

THE CONCEPT OF KHIYAR TA'YIN AND THE RESPONSIBILITY OF BUSINESS ACTORS IN ORDERING FRAMES OF PT GASCO INDAH ACEH, INDONESIA

Asral Miadi

Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia
Email: 190102047@student.ar-raniry.ac.id

Husni Mubarrak

Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia
Email: husni.mubarak@ar-raniry.ac.id

Wesley Mwafulirwa

University of Cape Town, South Africa
Email: wesley.mwafulirwa@uct.ac.za

Abstract

This article aims to discuss the concept of khiyar ta'yin and the responsibility of business actors in ordering frames at PT Gasco. This type of research is a qualitative descriptive approach through case studies. The main data was obtained from the results of interviews with PT Gasco beautiful pidie district, Indonesia. Meanwhile, secondary data was obtained from a number of articles related to this study. The results of the study show that first, PT Gasco indah did not see a grace period for buying and selling frames. Hanafiyah scholars mentioned three conditions for the validity of khiyar ta'yin, namely the choice for made for similar goods of different quality and nature, the goods have different property and values, and the grace period for khiyar ta'yin must be determined. Second, the form of responsibility has been regulated in article 28 of law No.8 of 1999, for the truth that business actors have caused consumer losses which essentially states that the burden and responsibility of business actors in providing compensation can be in the form of refunds, replacement of goods and services of the same or equivalent value, health care and the provision of compensation.

Keywords: Business, Consumer, Islamic Economic Law, and Legal Protection



Abstrak

Artikel ini bertujuan untuk membahas konsep khiyar ta'yin dan tanggung jawab pelaku usaha dalam pemesanan frame di PT Gasco. Jenis penelitian ini adalah penelitian deskriptif kualitatif dengan pendekatan studi kasus. Data utama diperoleh dari hasil wawancara dengan pihak PT Gasco Kabupaten Pidie Jaya. Sementara itu, data sekunder diperoleh dari sejumlah artikel yang berkaitan dengan penelitian ini. Hasil penelitian menunjukkan bahwa pertama, PT Gasco indah tidak melihat adanya tenggang waktu dalam jual beli kusen. Ulama Hanafiyah menyebutkan tiga syarat sahnya khiyar ta'yin, yaitu pilihan yang dilakukan untuk barang sejenis yang berbeda kualitas dan sifatnya, barang tersebut memiliki sifat dan nilai yang berbeda, dan tenggang waktu khiyar ta'yin harus ditentukan. Kedua, bentuk tanggung jawab telah diatur dalam pasal 28 undang-undang No.8 tahun 1999, atas kebenaran bahwa pelaku usaha telah menimbulkan kerugian konsumen yang pada intinya menyatakan bahwa beban dan tanggung jawab pelaku usaha dalam memberikan ganti rugi dapat berupa pengembalian uang atau penggantian barang dan jasa yang sejenis atau setara nilainya, perawatan kesehatan dan pemberian santunan.

Kata kunci: Bisnis, Hukum Ekonomi Syariah, Konsumen, dan Perlindungan Hukum

INTRODUCTION

In Islamic law, the enforcement of khiyar rights in buying and selling transactions is an effort to avoid disputes between sellers and buyers, because they can happen. In other words, khiyar is stipulated to ensure the mutual willingness and satisfaction of the parties to the sale and purchase. On the one hand, the option is not practical because it contains uncertainty, but in order to realize the willingness of the parties to the transaction, the option is the best way.¹ The right of khiyar is stipulated by Islamic law for people who engage in civil transactions so that they are not harmed in the transactions they make, so that the benefits aimed at in a transaction are achieved as well as possible. The status of khiyar, according

¹ Amir Syarifuddin, "Garis-Garis Besar Fiqh. Jakarta," *Katalog Perpustakaan Badan PPSDMK Kemenkes RI*, 2003.



to fiqh scholars, is that it is prescribed or permissible because of an urgent need in consideration of the interests of each party to the transaction.²

It should be noted that the right of origin of the purchase is binding (joint) because the purpose of the sale is the transfer of property. It is only Shari'ah that establishes the right of khiyar for buying and selling as a form of love for the executor of the contract. Islamic law establishes the right of khiyar for those who trade in order to obtain the maximum benefit from the transaction and to ensure that the transaction is not harmed. According to Fiqh scholars, khiyar status is permitted due to the urgent need for the welfare of each party to the business.³ Thus, both parties can be protected from losses on the transactions carried out. Related to this, Abdul Rahman Ghazaly explained that the holding of khiyar by Shara' so that both parties can think further about the benefits of each of their buying and selling contracts. So this khiyar right is established to ensure the mutual willingness and satisfaction of the parties to the sale and purchase.⁴

Khiyar ta'yin is the right of choice for buyers in determining goods of different quality in buying and selling. In addition, khiyâr is also the authority to withhold or accept in the trade that occurs before the sale and purchase becomes complete in both ijab and qabul.⁵ Hanafiyah scholars allow the enactment of this khiyar on the grounds that in buying and selling there are many similar products that differ in quality very much, whose quality is not known with certainty by the buyer, so he needs the help of an expert. So that the buyer is not deceived and so that the product he is looking for meets his needs, khiyar ta'yîn is allowed.⁶ It is like a person who desperately needs an item but does not know the optimal use of the item and its quality. For this reason, it is necessary to consult with a person who is an expert in the field so that the buyer can choose the type of goods wisely and efficiently.⁷

² R Hasanah, "Implementasi Khiyar Ta'yin Dan Pengaruhnya Terhadap Keputusan Konsumen Dalam Jual Beli Suku Cadang Sepeda Motor (Studi Kasus Pada Bengkel Sepeda Motor ...," 2018.

³ Amilia Pratiwi Amilia and Viola Elviani, "Implementasi Khiyar Dalam Jual Beli Online (Studi Kasus Ketidaksesuaian Objek Pada Marketplace Shopee)," *Al Qadhi* 1, no. 2 (2023): 188–200, <https://doi.org/10.62214/jaq.v1i2.136>.

⁴ Abdul Rahman Ghazaly, *Dkk, Fiqh Muamalat, Jakarta, Kencana*, 2010.

⁵ Ghazaly.

⁶ Ria Achmadiyah, "Transaksi Rekayasa Pajak Pada Transfer Pricing Menurut Hukum Islam," *Maliyah* 03, no. 02 (2013).

⁷ Yulia Hafizah, "Khiyar Sebagai Upaya... Yulia Hafizah 165," *AT - TARADHI Jurnal Studi Ekonomi*, 3 (2012): 165–71.



This article is concerned with discussing how the concept of khiyar ta'yin and the responsibility of business actors in the frame business at PT Gasco. this is necessary because it must be in accordance with the pillars and conditions. Especially those related to the Law. In the reality carried out by residents of Sigli City, Pidie, in the practice of ordering frames, there are still frequent defaults committed by the producers of these goods, namely in the form of goods not in accordance with the initial specifications and delays in delivery of goods, so that there has been a binding contract by the two parties in fulfilling it.⁸ If at the due date the delivery of the ordered goods is not finished, usually the consumer still gives the manufacturer the opportunity to complete it.

To avoid negligence for business actors, the government has also issued a law. As for Law No. 8 of 1999 concerning consumer protection, this law explains the rights and obligations for consumers and business actors. In reviewing the rights and obligations of Law No. 8 of 1999, consumers are allowed to request compensation for goods if the goods are not in accordance with the agreement.⁹

The results of interviews with door frame buyers at PT Gasco Indah, he ordered door frames by mentioning the desired size and specifications at the beginning of the agreement accompanied by an initial dp payment. However, in practice, PT Gasco Indah is less careful in recording the sizes and specifications desired by consumers. This caused losses to the consumer due to the mismatch of the desired order, moreover there was no compensation for the frame, even though the loss was caused by negligence on the part of PT Gasco Indah.¹⁰

Based on the consideration of the above phenomena, that there are parties who are harmed, the author intends to further examine the frame order process due to problems in the contract or agreement that are not in accordance with the study of sharia law and the losses experienced by consumers so that it becomes a problem that needs to be researched under the title "The Concept of Khiyar Ta'yin and the Responsibility of Business Actors in Ordering Sills".

⁸ Jarmanisa et al., "ANALYSIS OF RISK COVERAGE AGREEMENT BETWEEN PT. J&T AND AN INSURANCE COMPANY FOR DELIVERY OF CONSUMER GOODS IN THE CONTEXT OF KAFALAH CONTRACT," *JURISTA: Jurnal Hukum Dan Keadilan* 5, no. 2 (October 1, 2021): 126-46, <https://doi.org/10.1234/JURISTA.V5I2.11>.

⁹ Muhammad, "Jual Beli Kusen Ditinjau Menurut Hukum Islam Di Kecamatan Kuta Alam Banda Aceh," 2016, 1-23.

¹⁰ The results of an interview with one of the consumers of PT Gasco Indah, dated May 8, 2023



METHODS AND DATA

This research uses a type of qualitative research, namely solving problems by collecting, processing, analyzing data and drawing conclusions systematically and objectively.¹¹ The type of research that researchers use in this study is descriptive research, which is a form of method that has the aim of analyzing and solving problems that occur both in the field and theory based on observations and observations obtained relating to the concept of khiyarta'yn on the sale and purchase of frame orders at PT.Gasco indah, Pidie sub-district.

The data sources used in this study consist of primary data, namely data obtained or collected by researchers directly from the data source. Primary data is also referred to as original data or new data that has up to date.¹² To obtain primary data, researchers must collect it directly by means of observation, interviews and documentation. Secondary data is data obtained or collected by researchers from various existing sources. Secondary data can be obtained from various sources such as books, reports, and journals.¹³ Furthermore, the process of analyzing the data is carried out in accordance with the research objectives. Secondary data in this study are supporting materials such as (*library research*).¹⁴

RESULTS AND DISCUSSION

1. Overview of the Research Location

PT Gasco Indah is a woodworking business that has been established for a long time in one of the sub-districts in Pidie Regency. This business is engaged in woodworking such as processed wood in the form of frames, windows, doors and others with wood raw materials. PT Gasco Indah is located in Lampoh Lada, Pidie District, Pidie Regency, Aceh. Because of its strategic location, this business is very easy to reach by consumers. Even this business has been around for several years "*this business has been around for several years, and has been passed down from parents and I continue to develop it until now*".¹⁵

Some of the furniture mentioned earlier is what furniture is basically or generally. In the furniture industry, producing quality consumer orders is a must.

¹¹ M.A Dr. Drs. H. Rifa'i Abubakar, *Pengantar Metodologi Penelitian*, Antasari Press, 2021.

¹² Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

¹³ V. Wiratna Sujarweni, "Metodologi Penelitian," *PT. Rineka Cipta, Cet.XII)an Praktek*, (Jakarta : *PT. Rineka Cipta, Cet.XII*), 2014, 107.

¹⁴ Library research is a series of activities related to library data collection methods, reading, and recording and processing research materials.

¹⁵ Interview results with one of the employees at PT Gasco Indah, on July 27, 2023



In addition to producing furniture, serving and designing according to the wishes of consumers must also be very concerned so that consumers feel satisfied. The types of frames produced also vary according to the needs of household furniture.

PT Gasco Indah is not only limited to receiving requests for the manufacture of frames for private homes, but its business also receives orders for the manufacture of frames for government projects. "*Alhamdulillah. I have received orders from a number of customers, both for private buildings and government projects. The amount varies, there are large quantities and units,*".¹⁶

2. Analysis of the Concept of Khiyar Ta'yin on the Sale and Purchase of Frame Orders at PT Gasco Indah, Pidie District, Aceh

The form of khiyar ta'yin in the sale and purchase of frame orders that the author reviews, namely, regarding the time limit for khiyar ta'yin before they make an agreement on the sale and purchase transaction of the product. The application of khiyar ta'yin must be carried out in accordance with the conditions that exist in khiyar ta'yin.

The Hanafiyah scholars who allow khiyar ta'yin cite three conditions for the validity of khiyar ta'yin, namely;

- a. The choice is made between similar goods that differ in quality and nature.
- b. They differ in nature and value.
- c. The time period for khiyar ta'yin must be specified, according to Imam Abu Hanifah it should not exceed three days.¹⁷

In accordance with the first requirement, namely choosing one of the 3 types of goods to be purchased or in khiyar ta'yin called good, medium, bad types. However, in an interview with one of the employees at PT Gasco Indah, he explained that they do not sell frames or other products of poor quality. All are made to a high standard and are ensured to have gone through a series of checks repeatedly before being marketed.¹⁸ However, the frames produced at PT Gasco Indah do have varying prices. This is influenced by the type of wood used, the size of the frame, and the type and brand of finishing products used in the manufacture of the frame.

Some types of wood used are seumantok wood (ulim wood / meranti batu), merbau wood, camphor wood, teak wood, mahogany wood, and others on request.

¹⁶ Interview with one of the employees at PT Gasco Indah, on July 27, 2023.

¹⁷ Ghazaly, *Dkk, Fiqh Muamalat*.

¹⁸ Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia," *Jurnal Ilmiah Peuradeun* 11, no. 2 (May 30, 2023): 667-86, <https://doi.org/10.26811/PEURADEUN.V11I2.923>.



In the process of making consumer orders, PT Gasco Indah will always strive to provide the best service for consumers, starting from the process of selecting the latest designs and models, selecting the shape, size and color of painting, as well as the type of wood material with the best quality that will be used. So that everything that is produced has the best quality and does not disappoint consumers. PT Gasco Indah also uses equipment with the best and latest technology supported by experts who are experienced and professional in their respective fields for decades.

The second requirement is that the type of item to be selected must have a price difference from other types and the price must be known with certainty. Like the price of door frames that have varying prices, because the type of wood used is different.

Table 1: The price of a door frame with a size of 5 x 11 cm

Meranti wood 5 x 11 cm	Rp. 810,000
Mahogany wood 5 x 11 cm	Rp. 880,000
Camphor Wood 5 x 11 cm	Rp. 895,000
Merbau wood 5 x 11 cm	IDR 1,270,000
Teak Wood 5 x 11 cm	Rp. 3,150,000

Table 2: The price of a door frame with a 5 x 14 cm

Meranti wood 5 x 14 cm	Rp. 1,270,000
Mahogany wood 5 x 14 cm	Rp. 1,400,000
Camphor Wood 5 x 14 cm	Rp. 1,420,000
Merbau wood 5 x 14 cm	Rp. 2,050,000
Teak Wood 5 x 14 cm	Rp. 4,450,000

The third condition, the time limit for *khiyar ta'yin* is limited, which is the same as the time for *khiyar* conditions, which is limited to a maximum of 3 days. However, the results of interviews with consumers who ordered frames at PT Gasco Indah said that there was no grace period for ordering the frames they made. Whereas this time applies when the buyer is at the place where the transaction takes place, when the buyer wants to buy the product, PT Gasco will inform the goods of several levels with types tailored to the needs of the buyer. However, the decision



remains with the buyer, after the buyer decides on the desired item and agrees with the product offered, a sale and purchase transaction takes place between the buyer and the seller.

Islam explains that khiyar ta'yin applies to three items only, because the categories of goods are good, average and bad. If more than three, then khiyar ta'yin is not valid. Goods in a sale and purchase transaction must have different characteristics and the price of each item has been clearly determined. If there is a similarity between price and nature, then khiyar ta'yin cannot be applied. Because if the price of the goods is not determined for each type of goods, then the goods are majhul (unknown) and will make the sale and purchase contract fasid (broken).

The time limit of khiyar ta'yin must also be clearly specified. Abu Hanifah has stipulated a maximum of three days as stipulated in khiyar syarat, if it exceeds three days then the sale contract will also become fasid (broken).¹⁹ However, there are also opinions from two of Abu Hanifah's companions who say that the period or time limit of khiyar ta'yin can be more than three days, provided that both parties to the sale and purchase transaction know about it and agree to the time limit.²⁰

The Hanafis say that the help of an expert in such matters is permissible, so that the buyer does not feel cheated and the product that the consumer is looking for is in accordance with his wishes or needs. This is because there are many similar products that differ in quality, the quality of which is unknown to the buyer, so he needs the help of an expert.

Islam does not burden its people and even provides a lot of relief in a matter, such as in order buying and selling transactions, if there is an error in making goods, it is allowed to compensate according to the agreement, but with clear reasons and not lying to the buyer or orderer.

3. Liability of Business Actors on Frame Orders Based on Law No. 8 of 1999 concerning Consumer Protection

The presence of Law No. 8 Year 1999 on Consumer Protection is truly a regulation that means to protect consumers. In Indonesian legislation, the term "consumer" as a formal juridical definition is found in the Consumer Protection Law, which states that a consumer is any person who uses goods and or services

¹⁹ Iwandi Iwandi, Rustam Efendi, and Chairul Fahmi, "THE CONCEPT OF FRANCHISING IN THE INDONESIAN'S CIVIL LAW AND ISLAM," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 2 (2023), <https://doi.org/10.22373/al-mudharabah.v5i2.3409>.

²⁰ Hasri Harun, Shofian Ahmad, and Ruzian Markom, "Prinsip Khiyār (Pilihan) Dalam Undang-Undang Berkaitan Jualan Barangan Menurut Islam," *Al-Qanatir International Journal of Islamic Studies* 4, no. 1 (2016).



available in the community, both for the benefit of themselves, their families, other people, and other living beings and not for trade.²¹

Consumer protection questions the protection (law) given to consumers in their efforts to obtain goods and services from possible losses due to their use, so consumer protection law can be said to be a law that regulates the provision of consumer protection in order to fulfill their needs as consumers. Consumer protection law is part of consumer law. According to him, consumer law is the overall principles and rules of law that regulate relationships and problems between various parties with each other relating to consumer goods and / or services, in the association of life.²²

Consumer protection efforts in the country are based on a number of principles and objectives that have been believed to provide direction in their implementation at the practical level. With clear principles and objectives, consumer protection law has a truly strong foundation.²³ Based on Article 3 of Law No. 8 of 1999, the objectives of consumer protection are as follows:

1. Increase consumer awareness, ability, and independence to protect themselves.
2. Raising the dignity of consumers by preventing them from negative access to the use of goods or services.
3. Increase consumer empowerment in choosing, determining and demanding their rights as consumers.
4. Create a consumer protection system that contains elements of legal certainty and information disclosure and access to information.
5. Raising the awareness of business actors about the importance of consumer protection so that an honest and responsible attitude in business grows.
6. Improve the quality of goods or services that ensure the continuity of the business of producing goods and or services, health, comfort, security and safety of consumers.²⁴

Problems arise when the goods received by consumers do not match the goods ordered by consumers. This problem is a consumer dispute which is a dispute between the consumer as the injured party and the business actor as the

²¹ Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia."

²² Az Nasution, "Sekilas Hukum Perlindungan Konsumen," *Jurnal Hukum & Pembangunan* 16, no. 6 (2017), <https://doi.org/10.21143/jhp.vol16.no6.1231>.

²³ Happy Susanto, "Hak-Hak Konsumen Jika Dirugikan," *Transmedia Pustaka* 3 (2008).

²⁴ Law No.8 of 1999, *on Consumer Protection*.



party who produces, sells or provides goods or services consumed or utilized by consumers. The case of product discrepancies is one proof that business actors still often violate the law which causes harm to consumers.²⁵

As experienced by a consumer in Pidie Regency because the business actor was not careful in recording the size and specifications of the order. In the agreement, the size is important, because the wrong size can cause mistakes and cause losses to one of the parties. In this problem, the business actor asked for additional costs to repair the frames that did not match the size. The additional cost in question is only to pay the craftsman who made the frame. This makes consumers very disadvantaged because they have to spend more than the initial price agreement of the frame, even though the loss is caused by negligence on the part of the business actor.

Business actors harm consumers by mismatching the products received and the additional costs outside the agreement. Business actors make promises because they are not in accordance with their stated promises and also consumers do not get their rights as consumers, which should be stated in articles 4 and 5 of Law Number 8 of 1999 concerning Consumer Protection.

Consumer rights mentioned in article 4 are, the right to comfort, security, and safety in consuming goods and services, the right to comfort, security, and safety in consuming goods and services, the right to choose goods and / or services and obtain and/or services in accordance with the exchange rate and conditions and guarantees promised, the right to correct, clear, and honest information about the conditions and guarantees of goods and/or services, the right to have opinions and complaints heard about the goods and/or services used, the right to obtain advocacy, protection, and efforts to resolve consumer protection disputes properly, the right to receive guidance and consumer education, the right to be treated or served correctly and honestly and non-discriminatory, the right to compensation, compensation and / or replacement, if the goods and/or services received are not in accordance with the agreement or not as they should be, the rights stipulated in the provisions of other laws and regulations.

As well as consumer obligations mentioned in article 5, namely, reading or following information instructions and procedures for the use or utilization of goods and / or services, for security and safety, good faith in conducting

²⁵ Cut Azzahra Muly and Chairul Fahmi, "PRAKTIK JUAL BELI DESAIN GRAFIS MELALUI SISTEM HIRING DALAM PERSPEKTIF AKAD ISTISNA' PADA MARKETPLACE SRIBU.COM," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 5, no. 1 (April 27, 2024): 57-75, <https://doi.org/10.22373/AL-MUDHARABAH.V5I1.4545>.



transactions to purchase goods and / or services, paying according to the agreed exchange rate, following efforts to properly resolve consumer protection disputes.²⁶

Consumers should have the right to obtain protection and efforts to resolve disputes properly, be given the right service, and get compensation or compensation if the goods received are not suitable. In addition, there is a mismatch in the schedule for delivery of goods by the business actor.²⁷ Where the frames should have been delivered to consumers on the agreed date, but the business actors did not fulfill the agreement. When viewed in the Consumer Protection Law, this is a violation of consumer rights, which then undermines the objectives of Law Number 8 of 1999 concerning Consumer Protection towards fostering awareness of business actors regarding the importance of consumer protection so that an honest and responsible attitude in business grows. Business actors must be aware of their rights and obligations as stated in articles 6 and 7 of Law Number 8 of 1999 concerning Consumer Protection.

The rights of business actors referred to in article 6 are in the form of, the right to receive payment in accordance with the agreement on the conditions and exchange rate of goods and/or services traded, the right to legal protection from the actions of consumers who are in bad faith, the right to conduct appropriate self-defense in the legal settlement of consumer disputes, the right to good name rehabilitation if it is legally proven that consumer losses are not caused by the goods and/or services traded, the rights stipulated in the provisions of other laws and regulations.²⁸

The obligations of business actors referred to in Article 7 are, to act in good faith in carrying out their business activities, to provide correct, clear and honest information regarding the conditions and guarantees of goods and / or services and to provide explanations for use, repair and maintenance, to treat or serve consumers correctly and honestly and non-discriminatorily, to guarantee the quality of goods and /or services produced and /or traded based on the provisions of the applicable quality standards of goods and/or services, provide opportunities for consumers to test, and / or try certain goods and /or services and provide

²⁶ Chairul Fahmi et al., "The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1566–96, <https://doi.org/10.22373/SJHK.V8I3.19992>.

²⁷ Nurul Maghfirah et al., "UNDERSTANDING INTELLECTUAL PROPERTY RIGHTS IN THE INDONESIAN TRADING BUSINESS," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 2 (2023), <https://doi.org/10.22373/al-mudharabah.v4i2.3384>.

²⁸ Sri Wahyuni et al., "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS," *JURISTA: Jurnal Hukum Dan Keadilan* 7, no. 1 (June 10, 2023): 1–23, <https://doi.org/10.1234/JURISTA.V7I1.42>.



guarantees and / or guarantees for goods made and/or traded, provide compensation, compensation and/or compensation for losses due to the use, use and utilization of goods and/or services traded, provide compensation, compensation and/or compensation if the goods and/or services received or utilized are not in accordance with the agreement.

The agreement can be achieved properly if the parties have carried out their rights and obligations in accordance with their respective categories in accordance with what has been agreed in advance without any party feeling disadvantaged. However, if the agreement is not carried out properly due to defaults committed by each party or by one of the parties. According to R. Soebekti: "Default means that if the debtor does not do what he promised, then he is said to have defaulted. He is negligent or also breaks the promise or also violates the agreement if he does or does something that he should not do".

In essence, an agreement is an agreement that requires honesty from the parties to fulfill their promises. If there is a situation that one of the parties to the agreement does not do what has been promised, or does it but not on time, then in the law of this agreement it is called default. The fulfillment of achievement is the essence of an obligation, while the obligation is a form to give something, to do something or not to do something. Achievement is a requirement for the debtor to give something, do something. Doing something or not doing something must be accompanied by full responsibility.²⁹

In Law No. 8 of 1999 concerning Consumer Protection in Article 16 letters (a), and (b) business actors in offering goods and / or services are prohibited from:

1. Not fulfilling the order and/or completion time agreement as promised
2. Not keeping the promise of a service and/or achievement".

The responsibility of business actors is part of the obligations that bind their activities in business. Which is called Product liability. "*Product liability is a legal responsibility of a person or entity that produces a product (producer, manufacturer) from a person or entity of a product (processor, assembler) or distributes (seller, distributor) the product.*"³⁰

Business actors who are required to be responsible for the results of their business are business actors who carry out activities such as producing final products, imprinting names, brands, or other signs on products without indicating

²⁹ Dermina Dsalimunthe, "Akibat Hukum Wanprestasi Dalam Perspektif Kitab Undang-Undang Hukum Perdata (BW)," *Al-Maqasid* 3 (2017): 16.

³⁰ Susanto, "Hak-Hak Konsumen Jika Dirugikan."



that they are business actors, importing products into the territory of the Republic of Indonesia, distributing goods whose business actor's identity is not clear, both domestic products and importers whose identity is not clear, selling services such as developing housing or building apartments, selling services by renting transportation equipment or heavy equipment.³¹

The basis for the liability of business actors to consumers is: Negligence is a behavior that is not in accordance with the standard of conduct set by the law and the existence of a duty of care (obligation to maintain the interests of others). The principle of strict liability does not question the presence or absence of fault, but the business actor is directly responsible for the losses caused by the defective product. The business actor is deemed to be liable if there has been a loss to the consumer due to consuming a product and therefore the business actor must compensate for the loss.³²

Article 19 of Law No. 8 of 1999 on Consumer Protection states that the responsibility of business actors for consumer losses is as follows: The responsibility of business actors for consumer losses is as follows, business actors are responsible for providing compensation for damage, pollution, and or consumer losses due to consuming goods and or services produced or traded, the compensation referred to in paragraph (1) can be in the form of a refund or replacement of goods and or services of a similar or equivalent value, or health care and or compensation in accordance with the provisions of applicable laws and regulations, the provision of compensation shall be carried out within 7 (seven) days after the date of the transaction, the provision of compensation as referred to in paragraph 18 and paragraph (2) shall not eliminate the possibility of criminal prosecution based on further proof of the existence of an element of fault, the provisions as referred to in paragraph (1) and paragraph (2) shall not apply if the business actor can prove that the fault is the fault of the consumer.

The truth that business actors have caused consumer losses is regulated in Article 28 of Law No. 8 of 1999, which basically states the burden and responsibility of business actors in providing compensation in the form of refunds, replacement of goods and or services of a similar or equivalent value, health care, and compensation.

³¹ Wahyu Akbar et al., "Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (June 30, 2024): 1-12, <https://doi.org/10.30984/JIS.V22I1.2611>.

³² Chairul Fahmi, Sri Wahyuni, and Laila Muhammad Rasyid, "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS," *JURISTA: JURNAL HUKUM DAN KEADILAN* 6, no. 2 (October 1, 2023): 1-22.



Consumer protection has a broad scope covering the protection of consumers of goods and services, starting from the stage of activities to obtain goods and services to the consequences of the use of goods and services. The scope of consumer protection is divided into two aspects:³³

1. Protection against the possibility of being delivered to consumers of goods and services that are not in accordance with what has been agreed or violate the provisions of the Law. In this case, consumers get compensation if losses arise due to using or consuming products that are not suitable.
2. Protection against the imposition of unfair conditions on consumers. This includes issues of promotion and advertising, contract standards, pricing, after-sales service, and so on.

To fulfill the objectives of Law No. 8/1999 on Consumer Protection, the government needs to conduct guidance and supervision including:

- a. The self of business actors encourages business actors to act in accordance with applicable rules, whether the rules required by law, custom, or decency. Thus, business actors will behave appropriately in producing and distributing their products.
- b. Production facilities and infrastructure, through this guidance can be achieved the level of quality products, adequate development as an implementer of business activities.
- c. The overall business climate, with this guidance, is expected to grow and develop a healthy business climate so as to increase the level of community welfare through business efficiency.
- d. Consumers, guidance to consumers is directed at increasing consumer resources so that they have a strong awareness of their rights, want to consume healthily and rationally.

Article 29 paragraph (4) of Law No. 8 of 1999 on Consumer Protection states that the guidance on the implementation of consumer protection is intended to:

1. The creation of a business climate and the growth of healthy relationships between business actors and consumers.
2. The development of non-governmental consumer protection organizations.

³³ Sonia Regina Hutapea, Janus Sidabalok, and Kosman Samosir, "Perlindungan Hukum Terhadap Konsumen Dalam Pengiriman Barang Melalui Perusahaan Jasa Pengiriman Barang," *Jurnal Profile Hukum* 1, no. 1 (2023).



3. Improved quality of human resources and increased research and development activities in the field of consumer protection.

The need for law to provide protection for Indonesian consumers is inevitable in line with our national development goals, namely the development of Indonesian human beings as a whole. The regulation of consumer protection is carried out by:³⁴

1. Create a consumer protection system that contains an element of transparency.
2. Protect the interests of consumers in particular and the interests of all business actors.
3. Improve the quality of goods and services.
4. Provide protection to consumers from deceptive and misleading business practices.
5. Integrate the organization, development, and regulation of protection in other fields.

Against Disputes between Consumers and Business Actors the Consumer Protection Law, has provided a means for consumers to pursue their rights through:

1. Judicial Settlement

According to Article 45 paragraph 1 of the Consumer Protection Law, any consumer who is harmed can sue the business actor through an institution tasked with resolving disputes between consumers and business actors.³⁵ The Consumer Dispute Resolution Body (BPSK) is a special institution established under the Consumer Protection Law, whose main task is to resolve disputes. The establishment of this body is mandated by the provisions of Article 4 paragraph (2)

³⁴ Shen Hilda Sulis and Husni Syawali, "Perlindungan Hukum Bagi Konsumen Akibat Terjadinya Wanprestasi Dalam Perjanjian Jual Beli Unit Apartemen Yang Dilakukan Oleh Pelaku Usaha," *Bandung Conference Series: Law Studies* 3, no. 1 (2023), <https://doi.org/10.29313/bcsls.v3i1.5021>.

³⁵ Chairul Fahmi, "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia," *Https://Doi.Org/10.1177/11771801241235261* 20, no. 1 (March 8, 2024): 157-66, <https://doi.org/10.1177/11771801241235261>.



of Law Number 48 of 2009 on judicial power. The main purpose of its establishment is to relieve consumers in disputes they face easily and at a low cost.³⁶

Those who are entitled to file a lawsuit against violations committed by business actors are regulated in Article 46 paragraph (1) of GCPL, namely:³⁷

- a. An aggrieved consumer or their heirs.
- b. A group of consumers who share a common interest.
- c. An eligible Non-Governmental Consumer Protection Organization is one that is in the form of a legal entity or foundation, which in its Articles of Association explicitly states that the purpose of establishing the organization is for the benefit of consumer protection and has carried out consumer protection activities in accordance with its articles of association.
- d. The government and / or related agencies if the goods and / or services consumed or utilized result in large material losses and / or not a few victims.

Settlement, through litigation institutions is considered less efficient in terms of time, cost, and energy, so that settlement through non-litigation institutions is chosen by many people in resolving the dispute. However, the court will also remain the last resort if at the non-litigation level there is no agreement.³⁸

2. Non-judicial Dispute Resolution

Regarding the dispute resolution process outside the court, the GCPL provides a solution for resolving consumer disputes outside the general court. In the provisions of Article 52 of the GCPL, dispute resolution is resolved in the following manner:

- a. Mediation is a process in which a third party invites the disputing parties to an agreed resolution of the dispute. According to this limitation, the mediator is in the middle and does not take sides with either party.
- b. Arbitration Is a way of resolving disputes outside the public courts based on an arbitration agreement made by the parties to the dispute. The advantage

³⁶ Rida Ista Sitepu and Hana Muhamad, "Efektifitas Badan Penyelesaian Sengketa Konsumen (Bpsk) Sebagai Lembaga Penyelesaian Sengketa Konsumen Di Indonesia," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, no. 2 (2022): 7–14, <https://doi.org/10.52005/rechten.v3i2.35>.

³⁷ Wijaja, Gunawan, and Ahmad Yani, "Hukum Tentang Perlindungan Konsumen," Jakarta: Gramedia Pustaka Utama, 2001.

³⁸ Muskiabah, "Analisis Mengenai Cara Penyelesaian Sengketa Konsumen," *Jurnal Inovatif Ilmu Hukum* 2, no. 4 (2020): 142–49.



of arbitration is that the decision is immediately final and has permanent legal force and is binding on the parties.

- c. Conciliation, this method is taken at the initiative of one of the parties or the parties where the BPSK Assembly serves as an intermediary between the parties in dispute and the BPSK Assembly is passive. This dispute resolution has many similarities with arbitration, and also leaves it to a third party to give its opinion on the dispute submitted by the parties. However, the conciliator's opinion is not as binding as an arbitration award.

In Law No. 8 of 1999 concerning consumer protection in article 2. The principle of benefits, the principle of justice, the principle of balance, the principle of security, the principle of consumer safety and also legal certainty, as mentioned or detailed above, through the principles that have been mentioned, it is hoped that it will provide coordination in activities or matters relating to healthy and balanced trade in accordance with the rights and obligations of both consumers and producers in carrying out trading activities for goods and services in accordance with the GCPL, where the purpose of the GCPL itself is to protect the interests of consumers and on the other hand provide warnings to business actors to improve the quality of their business. The principle of responsibility is very important in consumer protection law.

CONCLUSIONS

Based on the above section of the article, it can be concluded that, *Khiyar ta'yin* is the right of choice for buyers in determining goods of different quality in buying and selling. However, the practice of *khiyar ta'yin* at PT Gasco Indah is still not perfect because it still does not fulfill one of the conditions of *khiyar ta'yin* that should be. The three conditions for the validity of *khiyar ta'yin*, according to the Hanafiyah Ulama, are that the choice is made on similar goods that differ in quality and nature, the goods differ in nature and value, and the *khiyar ta'yin* period must be determined, according to Imam Abu Hanifah, it cannot be more than three days. However, PT Gasco Indah does not determine the *khiyar* grace period in the sale and purchase of frames.

The form of legal protection for consumers in Indonesia is the issuance of regulations aimed at guaranteeing consumer rights, as well as enforcing regulations through administrative law sanctions, criminal law, and civil law so that the fulfillment of consumer rights is truly fulfilled. The problem of disputes



between consumers as the injured party and business actors as the party producing goods or services utilized by consumers is one proof that business actors still often violate the law which causes harm to consumers. However, the form of responsibility has been regulated in Article 28 of Law No. 8 of 1999, for the truth that business actors have caused consumer losses, which basically states the burden and responsibility of business actors in providing compensation in the form of refunds, replacement of goods and or services of a similar or equivalent value, health care and compensation.

REFERENCES

- Achmadiyah, Ria. "Transaksi Rekeyasa Pajak Pada Transfer Pricing Menurut Hukum Islam." *Maliyah* 03, no. 02 (2013).
- Akbar, Wahyu, Rahmad Kurniawan, Ahmad Dakhoir, and Chairul Fahmi. "Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia." *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (June 30, 2024): 1-12. <https://doi.org/10.30984/JIS.V22I1.2611>.
- Amilia, Amilia Pratiwi, and Viola Elviani. "Implementasi Khiyar Dalam Jual Beli Online (Studi Kasus Ketidakesesuaian Objek Pada Marketplace Shopee)." *Al Qadhi* 1, no. 2 (2023): 188-200. <https://doi.org/10.62214/jaq.v1i2.136>.
- Armia, Muhammad Siddiq. *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*. Edited by Chairul Fahmi. Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022.
- Dr. Drs. H. Rifa'i Abubakar, M.A. *Pengantar Metodologi Penelitian*. Antasari Press, 2021.
- Dsalimunthe, Dermina. "Akibat Hukum Wanprestasi Dalam Perspektif Kitab Undang-Undang Hukum Perdata (BW)." *Al-Maqasid* 3 (2017): 16.
- Fahmi, Chairul. "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia." <https://doi.org/10.1177/11771801241235261> 20, no. 1 (March 8, 2024): 157-66. <https://doi.org/10.1177/11771801241235261>.
- — —. "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia." *Jurnal Ilmiah Peuradeun* 11, no. 2 (May 30, 2023): 667-86. <https://doi.org/10.26811/PEURADEUN.V11I2.923>.
- Fahmi, Chairul, Peter-Tobias Stoll, Shabarullah Shabarullah, Malahayati Rahman, and Syukri Syukri. "The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1566-96. <https://doi.org/10.22373/SJHK.V8I3.19992>.



- Fahmi, Chairul, Sri Wahyuni, and Laila Muhammad Rasyid. "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS." *JURISTA: JURNAL HUKUM DAN KEADILAN* 6, no. 2 (October 1, 2023): 1-22.
- Ghazaly, Abdul Rahman. *Dkk, Fiqh Muamalat*. Jakarta, Kencana, 2010.
- Hafizah, Yulia. "Khiyar Sebagai Upaya... Yulia Hafizah 165." *AT - TARADHI Jurnal Studi Ekonomi*, 3 (2012): 165-71.
- Harun, Hasri, Shofian Ahmad, and Ruzian Markom. "Prinsip Khiyār (Pilihan) Dalam Undang-Undang Berkaitan Jualan Barangan Menurut Islam." *Al-Qanatir International Journal of Islamic Studies* 4, no. 1 (2016).
- Hasanah, R. "Implementasi Khiyar Ta'yin Dan Pengaruhnya Terhadap Keputusan Konsumen Dalam Jual Beli Suku Cadang Sepeda Motor (Studi Kasus Pada Bengkel Sepeda Motor ...," 2018.
- Hutapea, Sonia Regina, Janus Sidabalok, and Kosman Samosir. "Perlindungan Hukum Terhadap Konsumen Dalam Pengiriman Barang Melalui Perusahaan Jasa Pengiriman Barang." *Jurnal Profile Hukum* 1, no. 1 (2023).
- Iwandi, Iwandi, Rustam Efendi, and Chairul Fahmi. "THE CONCEPT OF FRANCHISING IN THE INDONESIAN'S CIVIL LAW AND ISLAM." *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 2 (2023). <https://doi.org/10.22373/al-mudharabah.v5i2.3409>.
- Jarmanisa, Siti Mawar, Chairul Fahmi, and Azka Amalia Jihad. "ANALYSIS OF RISK COVERAGE AGREEMENT BETWEEN PT. J&T AND AN INSURANCE COMPANY FOR DELIVERY OF CONSUMER GOODS IN THE CONTEXT OF KAFALAH CONTRACT." *JURISTA: Jurnal Hukum Dan Keadilan* 5, no. 2 (October 1, 2021): 126-46. <https://doi.org/10.1234/JURISTA.V5I2.11>.
- Maghfirah, Nurul, Siti Zaviera, Daffa Alghazy, and Chairul Fahmi. "UNDERSTANDING INTELLECTUAL PROPERTY RIGHTS IN THE INDONESIAN TRADING BUSINESS." *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 2 (2023). <https://doi.org/10.22373/al-mudharabah.v4i2.3384>.
- Muhammad. "Jual Beli Kusen Ditinjau Menurut Hukum Islam Di Kecamatan Kuta Alam Banda Aceh," 2016, 1-23.
- Muly, Cut Azzahra, and Chairul Fahmi. "PRAKTIK JUAL BELI DESAIN GRAFIS MELALUI SISTEM HIRING DALAM PERSPEKTIF AKAD ISTISNA' PADA MARKETPLACE SRIBU.COM." *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 5, no. 1 (April 27, 2024): 57-75. <https://doi.org/10.22373/AL-MUDHARABAH.V5I1.4545>.
- Muskibah. "Analisis Mengenai Cara Penyelesaian Sengketa Konsumen." *Jurnal Inovatif Ilmu Hukum* 2, no. 4 (2020): 142-49.
- Nasution, Az. "Sekilas Hukum Perlindungan Konsumen." *Jurnal Hukum & Pembangunan* 16, no. 6 (2017). <https://doi.org/10.21143/jhp.vol16.no6.1231>.



- Sitepu, Rida Ista, and Hana Muhamad. "Efektifitas Badan Penyelesaian Sengketa Konsumen (Bpsk) Sebagai Lembaga Penyelesaian Sengketa Konsumen Di Indonesia." *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, no. 2 (2022): 7-14. <https://doi.org/10.52005/rechten.v3i2.35>.
- Sulis, Shen Hilda, and Husni Syawali. "Perlindungan Hukum Bagi Konsumen Akibat Terjadinya Wanprestasi Dalam Perjanjian Jual Beli Unit Apartemen Yang Dilakukan Oleh Pelaku Usaha." *Bandung Conference Series: Law Studies* 3, no. 1 (2023). <https://doi.org/10.29313/bcsls.v3i1.5021>.
- Susanto, Happy. "Hak-Hak Konsumen Jika Dirugikan." *Transmedia Pustaka* 3 (2008).
- Syarifuddin, Amir. "Garis-Garis Besar Fiqh. Jakarta." *Katalog Perpustakaan Badan PPSDMK Kemenkes RI*, 2003.
- Wahyuni, Sri, Chairul Fahmi, Riadhus Sholihin, and Laila Muhammad Rasyid. "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS." *JURISTA: Jurnal Hukum Dan Keadilan* 7, no. 1 (June 10, 2023): 1-23. <https://doi.org/10.1234/JURISTA.V7I1.42>.
- Wijaja, Gunawan, and Ahmad Yani. "Hukum Tentang Perlindungan Konsumen." *Jakarta: Gramedia Pustaka Utama*, 2001.
- Wiratna Sujarweni, V. "Metodologi Penelitian." *PT. Rineka Cipta, Cet.XII)an Praktek, (Jakarta : PT. Rineka Cipta, Cet.XII), 2014, 107.*