

OVERVIEW OF PT UTSMANIAH HANNIEN TOUR'S LEGAL LIABILITY FOR CONGREGANTS WHO ARE NOT DEPARTED

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ABSTRACT

The purpose of this study is to determine the issues that arise in the legal relationship that exists between PT. Utsmaniah Hanien Tour, a travel service firm, and its customers, as well as the manner in which PT. Ottoman Hanien Tour is responsible to its customers. This study is a normative piece of juridical and legal research that makes use of two different types of techniques, namely the legislative approach and the legal concept analysis approach. The author of this piece comes to the conclusion that according to Regulation Number 8 of 2018 Issued by the Minister of Religion of the Republic of Indonesia Concerning the Organization of Umrah Worship Trips, in the event that sanctions are suspended or revoked, the Umrah Worship Travel Organizer (PPIU) is obligated to return the Cost of Organizing the Umrah Worship (BPIU) to the congregation. This obligation is stated in the event that sanctions are suspended or revoke PT. The Ottoman Hannien Tour must be held liable for the loss of the Umrah pilgrims who were not dispatched on the tour..

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1. INTRODUCTION

Hajj is the fifth pillar of Islam that must be carried out by Muslims who meet the Istitha'ah criteria, including being physically and mentally capable (Setiyadi, 2020). For the Indonesian people, organizing the pilgrimage is a national task because in addition to the inner and outer welfare of the Hajj pilgrims, it also concerns the good name and dignity of the Indonesian nation abroad, especially in Saudi Arabia. requires good management to be orderly, safe, and smooth (Rochimi, 2010).

Umrah is defined as Umrah performed outside of the Hajj season under Article 9 of the 2018 Government Regulation Concerning the Implementation of the Hajj. According to Article 3 of the Minister of Religion Regulation of the Republic of Indonesia Number 8 of 2008 on the implementation of the Umrah pilgrimage, the purpose of organizing the Umrah Worship Trip is to provide guidance, service, and protection to the congregation so that the congregation can perform its worship in accordance with the provisions of the Shari'a. (Mukhlis, 2018). Public interest in performing Umrah is so high, data in 2015 according to the Central Statistics Agency (BPS) showed the number of Umrah pilgrims reached 154,455 (one hundred and fifty four thousand four hundred and fifty five) people or an average of 423 (four hundred fifty-five) people every day. twenty three) Umrah pilgrims departing for Saudi Arabia (BPS, 2015).

Umrah travel is increasingly mushrooming in Indonesia because of the large number of Umrah pilgrims from Indonesia who want to carry out the fifth pillar of Islam, which is taken advantage of by certain parties, so that from the many existing Umrah travel agencies, it is necessary to examine whether the Umrah travel agency is legal, meaning that it gets permission from the Ministry of Home Affairs. Indonesian religion or even illegal (Maggalatung, 2017). Don't let the public be fooled by tempting offers at low prices from the Umrah travel agency but at the time of implementation it doesn't even go away (Herman et al, 2019). Along with the large number of Umrah pilgrims, it is directly proportional to the large number of Umrah travel agencies resulting in competition between one Umrah travel agency and another, where each bureau has a certain strategy as an effort to divert people's attention to use the

services of the agency. such as promising with good facilities, low costs and accuracy of departure (Korayan & Djajaputra, 2018).

A contract is utilized by the Umrah service organizer bureau and its clients while arranging for potential pilgrims to go for the holy city of Makkah to perform the ritual of Umrah. In essence, an agreement is a promise made by one party to another, or between two parties, that one or both of them will do something (Amalia, 2018). An engagement is the relationship that develops between two people as a result of this action. When two persons form an agreement, it becomes public knowledge. Words, either spoken or written, containing commitments or powers constitute the agreement's form (Sari et al, 2015). Accordingly, the engagement is related to the agreement in that the agreement is the source of the engagement. Not only do other things lead up to the engagement, but the agreement itself does as well.

The potential Umrah pilgrims and the Umrah worship bureau enter into an agreement outlining the terms, rights, and obligations of each party prior to any engagement (Husni, 2018). The agreement made is binding on both parties, namely between the company or bureau of Umrah worship organizers as the first party with prospective Umrah pilgrims as the second party (Ariani, 2019). In order for the implementation of an agreement to run well, to determine whether the debtor has carried out the obligation to fulfill the contents of the agreement, the measure is based on compliance, this means that the debtor has carried out his obligations according to what is appropriate, harmonious, and appropriate according to the terms that they have mutually agreed upon in the agreement. (Nugroho & Hartono, 2021).

Thus the form of the agreement for the implementation of the departure between the bureau of the umrah travel organizer and prospective umrah pilgrims so that the various responsibilities of the organizing bureau can be known if there is a discrepancy between the agreement and its realization (Novirizdya & Suradi, 2016).

Based on the foregoing, the author raised this phenomenon in a study entitled Legal Liability of PT. ottoman hannien tour of the congregation who was not sent. The purpose of this study is to find out how the legal relationship that occurs between the travel service company PT. Utsmaniah Hanien Tour with consumers and how is the responsibility of the travel service company PT. Ottoman Hanien Tour to consumers. It is hoped that this research can be useful for the development of legal science which is more specialized in the basic responsibilities of Umrah travel service business actors to consumers and provide insight for writers, especially regarding the responsibilities of Umrah travel service business actors to consumers as a form of law enforcement in Indonesia, as well as research This aim is to provide input to the government and law enforcement officials in taking appropriate and efficient policy steps.

2. METHOD

The writers conduct normative legal research (Legal Research) to gather the data required for the production of the research by tracing or studying and analyzing library materials or ready-to-use document materials, such as laws and books and periodicals linked to the issue (Diantha, 2016). The research materials for developing normative law are library materials or secondary data, which may comprise primary, secondary, and tertiary legal materials. Law Number 8 of 1999 pertaining to consumer protection, Article 3 of the Minister of Religion of the Republic of Indonesia Regulation Number 8 of 2008 pertaining to the implementation of Umrah pilgrimages, Law of the Republic of Indonesia Number 13 of 2008 pertaining to the implementation of Hajj and Umrah and the Minister of Religion Regulation pertaining to the implementation of Hajj and Umrah, and the Civil Code (KUHPdt). In contrast, secondary data includes primary materials, such as binding legal documents, secondary materials that explain the original legal documents, and tertiary legal materials, such as legal dictionaries that provide instructions or explanations for primary and secondary legal documents.

3. RESULTS AND DISCUSSION

1. Legal protection for Umrah pilgrims

The existence of an agreement creates an engagement for both of them to carry out the rights and obligations of each party, where one party is obliged to carry out an achievement and the other party is entitled to the achievement. In the Civil Code Article 1234 there are 3 (three) kinds of achievements, namely giving something, doing something, and not doing something. said to be in default (Sinaga & Darwis, 2020). Default is a condition in which one of the parties violates an agreement that has been made or mutually agreed upon (Ramadhani, 2012). Default or non-fulfillment of promises can occur either because they are not able to fulfill these achievements or also because they are forced not to make these achievements (Dalimunthe, 2017). Default can be:

1. Totally does not meet the achievements
2. The performance is not perfect
3. Late for achievement
4. Doing what is prohibited in the agreement is forbidden to do.

If one of the parties is negligent in carrying out the agreed agreement, of course it has violated the provisions agreed upon by both parties, one of the parties can be said to be in default, therefore the organizers of the Special Hajj in completing are as follows:

1. Receiving complaints from the congregation
2. Resolve by way of deliberation to reach consensus or by means of peace
3. Compensation payment.

In Article 1320 of the Civil Code, it is stated that the terms of the agreement are in the form of subjective requirements and objective conditions. Subjective conditions are closely related to the creators. Subjective requirements in the form of:

a. Agreed

In order for the agreement to be valid, the parties must agree on everything contained in the agreement and give their consent or agreement if he really wants what was agreed.

b. Competent

1329 of the Civil Code states that everyone is capable of making agreements, unless according to the law it is declared incompetent. otherwise specified), those who are placed under custody, married women

c. Certain Things

Article 133 of the Civil Code stipulates that an agreement must have the subject matter (zaak) of which at least the type can be determined. An agreement must have a certain object and an agreement must be about a certain thing, meaning that what was agreed, namely the rights and obligations of both parties. The type of goods intended in the agreement can at least be determined.

d. Halal Causes (Article 1335 -1337 of the Civil Code)

The fourth condition for the validity of the agreement is the existence of a lawful legal cause. If the object in the agreement is illegal, or contrary to decency or public order, then the agreement is void. For example, an agreement to kill someone has an illegal object of intent, so this contract is invalid. In addition to issuing permits, the Ministry of Religion as the executor and person in charge of the implementation of Hajj and Umrah, there are several Travel services that provide Hajj and Umrah travel services that have received permission from the Ministry of Religion to become Hajj and Umrah implementers who comply with all applicable rules including RI Law no. 13 of 2008 concerning the implementation of Hajj and Umrah and the regulation of the Minister of Religion regarding the implementation of Hajj and Umrah, but in its implementation, not a few travelers who have obtained permission from the Ministry of Religion have done things that are contrary to the laws and regulations of the government. . Many bureaus for organizing Umrah even though they have permits, do not comply with the provisions stipulated in the laws and regulations governing the implementation of the Hajj and Umrah pilgrimages. This can result in losses for prospective pilgrims who use the service bureau.

2. Umrah Travel Services Company Responsibilities.

According to the Quarterly Point, accountability must have a foundation, namely things that give rise to a person's legal right to sue others and things that give rise to others' legal duty to provide accountability. The link between business actors and consumers produces a legal relationship that

establishes rights and responsibilities behind the issuing of a responsibility that can be stated in an agreement. In general, business actors can be held liable for customer losses caused by noncompliance with legal responsibilities. Regarding restrictions, choices of law, and conflict resolution methods selected by the parties, or in accordance with Indonesian law.

In this instance involving HS and PT. Ottoman Hannien Tour, it is evident that Hannien was unable to fulfill his pledge to dispatch HS. As a result of PT Ottoman Hannien Tour's losses. And with this incident, Hannien must be held accountable for his actions, as he has violated the rights of prospective pilgrims or consumers, namely the right of consumers to obtain clear and honest information about the conditions and guarantees of goods and/or services, as stated in Article 4 of the Consumer Protection Act.

Because the Hannien Tour in the cooperation agreement has given a definite date in the agreement but in fact Hannien Tour has suffered a loss that cannot send its congregation. According to President John F. Kennedy, there are four consumer rights that are protected, one of which is the right to be informed, which has a very fundamental meaning for consumers when viewed from the point of view of their interests and economic life. Every information regarding an item that he will buy or will bind himself must be given as completely as possible and with full honesty. Information both directly and in general through various communication media should be mutually agreed so as not to mislead consumers.

According to the researcher, in the settlement of this case, the consumer has the right to get advocacy, protection and efforts to resolve the dispute in a proper manner as stated in the Consumer Protection Act Article 4 letter e. In the case between PT. Hannien Tour with HS. HS wants to take a non-litigation settlement route because HS wants the money back. Before the HS asked for help from his attorney. The HS has asked for an answer to the Hannien Tour. And Hannien's party is willing to return HS's money by providing a letter of agreement for the return of Umrah funds signed by the Finance Director of PT. Ottoman Hannien Tour.

Then after the agreement letter was seen by HS's attorney, it turned out that the letter had anomalies including the letter being signed by the finance director, while according to the Company Law, the President Director has the authority to issue a letter and sign it. It turns out that this is a technique used by troubled travel to quell the common people. In this instance, HS as a customer has the right to receive responsibility because HS has satisfied PT. Hannien Tour's contractual requirements. And the Hannien tour should likewise adhere to the terms of the contract. From the perspective of the HS case, Hannien is responsible for compensating HS. In accordance with the principle of responsibility based on an element of fault (fault liability or liability based on fault), which applies in both criminal and civil law, but is in this case fairly safe. This idea holds that a person can only be held legally liable if they have committed some form of harm. Error refers to a component that is opposed to the law. The concept of "law" is not only contradictory to the law, but also to social decorum and decency.

Here the Hannien tour has fulfilled this principle because an error has occurred, namely by not being able to dispatch prospective pilgrims because the promos made have violated the law. As stated in Law No. 8 of 1999 concerning Consumer Protection in Article 19 which reads:

1. Business actors are accountable for compensating for damage, pollution, and/or customer losses resulting from the consumption of their goods or services.
2. The compensation referred to in paragraph (1) may take the form of a refund or replacement of products and/or services of the same type or value, or health care and/or the provision of compensation in line with the applicable laws and regulations.
3. The compensation is provided during a grace period of seven days following the transaction date.
4. The award of compensation as described in paragraphs (1) and (2) does not exclude criminal prosecution based on additional proof of the existence of an element of error.
5. The provisions of paragraphs (1) and (2) shall not apply if the business actor can demonstrate that the error was caused by the customer.

Regarding PT. Ottoman Hannien Tour with the HS working group. According to the author, Hannien Tour is already liable under Article 19 of the Consumer Protection Act, specifically by giving compensation in the form of the return of HS funds paid through one of Hannien Tour's agents.

Cases between PT. The Ottoman Hannien Tour and the HS Party were settled using the Non-Litigation method, i.e. dispute resolution outside of court, which according to the author when viewed from the consumer protection law was appropriate because in the consumer protection law it was permitted as stated in Article 47 which reads "Settlement Consumer disputes out of court are held to reach an agreement regarding the form and amount of compensation and/or redress." Then the HS and his attorney made an appointment with the top brass at the Hannien Tour to find a bright spot. At the meeting it was agreed that Hannien Tour still has assets in the form of houses and land which if sold the price is enough to replace HS's money. Finally, the house and land assets were made APHT (Deed of Granting Mortgage Rights). The granting of Mortgage is preceded by a promise to provide Mortgage as collateral for the repayment of the debt. The procedure for imposing mortgage rights begins with the stage of granting mortgages before the authorized PPAT and is proven by APHT. The case between Hannien Tour and HS has been completed at the Notary.

4. CONCLUSION

Consumer Security According to Consumer Protection Law Number 8 of 1999 concerning Consumer Protection of the Republic of Indonesia, consumer rights include the right to comfort, security, and safety in consuming goods and or services, the right to select goods and or services, and the right to acquire goods and or services. This is in accordance with the exchange rate and conditions, as well as the promised guarantee the right to be treated or served correctly, honestly, and without discrimination, the right to receive compensation, compensation, or a replacement if the service received is not in accordance with the agreement or is not performed properly, etc. This is done to ensure that consumers, as vulnerable stakeholders, have a voice against business actors. In addition, the UUPK has measures that require business actors to have responsibilities and be responsible for customer losses. Application of Article 41 paragraph 7 of the Minister of Religion of the Republic of Indonesia Regulation Number 8 of 2018 Regarding the Organization of Umrah Worship Trips, in the event that sanctions are suspended or revoked, the Umrah Worship Travel Organizer (PPIU) is required to return the Cost of Organizing the Umrah Worship (BPIU) to the congregation. PT. The Ottoman Hannien Tour is liable for the loss of Umrah pilgrims who were not dispatched on the tour. Umrah pilgrims as consumers must be more careful in choosing cheap Umrah travel agents so that problems do not occur and should look at references from the Ministry of Religion, in addition, pilgrims must avoid Umrah organizers who collect congregation funds early and the departure schedule is more than one year. This is to avoid the misuse of these funds within the specified waiting period, for that there is also a need for intensive socialization from the government regarding Umrah travel so that they are more careful in choosing travel agents that provide cheap Umrah travel costs to the public so that problems do not occur. which is not wanted. In addition, the application of Law No. 8 of 1999 concerning Consumer Protection in Article 19 Business actors are responsible for providing compensation for damage, pollution, and or consumer losses due to consuming goods and or services produced or traded.

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