Proceeding of 1st Ahmad Dahlan International Conference on Law and Social Justice

ISBN: 2962-4460
pp. 61-69

The Implementation of Supreme Court Regulation No.4 of 2019 on Simple Claims Lawsuit Procedures during the Trial Process

Heniyatun, Bambang Tjatur Iswanto, Puji Sulistyaningsih, Dian Novita

Faculty of Law, University Muhammadiyah Magelang, Indonesia
Corresponding e-mail: heniyatun@ummgl.ac.id

ARTICLE INFO

Keywords
PERMA; Simple Claim; Judiciary; Court

ABSTRACT

A simple, fast, and low-cost judiciary as stipulated Judicial Power regulation is expected that the settlement of the case can be resolved in a short and low cost. Currently, the Supreme Court has issued the Regulation on the procedure of settlement of simple claims. This article aims to analyses the implementation of Supreme Court Regulation (PERMA) No. 4 of 2019 as amended of PERMA No. 2 of 2015 on the settlement of simple claims and identify obstacles in its implementation. This research uses normative research with statute. The data sources used are primary and secondary data conducted with literature studies and interviews with respondents related to simple claims. Moreover, the data analyzed by qualitative descriptive method. The results showed that PERMA No. 4 of 2019 on The Procedure of Simple Lawsuit Settlement has been implemented by the District Court and the Religious Court of Magelang City and Magelang District, although not yet significantly implemented. This means that there are still courts that have not implemented the PERMA, this is because there are still many people who have not known about the simple claims. While that court did not suggest the defendant file this simple claims. The obstacles to the implementation of the PERMA are, first, the *court calendar* cannot run by the time that has been determined. Second, the absence of the defendant thus hinders the process of resolving the case. Third, the lack of carefulness of the clerk in classifying the incoming case is whether the lawsuit can be settled simply or a regular lawsuit. Fourth, the determined time limit was only 25 days, although the evidence has been done at the time of filing a lawsuit in the process of examining the case, the parties still have to do proof to seek justice as expected. Then the last one, the lack of socialization from the court to the defendant at the time of filing a lawsuit, as well as to the public that there is a simple procedure for settlement of the lawsuit.

Introduction

Disputes that arise in an agreement are referred to as civil disputes. This is because a contract or agreement is a form of human relationship included in the realm of civil law. A civil dispute in the agreement occurs when one of the parties does not comply with the decisions contained in the agreement, causes a loss to one of the parties (Asnawi, 2019).

Civil disputes sometimes don't arise as a result of an agreement that is not followed through on; they can also arise when one party feels aggrieved as a result of another party's unlawful

behavior. If there is a legal dispute, the parties to the dispute can usually resolve it through deliberation and consensus. If the parties are unable to resolve their disagreement on their own, they might seek assistance from the court (Sakina, Krisnawati, 2018). The public frequently uses this to choose the litigation route (via the courts), resulting in a backlog of cases in the judiciary, both at the first level, the appellate court, and the cassation court. To prepare for this, there is a trilogy principle that regulates simple, fast, and low-cost justice in the settlement of civil cases, as regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power, in the hopes that the process of resolving cases is not protracted and can be completed in a short period of time, so that the parties' costs are not excessive. In practice, however, it runs counter to the idea of civil procedural law itself. This is owing to the fact that court matters take a long time to resolve, resulting in significant costs due to the usage of an advocate as a legal representative as well as the costs of settling the case.

Applying the trilogy principle in the form of a simple, fast, and low-cost trial in settlement of civil cases as regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power is expected in the process of settling the case not being delayed. It can be completed within a short period and affordable cost. However, in practice, it is contrary to the principles adopted by civil procedural law itself. This is because the settlement of cases in Court takes quite a long time, so as a result, costs continue to swell because they use the services of an advocate as their legal representative and the costs for resolving the case (Setiyawan et al., 2019).

Based on this, the issuance of Supreme court regulation (PERMA) No. 2 of 2015 as amended by PERMA No. 4 of 2019 concerning Procedures for Settlement of Simple Lawsuits, which adopts the application of the small claim court to fix the problem of accumulation of cases in the Court. The PERMA stipulates several limitations on filing a simple lawsuit, namely that the value of the object of the case is a maximum of Rp. 500,000,000 (five hundred million rupiah), parties must reside in the same jurisdiction; the case submitted is not related to land rights disputes; settlement of the case through a simple lawsuit must be completed no more than twenty-five days from the first trial. Since the enactment of PERMA on Procedures for Settlement of Simple Lawsuits, it has not been widely used by the public. Because it is possible that not many people know about it or that the public prefers to use ordinary lawsuits, the provisions contained in the PERMA are considered does not accommodate the main point of the case. The issuance of the PERMA has not shown any significant changes, such as regarding the period of settlement of cases. In the PERMA, cases can be completed within 25 days, but there are still cases in Court that are not in accordance with this applied provision (Heniyatun & Sulistyaningsih, 2018).

The amendment of PERMA No. 4 of 2019 due to the ineffective PERMA No. 2 of 2015, which was originally the value of the lawsuit's material object, amounted to Rp. 200,000,000, then along with economic and business developments and taking into account cases outside Jakarta, changed to Rp. 500,000,000. Besides that, it also expands the lawsuit filing so that the lawsuit can be filed in the Defendant's jurisdiction. Even though the jurisdiction is different from the Plaintiff's, there are arrangements for confiscation of guarantees, *verstek*,

verzet, and case administration carried out by e-court, which was not previously regulated in PERMA No. 2 of 2015.

Dispute resolution in Indonesia can be made through two mechanisms: dispute resolution through the courts (litigation) and dispute resolution outside the Court (non-litigation), such as conciliation, mediation, negotiation, and arbitration. However, any dispute resolution that arises in the community is resolved through the courts because it is considered to give a fair decision. The Plaintiff, in filing his lawsuit must submit a (written) lawsuit addressed to the Head of the District Court in the jurisdiction as regulated in Article 118 of the HIR. However, based on Article 120 of the HIR, it is possible for illiterate to submit their lawsuit orally to the Head of the District Court as authorized to hear the lawsuit and request that a lawsuit is made.

Meanwhile, in a simple case, the Plaintiff does not need to file a complaint because the Court has provided the Plaintiff with a lawsuit. At the time of registration, the Plaintiff must also include evidence. Furthermore, it is the same as an ordinary lawsuit, namely, the Plaintiff pays court fees. The Judge who examines a simple lawsuit is a single judge. The ordinary lawsuit means a preliminary examination carried by a single judge appointed to handle the related case to check the completeness of the lawsuit file and determine whether the lawsuit has complied with the provisions of the PERMA simple lawsuit. The stipulation of a single judge also aimed at speeding up the trial, because in contrary the trial using the usual procedure will takes a long period when the number of judges have dissenting opinions (Ferevaldy & Anand, 2017).

Once it meets the requirements and can be handled through a simple lawsuit, a trial date and summons to the parties can be arranged. This is different if in a simple lawsuit, if the Plaintiff is not present at the first trial, then the lawsuit is declared void as regulated in Article 13 paragraph (1) PERMA No. 4 of 2019. If the parties are present, the next stage is to examine the case and make peace efforts. At the first trial the Judge must seek peace between the disputing parties. This is an exception to the provisions stipulated in PERMA No. 1 of 2016 concerning Mediation Procedures in Courts. This means that there is no mediation effort in a simple lawsuit, but the Judge who handles the case must actively encourage the parties to make peace.

When the judges fail to create peace for the parties, then further procedure must be taken. In this procedure the Defendant admits that no additional proof is required. However, suppose the Defendant denies the argument of the lawsuit. In that case, the Judge will carry out the evidentiary process according to the procedural law applicable in Article 18 paragraph (2) PERMA No. 4 of 2019. After the proof is complete, the next stage is the Judge reading out the decision in a trial that is open to the public, besides that the Judge is also obliged to notify the rights of the parties to file legal remedies in the form of objections. If the parties are not present during the reading of the decision, the Judge orders the bailiff to notify the decision no later than two days after the verdict is pronounced. A copy of the decision is given to the parties no later than 2 two days after the verdict is read. If the parties are not satisfied with the decision, they can file legal remedies.

Legal remedies in a simple lawsuit are in the form of objections as regulated in Article 21 PERMA No. 2 of 2015. Parties who are dissatisfied with the Judge's decision are allowed to file an objection that is submitted no later than seven days after the date the decision is pronounced or seven days after the notification of the decision is delivered if there are parties who are not present at the reading of the decision as regulated in Article 22 paragraph (1) PERMA No. 2 of 2015. If the submission deadline has been determined, then the objection application is declared inadmissible by making a decision by the Chief Justice based on a statement from the Registrar (Amboro & Feryanto, 2016).

Based on the discussion above, this study aims to investigate the implementation of PERMA Number 4 of 2019 in the settlement of cases in Court and identify the obstacles in implementing the PERMA in resolving cases in Court. This research aims to examine the implementation of PERMA Number 4 of 2019 in resolving cases in Court and identifying obstacles in the implementation of the PERMA.

Methodology

This research approach used a statute approach, which is carried out by reviewing all laws and regulations relating to the issues that are the subject of discussion (Efendi & Ibrahim, 2018). Also, the research conducted through field research, namely research that goes directly to the field by conducting interviews. The type of research is normative juridical. The data collected by library research which became a reference to support this research related to simple lawsuits. Furthermore, the interviews sources consist of three judges from the District Court and Religious Courts in the city and Magelang Regency, and three advocates in the city and district of Magelang. The data will be analyzed using a qualitative descriptive method.

Results and Discussion

Implementation of PERMA Number 4 of 2019 over PERMA Number 2 of 2015 in Settlement of Cases in Court

The settlement of cases in the District Courts and Religious Courts that require fast and effective action must be helped by policies related to simple lawsuits. Several changes provide more benefits to the application of a simple lawsuit in resolving cases after the issuance of PERMA No. 4 of 2019 concerning Amendments to PERMA No. 2 of 2015 concerning Procedures for Settlement of Simple Lawsuits, which include both the case itself and the settlement of a very simple case. In terms of the case that can be filed using a simple lawsuit, namely the *contentiosa* case, which is a disputed case so that the litigants face each other or are opposite. In the District Court, which includes *contentiosa* cases, namely default and unlawful acts, while in the Religious Courts, it is more specifically related to sharia economics or contentious cases in which there is a sharia contract. When viewed from the settlement of the case, the simplicity here includes the procedure and the proof. This begins when Plaintiff registers the lawsuit, Plaintiff does not need to make a lawsuit in advance because the Court has provided the lawsuit. Besides that, when registering the lawsuit, Plaintiff must also attach legalized evidence. This evidence was carried out at the beginning

of the registration to shorten the time for the trial process, considering that the period for a simple lawsuit was only 25 days from the first trial.

The simplicity here includes the procedure and the proof. This begins when Plaintiff registers the lawsuit, Plaintiff does not need to make a lawsuit in advance because the Court has provided the lawsuit. Besides that, at the time of registering the lawsuit, Plaintiff must also attach evidence that has been legalized. This evidence was carried out at the beginning of the registration to shorten the time for the trial process, considering that the period for a simple lawsuit was only 25 days from the first trial. The simplicity here includes the procedure and the proof. This begins when Plaintiff registers the lawsuit. Plaintiff does not need to make a lawsuit in advance because the Court has provided the lawsuit. Besides that, when registering the lawsuit, Plaintiff must also attach legalized evidence. This evidence was carried out at the beginning of the registration to shorten the time for the trial process, considering that the period for a simple lawsuit was only 25 days from the first trial. In addition, when registering a lawsuit, the Plaintiff must also attach legalized evidence. This evidence was carried out at the beginning of the registration to shorten the time for the trial process, considering that the period for a simple lawsuit was only 25 days from the first trial. In addition, when registering a lawsuit, the Plaintiff must also attach legalized evidence. This evidence was carried out at the beginning of the registration to shorten the time for the trial process, considering that the period for a simple lawsuit was only 25 days from the first trial (Harviyan, 2021). Some of the changes that exist in PERMA No. 4 of 2019 concerning Changes in PERMA No. 2 of 2015 concerning Procedures for Settlement of Simple Lawsuits, including (Sakina, Krisnawati, 2018):

1. Lawsuit Value

Article 3 paragraph (1) PERMA No. 4 of 2019 states that the value of a simple lawsuit is not more than Rp. 500,000,000 (five hundred million rupiah). This value increased from the previous PERMA No. 2 of 2015, amounting to Rp 200,000,000 (two hundred million rupiah). The greater the value that can be filed as a simple lawsuit, the wider the scope of the case. From what is usually only debt and receivable case between the customer and the bank, it will allow other business actors with a value of more than IDR 200,000,000 (two hundred million rupiah) that require a quick and simple settlement. The settlement period of the case, which is only 25 (twenty-five) days, will significantly help businesspeople minimise losses and be very beneficial for creditors to get their rights back quickly.

2. PERMA No. 4 of 2019

The new provisions in Article 4 paragraph (3a) of PERMA No. 4 of 2019 that in filing a lawsuit, the Plaintiff who is outside the Defendant's jurisdiction can refer to a legal attorney or incidental attorney who is within the same jurisdiction as the Defendant. Judging from the new provisions, the Plaintiff who feels that his rights have not been fulfilled, even though he is outside a different jurisdiction from the Defendant, can still file a lawsuit in Court. This has clearly provided more convenience to Plaintiff to get back his rights that the Defendant did not fulfil. However, this provision does not mean that the Plaintiff can also be

represented by a legal counsel, incidental attorney or representative having an address in the Defendant's jurisdiction in attending the trial.

3. Case Administration Can be Via E-Court

Article 6A PERMA No. 4 of 2019 provides convenience for business people in filing lawsuits, the Supreme Court provides access to case administration that can be done through electronic media (e-court). According to the Magelang Religious Court judge, case registration through e-court provides many conveniences and is effective. In addition, case administration through e-court will be able to resolve cases faster and cheaper.

4. There are provisions regarding Verstek and Verzet

Article 13 paragraph (3) PERMA No. 4 of 2019 concerning the *Verstek* decision, namely that the decision given by the Judge in the absence of the Defendant after being summoned twice legally and properly. The existence of a provision regarding the *verstek* decision which is limited by the Defendant's absence twice in a row indicates that there is effectiveness in settlement of a simple lawsuit. This is because there is no need to wait for the Defendant's presence to make a decision, and the settlement of the case for 25 (twenty-five) days will be realized. Then in Article 13 paragraph (3a) there is a new provision, namely that the Defendant can fight (*verzet*) against the *verstek* decision that is handed down with a grace period of 7 (seven) days after the notification of the decision. This is to provide an opportunity for the Defendant to be dissatisfied with the previous decision.

5. There are provisions regarding the confiscation of guarantees and confiscation of execution

Suppose in PERMA No. 2 of 2015 there are no provisions related to the submission of confiscation of guarantee or execution confiscation. In that case, the PERMA No. 4 of 2019, there is a new provision in Article 17A, where the Plaintiff, in resolving the case, can recommend the confiscation of collateral or confiscation of execution to the Judge examining the case. Furthermore, the Chairperson of the Court will determine the date of implementation of the aanmaning no later than seven days from the date of issuance of the stipulation of aanmaning.

The existence of this confiscation of guarantee and execution confiscation is an evaluation of the ineffectiveness of PERMA No. 2 of 2015, which can provide better benefits for parties whose rights are not fulfilled. Changes in PERMA No. 4 of 2019 on PERMA No. 2 of 2015 have been quite effective in examining, resolving, and deciding cases. This is considering the intent and purpose of making changes to improve the existing deficiencies in PERMA No. 4 of 2019, which is also to accommodate the parties' interests. However, its implementation in each Court is still not effective enough.

However, from the point of view of an advocate, a simple lawsuit cannot be said to be effective concerning the provisions of Article 4 paragraph (4) PERMA No. 4 of 2019, where the parties are required to attend and cannot be represented by a legal representative. The regulation adopts the Criminal Procedure Code, in which a defendant must be present in Court, and legal counsel only accompanies him. Legal counsel in settlement of a simple lawsuit is only limited to accompanying. So, according to advocates, if the disputing party

is a Director or a busy person in their daily lives, it is certainly very inconvenient if they are required to attend every trial with a simple lawsuit settlement.

The Obstacles in the Implementation of PERMA Number 4 of 2019 in settlement of Cases in Court.

Article 5 paragraph (3) PERMA No. 2 of 2015 stipulates that the settlement of simple cases does not exceed 25 days from the day of the first trial. However, in practice, not all cases can be resolved within the specified time duration. That is, the implementation of PERMA No. 4 of 2019 is still facing several obstacles and obstacles, especially those that occur in the District and Religious Courts in Magelang City and Magelang Regency. The following are the obstacles in the implementation of PERMA No. 4 of 2019 in settlement of cases in Court, according to respondents and sources (Judges and Advocates), namely:

1. *Does not create or does not match the Court Calendar*

In order to speed up the trial process so that it does not drag on and to improve the quality of public services for justice seekers and the public, the Supreme Court has ordered each Court to implement a Court Calendar in handling every case. This is intended so that the Judge can measure the time period for the completion of a case and for the orderliness of the trial schedule that is binding on the parties. However, the reality is that the trial process for civil cases often takes quite a long time, drags on in each stage and the most frequently encountered is the delay in the trial schedule. This is caused by two factors, namely internal court factors and external factors. Internal factors can occur,

As for external factors, namely from the parties to the litigation as well as unexpected things, such as the absence of the parties, the length of time the parties have prepared materials for litigation, documentary evidence, and witnesses. In fact, there are still obstacles in implementing the court calendar consistently, so it needs to be addressed so that the implementation of the court calendar can be implemented. The application of the court calendar can be said to have run effectively and optimally if the trial can be started on time, and the stages of the case trial can be completed measurably by referring to the court calendar that has been set.

2. *Defendant's Absence*

Settlement of cases with a simple lawsuit procedure has existed since 2015, but there are still many people who do not really know the procedure for resolving this simple lawsuit, whose implementation is limited by a short time (25 days). So sometimes, if the defendants are ordinary people, not a company or a bank, they often ignore the summons from the Court to attend the trial without clear information. This makes rescheduling, thus hampering and, of course, wasting the predetermined time.

3. *Judges are not careful in classifying cases*

The process of resolving cases can exceed a predetermined time period because sometimes judges are not careful in classifying cases. In a simple lawsuit, there is a preliminary stage where the Judge checks whether the case can be categorized and resolved by a simple procedure or not, so that in a simple lawsuit, there is a double screening. This is sometimes

the Judge is not careful in classifying it, for example, that the case should be better resolved by the usual procedure when viewed from the case and the evidence, but it is resolved by a simple procedure. This, of course, will result in the completion of which will exceed the specified time period.

4. Lack of time in terms of proof

The period of settlement of the case, which is only 25 (twenty-five) days, means that evidence must be carried out quickly. However, sometimes there is a case that requires proof with a time that is not short so that it passes the specified time period. In fact, if it is understood in the provisions of the procedure for resolving cases with simple claims that at the time of case registration, evidence related to the case must be accompanied, it aims to shorten the time at the proof stage. However, in practice, sometimes this is not the case. The problem is that the parties are still proving at the proof stage so that it can pass the specified time period.

Conclusion

The Supreme Court Regulation Number 4 of 2019 is quite effective in examining, resolving, and deciding cases, in order to gain the simple court settlement. Therefore, this simple claim system has complied with the principles of a simple, fast, and low-cost trial as stipulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. However, in another hand its implementation is still not effective, because there are still obstacles both from internal courts and from external factors. The obstacle to the implementation of the settlement of cases in the Court is that the settlement of cases exceeds a period of only 25 days, this is not in accordance with the court calendar. In addition, judges are not careful in classifying cases, meaning that they do not distinguish between cases that are classified as ordinary lawsuits and simple lawsuits. This is as a result of the lack of socialization from the court to the defendant when filing a lawsuit is not directed to file a simple lawsuit, while the case submitted is included in a simple lawsuit. Another obstacle is the absence of the defendant, and the lack of time for proof. In addition, the PERMA still needs to be improved regarding the provisions that require the parties to be present at the trial and cannot be represented by their proxies.

References

Amboro, Y. P., & Feryanto, O. (2016). Analisa Terhadap Efektivitas Peraturan Mahkamah Agung Nomor 2 Tahun 2015 Tentang Tata Cara Penyelesaian Gugatan Sederhana (Studi Kasus Di Pengadilan Negeri Batam). *Journal of Judicil Review*, *18*(1), 141–158.

Asnawi, M. N. (2019). *Hukum Acara Perdata : Teori, Praktik dan Permasalahannya di Peradilan Umum dan Peradilan Agama*. UII Press.

Efendi, J., & Ibrahim, J. (2018). *Metode Penelitian Hukum: Normatif dan Empiris*. Prenadamedia Group.

Ferevaldy, A. P., & Anand, G. (2017). Kedudukan Hakim Tunggal Dalam Gugatan Sederhana (Small Claim Court). *Jurnal ADHAPER*, *3*(2), 205–226.

Harviyan, S. A. (2021). Penyelesaian Gugatan Sederhana Sebagai Pelaksanaan Asas Peradilan Sederhana, Cepat, dan Biaya Ringan Untuk Mewujudkan Access To Justice. *Jurnal Verstek*, *9*(3), 650–657.

Heniyatun, & Sulistyaningsih, P. (2018). *Hukum Acara Perdata*. UNIMMA PRESS.

Sakina, Krisnawati, D. N. R. A. P. dan I. G. A. A. A. (2018). Penerapan Penyelesaian Sengketa Dengan Gugatan Sederhana (Small Claim Court) Di Pengadilan Negeri (Studi Kasus Di Pengadilan Negeri Denpasar). *Kertha Wicara*, *7*(4), 1–14.

Setiyawan, W. B. M., Utara, T. H., & Wulandari, F. D. (2019). Pembentukan Small Claim Court (SCC) sebagai Upaya Mewujudkan Asas Peradilan Sederhana, Cepat dan Biaya Ringan. *Citizenship Jurnal Pancasila Dan Kewarganegaraan*, *7*(2), 72–81.