases that have occurred.[18] Data collection techniques in this research include interviews, library research, and

[16] Nanda Dwi Rizkia and Hardi Fardiansyah, *Metode Penelitian Hukum (Normatif Dan Empiris)* (Penerbit Widina, 2023).
[17] Muhammad Muslih, "Negara Hukum Indonesia Dalam Perspektif Teori Hukum Gustav Radbruch (Tiga Nilai Dasar Hukum)," *Legalitas: Jurnal Hukum* 4, no. 1 (2017): 130–52, http://dx.doi.org/10.33087/legalitas.v4i1.117.
[18] Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017).

document studies. All collected data are subsequently analyzed using a qualitative juridical method through the presentation of case chronologies, the identification of forms of default, and the correlation with norms in the ICC, UU ITE, and UUPK. This analysis is intended to answer the problem formulation regarding the validity of sale and purchase agreements outside of marketplaces as well as the forms of legal protection and seller liability to the buyer in said transaction practices.

RESULTS AND DISCUSSIONS

1. Validity of Sale and Purchase Agreements with Split Payment Schemes Outside Marketplaces Based on the Requirements for the Validity of Agreements under the Indonesian Civil Code and Related Regulations such as the EIT Law and the Consumer Protection Law

According to Article 1320 of the Indonesian Civil Code (ICC/KUHPerdata), the validity of an agreement is determined by the fulfillment of four cumulative requirements: the consent of the parties, the capacity to enter into an obligation, a specific object, and a lawful cause. In the case of sale and purchase transactions outside of marketplaces using the split payment scheme under study, these four requirements have basically been met, allowing the agreement to be declared legally valid. However, despite being formally valid, the execution of such agreements continues to cause losses for buyers due to the absence of transaction protection mechanisms typically found within a marketplace. This situation indicates that the validity of an agreement does not necessarily guarantee the realization of effective legal protection for consumers in electronic transaction practices.

First, the element of consent has been fulfilled, marked by a meeting of minds (*consensus*) between the seller and the buyer regarding the object of the goods, the price, and the staged payment scheme (split payment).[19] This agreement is evidenced through electronic conversations on the social media platform Twitter (X), where the seller and buyer agreed on a down payment (DP) before final settlement. The seller also sent photographs of the goods including the buyer's name as a form of transaction confirmation. Thus, a meeting of minds between the parties has occurred despite being conducted through electronic media. However, this agreement was formed solely through simple digital communication, without being accompanied by written clauses regulating in detail the rights and obligations of the parties, including provisions on

[19] Z A Atyarisma and L Humaira, "Tinjauan Yuridis Terhadap Pembatalan Sepihak Oleh Pembeli Dalam Perjanjian Jual Beli Melalui Marketplace Dengan Sistem Pembayaran Cash On Delivery," *Lex Patrimonium* 2, no. 1 (2023): 3.

refund procedures, dispute resolution mechanisms, and legal consequences in the event of a breach of contract. Consequently, the buyer's legal position becomes weak when the seller fails to fulfill their obligations. In the practice of electronic transactions outside of marketplaces, the legal relationship between the parties is based more on the element of trust than on adequate legal protection mechanisms.

Second, the subjective requirement of capacity has, in principle, been met, considering that the parties are legal subjects who are of age and not under guardianship. However, in electronic transactions outside of marketplaces, there is no adequate identity verification mechanism, unlike in marketplaces that require user data verification.[20] Buyers rely solely on the social media account identity of the seller without knowing their true legal identity. This condition provides an opportunity for perpetrators to use anonymous accounts or false identities and erase their tracks after receiving payment. As a result, although the capacity requirement is formally fulfilled, proving the identity of the parties in practice becomes more difficult should a dispute arise.

Third, the requirement of a specific object has also been fulfilled because the type, quantity, and price of the goods were clearly agreed upon by the parties. In this case, the seller demonstrated the goods through photos and videos and agreed upon a specific price with the buyer. However, at the execution stage of the agreement, the seller only sent a portion of the agreed goods and failed to fulfill the remaining performance after the final payment was made. Such an act indicates a breach of contract (*wanprestasi*) as the seller did not fully perform their obligations as stipulated in the agreement.

This action simultaneously violates Article 7 letter f of Law Number 8 of 1999 concerning Consumer Protection (UUPK), which imposes an obligation on business actors to provide compensation or indemnification for consumer losses. In addition, the consumer's right to receive goods in accordance with the agreement as regulated under Article 4 of the UUPK was not fulfilled. Therefore, although the object of the agreement was clear from the outset, the performance by the seller was not carried out as it should have been.

Fourth, the objective requirement of a lawful cause has been met, considering that the transaction aims for the sale and purchase of goods that do not conflict with the law, morality, or public order.[21] The seller also conveyed information regarding the payment

[20] I P M Suadi, N P R Yuliartini, and S N Ardhya, "Tinjauan Yuridis Subyek Hukum Dalam Transaksi Jual Beli Online/e-Commerce Ditinjau Dari Kitab Undang-Undang Hukum Perdata," *Jurnal Komunitas Yustisia* 4, no. 2 (2021): 668–81.
[21] Retna Gumanti, "Syarat Sahnya Perjanjian (Ditinjau Dari KUHPerdata)," *Jurnal Pelangi Ilmu* 5, no. 01 (2012).

mechanism and additional fees from the beginning of the transaction, such that the buyer consciously agreed to the payment scheme. Thus, the cause of the agreement can be declared valid and does not contain elements that conflict with the law.

In addition to meeting the requirements of the Indonesian Civil Code, transactions through social media are also qualified as electronic transactions according to Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (EIT Law/UU ITE).[22] Article 5 of the EIT Law affirms that electronic information and electronic documents are valid legal evidence. Therefore, the electronic conversations, proof of transfer, and transaction documentation in this matter have evidentiary strength to demonstrate the existence of a legal relationship between the seller and the buyer.

Nonetheless, transactions outside of marketplaces possess a weakness due to the absence of an escrow system or joint account that functions to temporarily hold funds until the goods are received according to the agreement. Within a marketplace, the escrow system provides preventive protection for consumers because funds are only forwarded to the seller after the transaction is declared complete. Conversely, in transactions outside of marketplaces, payment is made directly to the seller, so the risk of loss lies entirely with the buyer if the seller fails to fulfill their obligations.

From a consumer protection perspective, this condition demonstrates the weak position of the buyer in private electronic transactions. The seller in this case acted in bad faith by not sending all of the promised goods and terminating communication after receiving the final payment. This action contradicts Article 7 letter a of the UUPK, which requires business actors to act in good faith in conducting their business activities.[23] Furthermore, the consumer's right to obtain accurate information and goods that correspond to the contents of the agreement as regulated in Article 4 of the UUPK was also not optimally fulfilled.

The losses experienced by the buyer are also difficult to recover in practice because the transaction was conducted outside the marketplace system. The relatively small scale of the losses often makes consumers reluctant to pursue dispute resolution through the Consumer Dispute Resolution Agency (BPSK) or the courts. On the other hand, the use of anonymous identities and the lack of verification of business actors make tracking the

[22] Yanti Kirana, "Regulasi Yang Mengatur Secara Khusus Terkait Perlindungan Data Pribadi Di Indonesia Tentang Hoaks Dan Kerawanan Media Sosial (Undang-Undang No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik (ITE)," *Jurnal Ilmiah Hukum Dan Keadilan* 10, no. 1 (2023): 101–14.
[23] Pemerintah Republik Indonesia, "Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," 1999.

seller difficult to perform. This condition indicates a weakness in legal protection in electronic transactions outside of marketplaces, particularly in transactions with staged payment mechanisms (split payment).

The inadequacy of the existing regulation can be further evaluated through the theory of legal certainty developed by Gustav Radbruch, which posits that law must harmoniously fulfill three fundamental values: legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and expediency (*Zweckmässigkeit*).[24] Applied to the regulation of split payment transactions outside marketplaces, the existing framework consisting of Article 1320 of the ICC, the EIT Law, and the UUPK provides only partial legal certainty by recognizing the formal validity of electronic agreements and granting evidentiary status to electronic documents. However, this certainty is fragmentary because no specific norm regulates staged payment mechanisms (split payment), the identity verification of non-platform business actors, or the obligation to apply an escrow system in private transactions. The absence of these specific provisions creates uncertainty in determining the standard of protection consumers are entitled to and the threshold of liability sellers must bear. From the perspective of justice, the existing regulatory framework distributes the risk of loss disproportionately to the consumer, who has no institutional means to verify the seller's identity or to compel performance. From the perspective of expediency, the regulation is not yet capable of preventing recurring losses or providing efficient redress proportional to the value of the transaction.[25] Therefore, the three values of Radbruch's theory are not yet harmoniously realized in the current regulation, which substantiates the need for more specific legal arrangements on split payment transactions outside marketplaces.

Based on the foregoing description, it can be concluded that sale and purchase agreements with split payment schemes outside of marketplaces are essentially valid according to Article 1320 of the Indonesian Civil Code because they have fulfilled the subjective and objective requirements of an agreement. Moreover, such electronic transactions are also recognized under the EIT Law and possess legal evidentiary strength. However, the validity of the agreement cannot yet guarantee effective legal protection for consumers due to the absence of an escrow system, the weak verification

[24] Douglas G Morris, "Accommodating Nazi Tyranny? The Wrong Turn of the Social Democratic Legal Philosopher Gustav Radbruch After the War," *Law and History Review* 34, no. 3 (2016): 649–88; Frank Haldemann, "Gustav Radbruch vs. Hans Kelsen: A Debate on Nazi Law," *Ratio Juris* 18, no. 2 (2005): 162–78.

[25] Muhammad Ilman Abidin, "Legal Review of the Validity of the Use of Smart Contracts in Business Transactions in Indonesia and Its Regulation in Various Countries," *Unnes Law Journal* 9, no. 2 (2023): 289–310.

of the business actor's identity, and the complexity of legal enforcement when a breach of contract occurs. Therefore, more specific regulations are needed for electronic transactions outside of marketplaces, especially regarding staged payment mechanisms, identity verification of business actors, and dispute resolution to provide more optimal legal protection to consumer.

2. Civil Law Protection and Forms of Seller Liability toward the Buyer in Cases of Split Payment Scheme Fraud Outside Marketplaces

Civil law protection for victims of sale and purchase transactions with split payment schemes outside of marketplaces is essentially regulated in the Indonesian Civil Code (ICC/KUHPerdata) and Law Number 8 of 1999 concerning Consumer Protection (UUPK). Although the agreement entered into by the parties is legally valid, the seller remains liable if they do not fulfill their performance as agreed. In the case under study, the buyer suffered material losses after making staged payments to the seller, yet the goods received were incomplete and the remaining promised goods were never sent.

In analyzing the adequacy of civil law protection in this case, this research adopts the theory of legal protection developed by Philipus M. Hadjon, which distinguishes between two forms of legal protection, namely preventive legal protection (*perlindungan hukum preventif*) and repressive legal protection (*perlindungan hukum represif*).[26] Preventive legal protection aims to prevent disputes from arising by providing legal instruments that anticipate potential violations, such as identity verification systems, transaction guarantees, and mandatory escrow mechanisms.[27] Repressive legal protection, on the other hand, is applied after a dispute occurs and includes mechanisms for dispute resolution, the awarding of compensation, and the imposition of sanctions against the violating party.[28] Applied to the case under study, the existing legal framework only marginally fulfills the preventive dimension because neither the EIT Law nor the UUPK imposes a mandatory identity verification standard or an escrow obligation on private electronic transactions conducted outside marketplaces. The repressive dimension is normatively available through Articles 1234, 1239, 1243, and 1267

[26] Philipus M Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT. Bina Ilmu, 1987); Zennia Almaida and Moch Najib Imanullah, "Perlindungan Hukum Preventif Dan Represif Bagi Pengguna Uang Elektronik Dalam Melakukan Transaksi Tol Nontunai," *Privat Law* 9, no. 1 (2021): 218–26; Yoppy Ariansyah and M Zen Abdullah, "Perlindungan Hukum Terhadap Korban Tindak Pidana Penipuan Investasi Bodong Sapi Perah Di Wilayah Kabupaten Muaro Jambi (Studi Kasus CV. Nur Asrof Sejahtera)," *Legalitas: Jurnal Hukum* 13, no. 2 (2021): 201–8.
[27] Syahrul Ramadhon and A A A Ngr Tini Rusmini Gorda, "Perlindungan Hukum Terhadap Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga Secara Preventif Dan Represif," *Jurnal Analisis Hukum* 3, no. 2 (2020): 205–17.
[28] Ramadhon and Gorda.

of the ICC and through Articles 7 and 19 of the UUPK, yet its effectiveness is undermined by the practical obstacles of identifying the perpetrator, proving the loss, and accessing the dispute resolution forum. Consequently, the legal protection currently afforded to consumers in split payment transactions outside marketplaces remains structurally imbalanced, leaning toward the repressive dimension while neglecting the preventive safeguards that are essential to forestall losses from arising in the first place.

The sale and purchase agreement through electronic conversations on the social media platform Twitter (X) remains legally binding based on the principle of *pacta sunt servanda* as stipulated in Article 1338 of the Indonesian Civil Code.[29] Consequently, the seller is obliged to deliver the goods according to the agreement of the parties. However, in practice, the seller only sent a portion of the goods, then promised a redelivery that never materialized, and eventually terminated communication with the buyer. Such an act fulfills the elements of a breach of contract (*wanprestasi*) because the seller did not execute their performance in accordance with the agreement.[30]

Based on Article 1234 and Article 1239 of the Indonesian Civil Code, every party in an obligation is bound to perform the agreed performance.[31] If such an obligation is not met, the aggrieved party may demand the fulfillment of the performance or damages pursuant to Article 1243 of the Indonesian Civil Code. In this matter, the seller's breach of contract manifested in three forms: incomplete delivery of goods, breach of promise regarding redelivery, and the failure to provide a refund to the buyer despite full payment.

From the results of interviews with the victim, there are several forms of losses experienced by the buyer due to the transaction. First, the buyer suffered material losses because they had made payments according to the agreement but did not obtain all of the promised goods. Second, the buyer lost communication access with the seller because the account and contact used by the seller could no longer be reached. Third, the buyer did not obtain a refund or any other form of liability despite having requested an amicable settlement from the seller.

In addition to being regulated in the Indonesian Civil Code, the seller's liability is also subject to the UUPK. Article 7 of the UUPK imposes an obligation on business actors to act in good faith in their business activities and to provide accurate, clear, and honest information to consumers. In this case, the seller failed to perform their obligations

[29] N Susanti, "Kepastian Hukum Penerapan Asas Kebebasan Berkontrak Dalam Sebuah Perjanjian Baku Ditinjau Berdasarkan Pasal 1338 Kitab Undang-Undang Hukum Perdata," *Indragiri Law Review* 2, no. 2 (2024): 33–39.
[30] Nur Azza Morlin Iwanti and others, "Akibat Hukum Wanprestasi Serta Upaya Hukum Wanprestasi Berdasarkan Undang-Undang Yang Berlaku," *The Juris* 6, no. 2 (2022): 351–61.
[31] Republik Indonesia, "Kitab Undang-Undang Hukum Perdata."

because they did not fulfill the contents of the agreement and disappeared after receiving payment.[32] This act simultaneously violates Article 19 of the UUPK, which requires business actors to provide compensation for consumer losses resulting from transactions of goods or services.

In the practice of electronic transactions outside of marketplaces, consumer legal protection tends to be weaker compared to transactions through official platforms. Marketplaces generally have an escrow system or joint account that functions to hold the buyer's funds until the goods are received according to the agreement. Furthermore, marketplaces also provide complaint and dispute resolution mechanisms that can be used by consumers if a breach of contract occurs. Conversely, private transactions through social media do not have such protection mechanisms, so all transaction risks are borne more by the buyer.

The absence of an identity verification system in transactions outside of marketplaces also becomes an obstacle in enforcing civil liability. Sellers can use anonymous accounts, false identities, or bank accounts that are difficult to track, making it difficult for victims to ascertain the legal identity of the perpetrator. In this case, the buyer only possesses evidence in the form of electronic conversations, photos of the goods, and proof of payment transfer. Although Article 5 of Law Number 1 of 2024 concerning EIT grants the status of valid evidence to electronic documents, practical proof still encounters obstacles if the perpetrator deletes conversations or terminates communication with the victim.

Legally, the victim could actually file a breach of contract lawsuit in the District Court or seek dispute resolution through the Consumer Dispute Resolution Agency (BPSK).[33] However, based on the interview results, the victim chose not to pursue legal action because the value of the loss was relatively small compared to the cost, time, and dispute resolution process that must be undertaken. This condition shows that while normative legal protection is indeed available, its implementation is not yet fully effective for victims of small-value electronic transactions.

In practice, many victims of digital transactions outside of marketplaces choose not to continue the legal process because the perpetrators are difficult to track and the losses experienced are considered disproportionate to the costs of litigation. Consequently, the enforcement of civil liability against perpetrators of breach of contract in electronic

[32] Evelyn Angelita pinondang Manurung and Eka Ayu Purnama Lestari, "Kajian Perlindungan E-Payment Berbasis Qr-Code Dalam E-Commerce," *Jurnal Penelitian Dan Pengembangan Sains Dan Humaniora* 4, no. 1 (2020): 28, https://doi.org/10.23887/jppsh.v4i1.24323.
[33] Riris Nisantika and Ni Luh Putu Egi Santika Maharani, "Penyelesaian Sengketa Konsumen Oleh Badan Penyelesaian Sengketa Konsumen (BPSK)," *Jurnal Locus Delicti* 2, no. 1 (2021): 49–59.

transactions becomes difficult to carry out, particularly in private transactions conducted through social media without third-party supervision.[34]

A comparative perspective is useful to illustrate the structural gap of split payment transactions outside marketplaces vis-à-vis transactions conducted through marketplace escrow systems and to highlight the weakness of Indonesian regulation when contrasted with several other jurisdictions. Within a marketplace, the escrow system functions as a structural safeguard: the buyer's payment is held by the platform as a neutral third party and is only forwarded to the seller upon confirmation that the goods have been received in accordance with the agreement. This mechanism transforms a peer-to-peer transaction grounded in mutual trust into a triadic transaction supervised by an intermediary, thereby substantially reducing the risk of default and providing a built-in dispute resolution channel. By contrast, in split payment transactions outside marketplaces, payment is transferred directly from the buyer to the seller without any intermediary holding the funds, so the entire risk of default is borne by the consumer. Beyond this domestic comparison, the weakness of the Indonesian regulatory framework also becomes apparent when contrasted with other jurisdictions. The European Union, through the Payment Services Directive (PSD2) and the Consumer Rights Directive,[35] has developed a framework that imposes obligations on payment service providers and online sellers, including consumer withdrawal rights and access to alternative dispute resolution mechanisms.[36] Singapore, through the Payment Services Act 2019, regulates the licensing and supervision of payment institutions, including the safeguarding of customer funds.[37] In China, the Alipay model, which historically functions as a quasi-escrow for online consumer transactions, operates under the supervision of the People's Bank of China. By contrast, Indonesian regulation, particularly Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions and Government Regulation No. 80 of 2019 on Trade through Electronic Systems, has not yet imposed a mandatory escrow obligation, a uniform identity verification standard, or an accelerated dispute resolution mechanism specifically designed for private electronic

[34] W Werdiningsih, "Asas Publisitas Perjanjian Perkawinan (Post Nuptial Agreement): Konsep Kepastian Dan Perlindungan Hukum Bagi Pihak Ketiga," *Jurnal Ilmu Kenotariatan* 4, no. 1 (2023): 45–64.
[35] Agnieszka Polasik Michałand Huterska, Rehan Iftikhar, and Štěpán Mikula, "The Impact of Payment Services Directive 2 on the PayTech Sector Development in Europe," *Journal of Economic Behavior \& Organization* 178 (2020): 385–401.
[36] Pierangelo Rosati et al., "Perceived Risk as a Determinant of Propensity to Adopt Account Information Services under the EU Payment Services Directive 2," *Journal of Theoretical and Applied Electronic Commerce Research* 17, no. 2 (2022): 493–506.
[37] Inna Romanova et al., "The Payment Services Directive II and Competitiveness: The Perspective of European Fintech Companies," *European Research Studies* 21, no. 2 (2018): 3–22.

transactions conducted outside formal platforms. This comparative observation underscores the urgency of regulatory reform in Indonesia to align consumer protection in private digital transactions with internationally recognized standards.

Although there is also the possibility of elements of criminal fraud in this case, the research discussion remains focused on the aspect of civil liability because the victim's primary goal is to obtain recovery of losses. Therefore, civil law protection becomes crucial in guaranteeing consumer rights in electronic transactions, especially in sale and purchase practices outside of marketplaces that use staged payment mechanisms (split payment).

Based on the foregoing description, it can be concluded that the seller still bears civil liability for the buyer's losses resulting from the breach of contract in split payment transactions outside of marketplaces.[38] This liability includes the fulfillment of performance, restitution of losses, and the provision of compensation to the consumer according to the Indonesian Civil Code and the UUPK. However, the implementation of legal protection in the field is still constrained by the absence of an escrow system, the weak identity verification of business actors, the difficulty of proof, and the low effectiveness of dispute resolution for small-value transactions. Thus, it is necessary to strengthen regulations and consumer protection mechanisms in electronic transactions outside of marketplaces so that consumer rights are more optimally protected.

CONCLUSION

The results of the research conclude that sale and purchase agreements outside of marketplaces with split payment schemes are legally valid because they fulfill the requirements for the validity of an agreement in Article 1320 of the Indonesian Civil Code, namely consent, capacity, a specific object, and a lawful cause. These transactions are also qualified as electronic agreements according to the EIT Law, so electronic conversations and transaction evidence have valid evidentiary strength. Nevertheless, this validity does not yet guarantee optimal legal protection for consumers due to the absence of an escrow system, weak identity verification of business actors, and inadequate dispute resolution mechanisms. This research also finds that the seller still bears civil liability for the buyer's losses due to a breach of contract in split payment transactions outside of marketplaces. The breach of contract takes the form of incomplete delivery of goods, breach of promise regarding redelivery, and the absence of a refund

[38] Aisyah Rahmi and others, "Kedudukan Dan Pertanggungjawaban Perdata Perseroan Terbatas Perorangan Sebagai Subjek Hukum= Position And Civil Liability Of Individual Limited Liability Companies As A Legal Subjects" (Universitas Hasanuddin, 2024).

after final payment. Referring to the Indonesian Civil Code and the UUPK, the buyer has the right to demand the fulfillment of performance or damages.

The principal findings and novelty of this research can be summarized as follows. First, this research empirically establishes that the formal validity of an agreement under Article 1320 of the ICC and the EIT Law does not guarantee substantive consumer protection in split payment transactions outside marketplaces, a discrepancy that has not been adequately mapped by prior normative studies focused on formal e-commerce. Second, through the lens of the legal protection theory developed by Philipus M. Hadjon, this research demonstrates that the existing regulatory framework predominantly accommodates only the repressive dimension of legal protection. Third, drawing on Gustav Radbruch's theory of legal certainty, this research finds that the three fundamental values of legal certainty, justice, and expediency are not harmoniously realized in the current regulation of split payment transactions.Fourth, through comparative observation, this research reveals that the Indonesian regulatory framework lags behind several jurisdictions, such as the European Union, Singapore, and China, in mandating preventive consumer safeguards in private digital transactions. Taken together, these findings contribute a typology-specific, theoretically grounded, and comparatively informed framework for advancing the regulation of split payment transactions outside marketplaces in Indonesia, in which the empirical proof from primary data constitutes the core scholarly contribution of this study.

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