Legal Protection for Consumers Food and Drink Poisoning

Andi Tiara Safira Wardah

1University of Muhammadiyah Tangerang

*anditiara@gmail.com

Abstract

In the current era of technology, society is required to do everything effectively and efficiently. More and easier the circulation of various food products at home and abroad that enter the domestic market, either in the form of food or beverages that will be consumed by consumers. It is possible for this food product to expire, be contaminated or contaminated with hazardous materials and additional prohibited food ingredients such as formalin, borax, rhodamine and others. As in some cases where consumers experience poisoning. Contaminated food and drinks are usually visually invisible or appear harmless, therefore consumers are often deceived and do not suspect the slightest of consuming these products. Ordinary consumers are concerned about the food and beverages they consume because of the difficulty in researching the safety and security of consuming these foods and beverages. This condition can result in the position of business actors and consumers being unbalanced and consumers will always be in a weak position. Therefore, the obligation to ensure the safety of a product so as not to cause harm to consumers is borne by producers and other business actors, because these 2 (two) parties are aware of the composition and problems concerning the safety of a particular product. The losses suffered by consumers are the result of the lack of responsibility of business actors to consumers. This research is a normative juridical research type whose data are obtained from library materials. The legal basis in addition to referring to the general provisions, namely Law no. 8 of 1999 concerning Consumer Protection and Law no. 18 of 2012 concerning Food. The results showed that one of the articles violated by business actors was Article 4 letter a in Law no. 8 of 1999 concerning Consumer Protection which reads right for comfort, security, and safety in consuming goods and/or service. And article 1 number (5) of Law no. 18 of 2012 concerning food, food safety is a necessary condition and effort to prevent food from being contaminated with biological, chemical, and other objects that can interfere, harm, and endanger human health and do not conflict with religion, belief, and community culture so that it is safe for consumption. Thus, consumers need to get protection regarding guarantees or certainty of the fulfillment of the rights of consumers who experience losses, one of which is due to poisoning by consuming food and or drinks that are not suitable for consumption.

Key words: beverage poisoning, consumer protection, food

Introduction

Legal protection for consumers today is very important. Because in this century there are more and more circulation of various food products at home and abroad that enter the domestic market, either in the form of food or beverages.
that consumers will consume. Food and drink are basic human needs because they contain nutrients needed for body growth, maintain damaged body tissues and are needed to produce energy to be able to carry out activities.

In this regard, the importance of consumer protection is present in the midst of society. Consumer protection law is a part of the law that contains principles or rules that are regulatory and also contain properties that protect the interests of consumers who are harmed. According to Prof. Mochtar Kusumaatmadja, consumer law is defined as the totality of legal principles and rules that govern the relationship and problems between various parties to each other related to consumer goods and/or services in social life (Nasution, 1995). Food poisoning is a disease resulting from the use of contaminated food, bacterial pathogens, viruses, or parasites that contaminate food and also chemical or natural toxins such as fungi. Food and drinks that have been contaminated are usually visually invisible or invisible, for example in terms of color, taste and appearance are normal and there are no signs of damage.

The position of consumers who are very lay to the food and beverages consumed and the difficulty to examine beforehand about the safety and security in consuming food and beverages. These conditions and phenomena can cause the position of business actors and consumers to be unbalanced and consumers are always in a weak position. To improve the dignity of consumers, it is necessary to increase awareness, knowledge, concern, ability and independence of consumers to protect themselves and foster the attitude of responsible business actors. So the obligation to ensure the safety of a product so as not to cause harm to consumers is charged to manufacturers and business actors, because the producers and business actors who know the composition and issues concerning the safety of a particular product and safety in consuming the product. Losses suffered by consumers is a result of lack of responsibility of business actors to consumers. The poisoning event can affect an individual, several family members or a group of people who consume the same food and drink, and the symptoms of poisoning can be mild and can be severe.

With so many cases of poisoning, food and beverage safety needs to be improved continuously, so that the incidence of poisoning can be reduced to a minimum. The main factor that is the weakness of consumers is the level of awareness of consumers of their rights as consumers and this is often used by producers or business actors to get unilateral benefits. Therefore, Law No. 8 of 1999 on consumer protection, is intended to be a strong legal basis for the community to be able to make efforts to empower consumers through coaching and consumer education. This empowerment effort is important because it is not easy to expect business actors who basically adhere to economic principles to get the maximum possible profit with the minimum possible capital.

This principle has the potential to harm consumers, either directly or indirectly. Legal tools that protect consumers are not intended to turn off business actors, but on the contrary consumer protection can encourage a healthy business climate and give birth to companies that are resilient in the face of competition. If consumers are not careful to choose the drinks they will consume, this can make consumers the object of exploitation of irresponsible business actors. In addition, many businesses use standard clauses to speed up the process of standard agreements whose contents are first determined by business actors without any negotiation with consumers. Usually the standard clause set by business actors contains matters relating to consumer obligations without explaining the rights to be obtained clearly and eliminating the responsibility of business actors, so that when consumers are not satisfied with the drinks they bought from business actors, consumers cannot return them to business actors because it has been included in the standard agreement stating “goods purchased cannot be returned”.

Method

The research method used is normative juridical, which is a legal research method conducted by researching library materials or secondary materials (Soerdjono and Sri, 1994; Roni, 1994; Amirudin and Zainal, 2004; Achmad, 2009). This study consists of binding literature materials which are primary legal materials and secondary legal materials. Primary legal materials consist of the Civil Code, Law No. 8 of 1999 on Consumer Protection, Law No. 18 of 2012 on food and Law No. 36 of 2009 on health. Secondary legal materials consist of books, legal journals, legal theories, expert opinions and the results of legal research related to consumer protection which will be used as a solution to problems that occur in the community related to this research and tertiary legal materials that include journals and encyclopedias.

Results and Discussion

Legal Protection For Consumers Who Suffer Losses Due To Food And Beverage Poisoning

Consumer protection law is part of public law and private law. It is said to be part of public law because this is actually where the government’s role is to protect all consumers from substandard products or from business actors with bad intentions. If consumer protection is said to be a system, then we need to examine more deeply the existence of legal principles behind it so that it needs to be referred to as a system. Prior to its adoption, law no. 8 of 1999 on Consumer Protection (UUPK), consumer protection in Indonesia is not as a system.
Without the UUPK, consumer protection norms already exist, only scattered in the form of laws and regulations and various branches of Civil Law, Commercial Law, Criminal Law and state administrative law, which sometimes appear to protect consumers, or are mixed up so that they require interpretation, or are just a side of a regulation. So that the general framework of the main joints of consumer protection arrangements must be known. A. Zen Umar Purba put forward a general framework on the main joints of consumer protection arrangements, one of which is that consumers have rights and arrangements on consumer protection contribute to National Development (Happy, 2008).

As for the principles of consumer protection, one of them is the principle of Consumer Security and Safety, which means that this principle is intended to provide guarantees for security and safety to consumers in the use, use and utilization of trunks or services consumed or used.

Consumers have the right to sue business actors who include a standard clause that is prohibited, but in practice this rarely happens. This is due to the low level of consumer awareness, in addition to the complicated complaint resolution mechanisms often make consumers feel more disadvantaged and cause consumers to be reluctant to make claims to business actors. Standard Terms are usually made by business actors without giving consumers the opportunity to apply for changes to these terms. In this case, the position of the consumer is very weak because he does not have the power to change the Standard Terms and ja is required to accept the Standard Terms proposed by the business actor if he wants the goods and/or services of the business actor, and this condition is known as “take it or leave it”.

The responsibility of business actors for canned food and beverage products that have been damaged is not fully responsible for losses suffered by consumers. Consumers can request compensation to business actors under Article 4 of the Company Law letter h. The mechanism to obtain the rights of the consumers to business actors under Article 45 of the Company Law is through the settlement of disputes outside the court and the court in general. The health office supervises and checks food products referring to the UUPK and Law Number 18 of 2012 on food. The results of the examination if there are irregularities committed by entrepreneurs/business people who should Food and beverage products that are not allowed to circulate or still put up on store shelves will be given a warning letter and a statement letter, but if business people do not heed it will be given to the authorities.

Conclusion

Consumer protection issues can be concluded that the public is still not in accordance with the right to comfort, safety, and safety in consuming food and beverages these regulations have not been fully implemented to protect food consumers, especially from the aspect of supervision over violations of the circulation of canned food and beverages that do not meet safety standards, benefits, quality, marking, claims, and notified. Thus consumers have not received adequate protection.

References