

THE PROBLEMATICS OF SIMPLE LAWSUIT IMPLEMENTATION TO REDUCE CIVIL CASES IN SUPREME COURT**¹Bambang Sugeng Ariadi, ²Zahry Vandawati**

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Abstract

Regulation Number 2 of 2015 jo has an important function as the effort of obtaining simple, quick and low cost judicial principles, along with the effort to reduce the accumulation of cases at the Supreme Court. Moreover there is another regulation such Supreme Court Regulation Number 4 of 2019 concerning Procedures for Settlement of Simple Lawsuits. This research has a purpose to analyze the implementation of simple lawsuit settlement which can be used to reduce the accumulation of civil cases in Supreme Court, as well as to analyze the constraints and obstacles in the application of simple claim resolution in order to reduce the buildup of civil cases and analyze the constraints and obstacles in the application of simple claim resolution in order to reduce the buildup of civil cases. This research is normative legal research that used the approach of statute approach and conceptual approach. The result of this research indicated that the implementation of simple lawsuit mechanism in court process could be quite helpful for citizen to settle the civil cases on state court with a quick process, simple system and low cost. In the context of implementing simple lawsuit mechanism in court proceedings, there are several obstacles and have not been maximally utilized in society, such as, the minimum limit for the value of material claims is at most Rp. 200,000,000.00 (two hundred million rupiah).

Keywords: *Civil Cases; Justice Principle; Simple Lawsuit*

INTRODUCTION

The Settlement of civil cases can be done either through the court (litigation) or outside (non litigation). The Settlement of a case through the Court was done through the process of examining related to the provisions of civil law procedure. The plaintiff expects a court decision regarding the

proposed cases, when his demand is granted by Judge, it will certainly help to fulfill his rights. However, practically the resolution by courts is too convoluted, took much time and inefficient.

The simple, quick and low cost judicial principle arrangement is actually has a purpose to eliminate concerns about law

enforcement from foreign investors that invests in Indonesia, the concerns of other countries which include as Indonesia's business partners in implementing free trade, and at the same time the most important thing is to reduce the accumulation of cases in Supreme Court, especially at Cassation stages. along with the increasing number of submitted cases, and those that were successfully decided in the District and High Courts, the number of decisions submitted to Supreme Court at Cassation level has also increased and has begun to become a serious problem.

According to Harifin A. Tumpa, the cause of case arrears (Harifin, 2019), this is because the first judge is not careful on deciding the cases, therefore the public questioned their sense of justice to the Supreme Court. This required several strategic actions.

Cases Arrears in Supreme Court have implications for the function of Supreme Court, which should examine the important cases that relevant to the function of maintaining unity in the law application (Harifin, 2019). however, the Supreme Court is more oriented towards the quantity of delinquency cases, that affecting the consistency of decisions. Therefore the case arrears have an impact on the degradation of main function on Supreme Court as

supervisor of legal unity (Harifin, 2019). In this context, the strengthening of judicial functions at the first level of state court and level II (counterpart) is important in the context of limiting legal remedies, especially cassation legal measures, as an implementation of simple, quick and low cost principle justice.

Regarding the accumulation of cases in Supreme Court, it is caused by no regulations of restrictions on cassation and judicial remedies. the Restrictions on the attempts to submit cassation requests are required for the purpose of (Mahkamah Agung Republik Indonesia, 2010) :

- a. Improve the decision quality
- b. Make Easier for Supreme Court to map the legal issues.
- c. Reduce the number of cases at cassation level which means reducing the workload of Supreme Court.

The important effort that should be done to prevent the cases by functioning the state court or the second level (counterpart) be the final court for certain cases, serta diperlukan perluasan kriteria pembatasan upaya hukum kasasi dan peninjauan kembali. Untuk perkara perdata, several criteria that can be used to limit the concluded cases at the counterpart

level can be examined in terms of cases type and complexity (Mahkamah Agung Republik Indonesia, 2010). Consideration of case limitations based on the type and qualification of case and not on depend on the value of lawsuit, based on several considerations, the limitation on the value is considered as subjective and obtain different interpretations, such as interpreting immaterial losses and the value is often high. besides, the calculated values can change by the times. Thus, case limitation based on the type and case qualification consider as more suitable (Mahkamah Agung Republik Indonesia, 2010). Without case classification, there is an inefficient actions occurred because each panel of Supreme Court Justices examining the cases that have same legal issues and have to experience a process of research and debate which has the same duration (Mahkamah Agung Republik Indonesia, 2010). In order to create a simple, quick and low cost justice principle, Supreme Court have been release the regulation of Supreme Court number 2/2015 regarding Simple Lawsuit Resolution Procedure. According to the head of supreme court, the purpose of this regulation as a way to reduce the amount of intended cases (Ali, 2015).

The meaning of quick handling on justice principle include the process of making court news and submitting copies of court decisions to the parties and minimizing the efforts of delaying the trial process without clear reasons. Not only quick but also consider the juridical consideration, accuracy, precision and the sociology consideration which guarantees a sense of community justice that also considered. Thus, this principle consist of quick in progress, quick in result, quick in evaluation toward the performance and productivity level of justice institution.

While, the meaning of low-cost court fee that can be reached by community, as stipulated in the explanation of Article 2 paragraph (4) of Law number 48 of 2009 concerning on Judicial Power. Beside, low cost also conduct the meaning of looking for justice is not only expect for guarantee of justice but also consist of the guarantee that justice is not expensive, justice can not be materialized, and justice is Independence free from other values that will destroy it values.

The implementation of simple, quick and low cost justice principle in examination and settlement of cases in court should not leave the accuracy and precision to find a justice. Thus, in the process of resolving cases in justice court, it must be strictly

enforced. This claim cannot be modified because the enforcement of justice is closely related to the enforcement of rights (Justice is peculiarly stringent. Its demands may not be modified, because Justice is closely connected to respect for rights) (Ryan, 1993). According to Samuel Fleischacker each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override (Fleischacker, 2004). Therefore, justice should protect the inviolability of individual rights and even cannot be violated for the sake of society.

Moreover, if the simple, quick, low cost principles as described above become the spirit of law enforcers, thus an effective and efficient justice system can be realized. The criteria of simple, quick and low cost principle are efficient, effective and easy to reach for citizen¹. According to Sudikno Mertokusumo, the simple, quick and low cost principle means a principle that clear, easy to understand and straight forward (Sudikno, 1992). It's the same with M. Yahya Harahap, said that the simple, quick and low cost principle is an examination process that does not take a long time to years related to the simplicity of procedural law itself (M. Yahya, 1993). Besides that,

it must not reduce the accuracy of examination and assessment of law and justice.

Based on the explanation above, this research aims to determine and analyze the implementation of simple lawsuit settlement in order to reduce the amount of buildup civil cases. Examine and analyze the obstacles on implementing simple lawsuit settlement itself.

RESEARCH METHODOLOGY

This research is a legal research (*rechtsonderzoek*) a scientific process to resolve the certain legal problem or issues by the aim to provide a prescription about what should be or what kind of legal issues that currently arise (Black, 1979).

Normative legal research is used in this research, because it is based on the distinctive character of legal science itself, such as legal normative research methods. This method used to analyze statutory regulations, jurisprudence, and contracts. While, doctrinal research is used to analyze legal principles, legal literature, views of highly qualified law scholars (doctrine), and comparative law.

As the research used is normative legal research, the research approach used is statute approach and conceptual

¹ Lihat penjelasan Pasal 2 ayat (4) Undang-Undang tentang Kekuasaan Kehakiman.

approach. Statute approach carried out by reviewing all laws and regulations related to the handled legal issues. The statutory approach is an approach using legislation and regulations (Marzuki, 2011). *Conceptual approach* departing from the legislation and doctrines developed in science of law. (Marzuki, 2016)

The Selection of research locations is around the area of Surabaya, Sidoarjo, Jakarta, Semarang and Makassar. The location was chosen due to the large number of cases handled in District Courts of those cities, as well as the large number of laws and regulations and various of literary research.

Legal Material

The legal material consist of Primary legal material which is every legal regulation that formally established and/or made by State institution, government agencies for the sake of its establishment that will be pursued based on coercion carried out officially by state apparatus. Primary Legal material includes several law regulations. Secondary Legal material is every material that related to primary legal material that provide an explanation of primary legal materials, and will help to analyze and understand primary legal materials such as various literary resources such as book,

research, conference article and journal that related to the certain problem. Tertiary legal materials are legal materials that provide an explanation for primary and secondary legal materials. In this case, the tertiary legal material is law dictionary.

RESULT AND DISCUSSION

Basic Lawsuit Arrangement in Indonesia

1. Constitution number 48/2009 regarding the judicial power

As what decided on article 2 number (4) and article 4 number (2) constitution number 48/2009 regarding the judicial power required the important principle on civil law that consist of simplicity, quick process and low cost. Simple means that the examination and settlement of cases carried out in an efficient and effective way; low cost is the cost of a case that can be accomplished by the citizen. However, the principle of simple, quick and low cost in examination and settlement of cases should not rule out precision and accuracy in seeking truth and justice. Besides, according to Article 4 (2) of constitution number 48/2009 stipulates that in the context of implementing such principles in civil cases, the courts should help justice seekers and try their utmost to overcome all

obstacles in order to achieve justice. simple, fast and low cost system.

2. Supreme Court Regulation Number 2 of 2015 jo and Supreme Court Regulation Number 4 of 2019 concerning on Procedures for Settlement of Simple Lawsuits

The Simple lawsuit is a civil lawsuit with maximum material claim value of 500,000,000.00 (two hundred million rupiah) which is settled by simple procedure and evidence. The settlement of simple lawsuit can only be done for breach of contract (wanprestasi) case or Case of Unlawful Acts. The matter of breach of promise (wanprestasi) is a matter that arises as a result of non-fulfillment of an agreement, either in writing or in writing, for example, X and Y bargaining on an item. Breach of contract (wanprestasi) is a problem that arises as a result of non-fulfillment of an agreement, either in writing or non writing, for example, X and Y bargaining on an item. However, on it implementation, X has handed over a certain amount of money, but Y has not given the contract agreement that be delivered. Meanwhile, Case of Unlawful Acts is a case arising from the loss of one side due to the actions of another side, however there is no prior agreement; for example, A is hit by B in a traffic accident. As a result of B's action, A

is injured and required a hospital medical expenses, thus A can sue B to compensate all the losses caused by B's act. The requirements to fill a simple lawsuit could be such as:

1. The plaintiff is an individual or legal entity;
2. There is a legal relationship which forms the basis of dispute with Defendant;
3. Plaintiff and Defendant are live in the same domicile/jurisdiction;
4. The dispute is not related to land rights or other matters that are specifically regulated in statutory regulations, such as business competition for consumer disputes and settlement of industrial relations.
5. The amount of maximum lawsuit or losses could be 500.000.000,00 (five hundred million rupiahs)

Implementation of Simple Lawsuit Resolution to Reduce the Accumulation of Civil Cases

Based on the explanation on Article 2 number (4) of Law Number 48/2009 concerning on Judicial Power, it is stated that "The simple, quick and low cost principle are the most basic principles of justice in the implementation and administration of justice services that lead to the principles of effectiveness and efficiency." However, practically simple principle is only interpreted as a mere administrative problem without an understanding of the spirit and motivation for law enforcement officers which is carried out comprehensively at every level of judiciary.

The meaning of quick should be known as the strategic effort to make judicial system as institution that can guarantee the achievement of justice in law enforcement, as what stated on the explanation of article 2 number (4) constitution number 48/2009. It is not only quickly resolved but also has juridical considerations, precision, accuracy, and sociological considerations that ensure the sense of justice of society. This aspect includes quick of process, quick of result, and quick of evaluation toward performance and productivity. While the meaning of low cost is a low case cost and can be accomplished by citizen.

Based on the explanation above, it needs a procedural settlement which is

applied on the countries within the system of common law, by providing an authority to settle the cases related to the disputed object value, therefore to obtain the quick disputed settlement, simple and low cost; it needs a mechanism called *Small Claim Court*.

It should be known that there are two kinds of cases that could not be solved on the simple dispute, such as: the cases which the dispute settlement is carried out through special court and cases of disputes over land rights, as stipulated in Article 3 number 2 Supreme court regulation⁴/2019. On the settlement of simple lawsuit, there is a process called dismissal proces, which means preliminary hearing of judge is authorized to assess and determine whether the matter meet the criteria of simple lawsuit.

A simple lawsuit consists of a plaintiff and a defendant, each of them cannot be more than one, except they have the same legal interest. In a simple lawsuit, the address of Defendant is known; the Plaintiff and Defendant are domiciled in the same jurisdiction. When the plaintiff is outside the jurisdiction of defendant residence or domicile, in filing a lawsuit, the plaintiff appoints an attorney, incidental attorney, or a representative having an address

jurisdiction of defendant within the letter of assignment from plaintiff's institution.

The initial mechanism process to fill a lawsuit is simple: registering a simple lawsuit at Registrar's Office of District Court, which in its jurisdiction includes the residence of Defendant (*asasactor sequitur forum rei*). The Plaintiff is obliged to fill in the identity of the Plaintiff and Defendant, a brief description of the case and the Plaintiff's claim. The plaintiff is obliged to pay a court fee down payment. For those who cannot afford, they can submit a court proceeding for free (*prodeo*).

The application of simple lawsuit settlement mechanism in civil law of Indonesia has not been maximally utilized in society considering that the number of cases filed to court is not as many as those filed for ordinary claims. Based on the obtained information from data of all District Courts in Jakarta, the number of civil case examinations within the simple lawsuit mechanism is relative small compared to ordinary procedural hearings, because the value limit is 500,000,000.00 (five hundred million rupiah) for Jakarta and it relative small.

Meanwhile, the number of civil case investigations by simple lawsuit mechanism at the District Court outside Jakarta included as following below:

- a. Based on the amount of civil cases in State Court of Surabaya (Mahkamah Agung Republik Indonesia, 2015a) the amount that has been settled through the simple lawsuit mechanism is 92 cases in 2020, 207 cases in 2019, 115 cases in 2018. It needs four months to settle the cases begin from the first trial until the verdict reading. Moreover, it will not take time more than a year.
- b. The accumulation of civil cases in Sidoarjo state court (Mahkamah Agung Republik Indonesia, 2015d) obtain 37 cases that has been settled in 2020 through the simple lawsuit mechanism, 93 cases for 2019, 54 cases for 2018, 22 cases for 2017, 7 cases for 2016.
- c. The accumulation of cases in Mojokerto State Court (Mahkamah Agung Republik Indonesia,

- 2015c) that has been settled in 2020 is 18 cases, 19 cases in 2019, 7 cases in 2018, and 14 cases in 2017. The case duration since the first trial to the verdict reading is 5 months, include a week of request, simple lawsuit include 15 days of work.
- d. The accumulation cases in state court of Jombang (Mahkamah Agung Republik Indonesia, 2015b) There were 64 civil cases that were examined and decided through a simple lawsuit mechanism from 2020 data, 191 cases from 2019 data, 80 cases from 2018 data, 38 cases on 2017, the averages duration to settle the case from the first hearing depend on the range of mediation from 4 to 6 months.
- e. Based on the cases on Semarang state court that has been settled through simple mechanism is 37 cases in 2020, 51 cases on 2019, 29 cases on 2018, and 6 cases on 2017.
- f. Based on data, there were 48 civil cases in Makassar Court that were successfully resolved through a simple lawsuit mechanism for 2020, 204 cases of 2019, 137 cases from 2018, 20 cases of 2017, 3 cases for 2016.
- Based on the entire data on examination of civil cases by a simple lawsuit mechanism at Jakarta District Court and several District Courts outside Jakarta, the total calculated indicated that simple lawsuit mechanism can help to obtain a simple, quick and low cost judicial principles, at the same time it can help to reduce the accumulation of cassation cases at Supreme Court, This is related to the objective of Supreme Court Regulation number 2 / 2015 jo and Supreme Court Regulation number 4/2019 concerning on Procedures for Settlement of Simple Lawsuits.

Constraints and Obstacles to the Application of Simple Claim Settlement

The simple lawsuit mechanism is the procedure for examining civil cases by material claim value which is not exceed 500,000,000.00 (Five Hundred Million Rupiah) and was settled by simple way of proof. Thus, what clearly distinguishes a simple lawsuit from an ordinary lawsuit is the value of material losses which is more specifically determined in a simple lawsuit, which is a maximum of 500,000,000.00 (Five Hundred Million Rupiah). While in a lawsuit of ordinary civil cases, the value of material losses is not limited. Besides, simple proof has time duration of 25 days. Besides, the simple lawsuit should be examined and decide by the main judges in the scope of competences of general judicial bodies. Thus, the purposes of Supreme court regulation concerning on simple lawsuit is to fasten the process of settlement related to the principle of simple, quick and low cost to reduce the accumulation case of Supreme court.

Based on the entire data of civil cases examination by simple lawsuit mechanism, it is stated that lawsuit has not been maximally utilized in community, especially when the minimum of material lawsuit is 200,000,000.00 (two hundred million rupiah) is not accommodating in simple

lawsuit matters. However, after regulation-number 4/2019 has been published, which regulates that the value of material lawsuit at most 500,000,000.00 (five hundred million rupiah), there is an increase in the number of cases filed by simple lawsuit mechanism, including Makassar District Court.

In the court practice, the explanation of norms concerning on the meaning of simple proof is very insufficient and can even be said to be vague (*vague norm*). The vague of norms can create a legal uncertainty and even can be abused (Cakrawala, 2019). The existence of uncertainty made it more difficult for to file a simple lawsuit to Court. For this reason, in order to made the proof can be done simply, the reference that contains in *posita* and *petitum* in lawsuit must be simply implemented either voluntarily or through execution. For example, a *petitum* that possibly granted is only related to the validity of agreement, there is *wanprestasi* and punishment and the obligation to make compensation, and the voluntary execution mechanism. However, if not implemented voluntarily, an execution auction is requested.

Furthermore, the provision of article 4 number 2/2015 is explained as below:

- a. The parties in simple lawsuit consist of plaintiffs and defendants,

each of them should not more than one, unless they have the same legal interests.

- b. the defendant with unknown place of residence a simple lawsuit cannot be filed.
- c. Plaintiff and defendant in the simple lawsuit are domiciled in the same jurisdiction of the same Court.
- d. Plaintiffs and defendants are required to attend each trial with or without the assistance of legal representative.

Thus, in a simple lawsuit examination, it is not mandatory to represent a lawyer / advocate as in the case of ordinary civil cases. However, the parties (plaintiffs and defendants) with or without legal attorneys / advocates are required to attend in person at the trial. Thus, every parties, whether represented or not represented by a lawyer / advocate, are obliged to attend the trial from the first trial until the decision was made.

Another obstacle is the absence of mechanism for calling the first trial for the parties in Supreme Court regulation

number 2/2015 jo Supreme Court regulation number 4/2019 explained that, if the summon was made directly by the clerk / bailiff, as in a normal case summons or using the e-court mechanism. Thus, it need a mechanism on summoning the defendant by electronic mail, especially at the first trial summoning when the position of the parties or one of the parties is outside the jurisdiction area, the electronic mail should be done in order to prevent the case settlement which has been limited by two days of work.

CONCLUSION

Based on the result above several conclusions can be taken as below:

The application of simple lawsuit mechanism in the process of litigation in front of court is actually quite helpful for the community to quickly resolve the civil cases in the District Court, simple and only need low cost for the examination data of civil cases by simple lawsuit mechanism at Jakarta District Court and several District Courts outside Jakarta, such as Surabaya, Sidoarjo, Mojokerto, Jombang, Semarang and Makassar and if it being calculated, the entire amount indicated that simple lawsuit mechanism can help to obtain simple, quick and low cost trial principles, and at the

same time it help to reduce the accumulation of cassation in Supreme Court.

In the context of implementing simple lawsuit mechanism of litigation process before the court decision there are several obstacles that still has not been maximally utilized in community, such as the minimum limit for value of material lawsuit at most Rp. 200,000,000.00 (two hundred million rupiah).

Suggestion

Based on the conclusion above, it can be recommended that an active role of law enforcement officials is needed, whether judges or advocat, to socialize the benefit of simple lawsuit mechanism in court proceedings related to the application of quick principles, simple and low cost justice. It needs clear arrangements in context of implementing the application of simple lawsuit mechanism in court proceedings related to simple evidence.

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