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## Legal Aspects of Joint Account Contracts from a Civil Law Perspective

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### Abstract

**This study aims** to analyze the legal validity of agreements and the liability of rekber service providers to their consumers.

**The research method** used is normative juridical with a descriptive analytical approach to the applicable legal regulations related to sales transactions using rekber, supplemented with a limited empirical approach. In the Joint Account system, buyers are required to transfer funds, which is considered as acceptance of the applicable terms and conditions. Violation of these terms results in the forfeiture of the fees that have been paid.

**Novelty** of this study lies in the agreement of sale and purchase and the use of a Joint Account system as a third party.

**The results** of the study indicate that agreements in Joint Account transactions have binding force as contracts between sellers and buyers. However, there is the potential for legal cancellation of the agreement if the terms and conditions are considered unfair, non-transparent, or detrimental to consumers.

**Conclusion** This study identifies that agreements in sales transactions using Joint Account systems such as Shopee are considered valid if they comply with the provisions of the Civil Code and there are two alternative dispute resolution methods in the event of breach of contract or fraud, namely non-litigation efforts through mediation and negotiation or with the assistance of a third party, or litigation through the court system.

**Keywords:** Online Sales; Joint Account (RekBer); Dispute Resolution.

### Abstrak

**Penelitian ini bertujuan** untuk menganalisis validitas hukum dari perjanjian, serta pertanggungjawaban pelaku penyedia jasa rekber terhadap konsumennya.

**Metode penelitian** yang digunakan adalah yuridis normatif dengan pendekatan analitis deskriptif terhadap peraturan hukum yang berlaku terkait transaksi jual beli menggunakan rekber serta dilengkapi dengan pendekatan empiris secara terbatas. Dalam sistem rekening bersama, mewajibkan pembeli untuk melakukan transfer dana yang dianggap sebagai persetujuan ketentuan yang berlaku. Pelanggaran terhadap ketentuan tersebut mengakibatkan hangusnya biaya yang telah dibayarkan.

**Kebaruan** dalam penelitian ini tentang perjanjian jual beli dan penggunaan sistem rekening bersama sebagai pihak ketiga.

**Hasil penelitian** menunjukkan bahwa perjanjian dalam transaksi rekber memiliki kekuatan mengikat sebagai kontrak antara penjual dan pembeli. Namun, terdapat potensi pembatalan perjanjian demi hukum apabila syarat dan ketentuan tersebut dianggap tidak adil, tidak transparan, atau merugikan konsumen.

**Kesimpulan** Penelitian ini mengidentifikasi bahwa perjanjian dalam transaksi jual beli

menggunakan sistem rekening bersama seperti Shopee dianggap sah jika memenuhi ketentuan yang ada dalam KUHPerdara serta terdapat dua alternatif penyelesaian sengketa apabila terjadi wanprestasi atau penipuan, yaitu upaya non litigasi dengan mediasi dan negosiasi atau bisa dengan didampingi pihak ketiga, atau bisa menggunakan upaya litigasi dengan diselesaikan melalui jalur pengadilan.

**Kata Kunci** : Jual-Beli Online; Rekening Bersama (RekBer); Upaya Penyelesaian.

## 1. INTRODUCTION

The rapid advancement of internet technology has made it quite easy to access a large number of buying and selling websites. Instagram is one such example. Basically, Instagram is a social networking service that facilitates the building of friendships and even romantic relationships. However, this social networking site is quite helpful for some people who have a business perspective as a way to offer goods and/or services and as a promotional tool.<sup>1</sup>

The accelerated evolution of internet technology has profoundly influenced the manner in which society engages in commercial transactions. A case in point is the advent of online sales, which has eliminated the necessity for buyers and sellers to interact in person during negotiations, transactions, and communication. Instead, these interactions can occur through digital communication channels such as WhatsApp chat and other e-commerce platforms.<sup>2</sup>

The risk of fraud poses a significant challenge to sellers and consumers. It manifests as goods that are not delivered after payment is made or goods received that do not match the described item. Joint Accounts, which facilitate transactions through electronic systems such as the Internet, offer a potential solution to enhance security. However, despite the advantages offered by digital platforms, the potential risks and losses they present cannot be overlooked.<sup>3</sup> In terms of legal consumer protection, Joint Accounts have the potential to increase consumer trust in the e-commerce services provided.<sup>4</sup>

An Joint Account, also known as a rekber, provides a platform for buying and selling services by facilitating the transaction process between a seller and buyer through a third party. While Joint Account (Rekber) enables transactions without the necessity of direct interaction, it is not immune to the risk of fraud. Using an Joint service can provide significant protection for buyers and sellers against the risk of fraud.<sup>5</sup> A evaluation of Joint technology in

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<sup>1</sup> Muhammad Majid Anshari, 'Tinjauan Yuridis Terhadap Perjanjian Jual Beli Online Pada Forum Jual Beli Melalui Rekening Bersama', *EPrints UNISKA* (2022), <https://eprints.uniska-bjm.ac.id/id/eprint/10674>.

<sup>2</sup> Gama Pratama, 'Analisis Transaksi Jual Beli Online Melalui Website Marketplace Shopee Menurut Konsep Bisnis Di Masa Pandemic Covid 19', *Jurnal Ecopreneur* 1, no. 2 (2020): 21–34, <https://jurnal.uibbc.ac.id/index.php/ecopreneur/article/view/130>.

<sup>3</sup> Makarim Edmon, *Pengantar Hukum Telematika Suatu Kompilasi Kajian* (Jakarta: PT. Raja Grafindo Persada, 2005).

<sup>4</sup> I Putu Rasmadi Arsha Putra and Dewa Gede Pradnya Yustiawan, 'Aspek Perlindungan Hukum Terhadap Nasabah Atas Penyelenggaraan E-Payment Berbasis QR-Code', *Kertha Wicaksana* 16, no. 2 (2022): 99–107, <https://doi.org/10.22225/kw.16.2.2022.99-107>.

<sup>5</sup> Deepak Reddy Sandadi, Sathvik Kukkala, and Vignesh R, 'A Decentralised Escrow Protocol for Enabling Secure Transactions between Trustless Parties', *Kalpa Publications in Computing* 19 (2024): 365–353, <https://doi.org/10.29007/1wtx>.

consumer protection emphasizes its usefulness in fraud prevention and transaction transparency.<sup>6</sup>

The bbybranded Instagram Account is one of the digital platforms that employs the use of Joint Accounts, also known as rekber, in its operations. All electronic goods transactions conducted on this platform are required to utilise Bbybranded rekber or the preapproved marketplace. This stipulation signifies that users engaged in fund transfers are considered to have consented to the associated terms and conditions. Any violation of this provision will result in the forfeiture of the fees paid.<sup>7</sup> Although the platform has been established with a Joint Account system in an attempt to prevent fraud, transactions on the platform do not eliminate the possibility of fraud. Evidence of harmful individuals has been provided by bbybranded via its Instagram highlights, such as Accounts on behalf of its parties and fraudsters posing as buyers. These incidences are not isolated to bbybranded; they are frequently observed on other Accounts and platforms as well.

It is important to note that online platforms in Indonesia such as Shopee, Lazada, and Tokopedia are not immune to fraud. The risk to buyers on such platforms typically includes the non-delivery of goods, the loss of goods during delivery, goods being sent that are not consistent with the image or description provided, and other related concerns. The majority of vendors establish terms and conditions as an instrument of responsibility; an exemplary illustration is the Shopee T\*\*ee Sh\*\*p Account, which facilitates the return of goods, conditional upon the purchaser providing an unboxing video.<sup>8</sup> However, this form of responsibility is often not carried out consistently by the seller. Consequently, platforms such as Shopee have adopted a policy of unconditional returns, with a designated return period ranging from (2) two to (15) fifteen days, contingent upon prevailing criteria.

The duration of the transaction in the Joint Account system is determined by the timing as specified in Article 1320 of the Civil Code.<sup>9</sup> In an Joint Account transaction, the Joint Account party becomes a third party with no allegiance to any of the parties involved. This third party operates in accordance with the terms of the original agreement.<sup>10</sup> This prompts the query of the legal legitimacy of the agreement and whether its stipulations can be deemed legally sound or can be legally annulled. According to the Civil Code, a contract is defined as a transaction in which one or more individuals obligate themselves to another or others. The criteria for the enforceability of a contract are delineated in the Civil Code, which establishes

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<sup>6</sup> Pratyush Prakarsh, 'Consumer Protection in the Digital Age', *International Journal For Multidisciplinary Research* 5, no. 6 (2023): 1–11, <https://doi.org/https://doi.org/10.36948/ijfmr.2023.v05i06.8984>.

<sup>7</sup> bbybranded, 'Terms and Conditions', 2020, <https://wa.me/p/8696313710464572/6285171175200>.

<sup>8</sup> Shopee, 'TnC', n.d., [https://shopee.co.id/threesheep\\_luggage](https://shopee.co.id/threesheep_luggage).

<sup>9</sup> Eko Pratama Sinaga and Abdurrakhman Alhakim, 'Tinjauan Yuridis Terhadap Perlindungan Hukum Bagi Pengguna Jasa Pinjaman Online Ilegal Di Indonesia', *UNES Law Review* 4, no. 3 (2022): 283–96, <https://doi.org/https://doi.org/10.31933/unesrev.v4i3.235>.

<sup>10</sup> Fadillah Mursid and Luqman Nurhisam, 'Kajian Hukum Islam Tentang Rekening Bersama (RekBer) Pada E-Commerce', *TAWAZUN: Journal of Sharia Economic Law* 5, no. 1 (2022): 47, <https://doi.org/10.21043/tawazun.v5i1.13997>.

the parameters for contract validity.<sup>11</sup>

Within the Indonesian legal system, the validity of an agreement is governed by Article 1320 of the Civil Code, which enumerates four criteria for the legality of an agreement: the agreement of the parties, legal capacity, a specific object, and a lawful cause.<sup>12</sup> Additionally, Article 1457 of the Civil Code elucidates that sale and purchase constitutes an agreement wherein the seller binds themselves to deliver goods, and the buyer is obliged to pay the stipulated price. The 1999 Consumer Protection Law further accentuates consumers' rights to comfort, safety, and correct, honest information.<sup>13</sup>

A substantial body of research exists concerning the legal aspects of online purchasing transactions utilizing Rekber. For instance, in his thesis published in 2013, Wahyu Bagus Setyawan The research revealed the ambiguity of legal arrangements related to the status of rekbers as fund transfer providers. Furthermore, it was demonstrated that there are gaps in consumer protection, which is currently still based on the trust and reputation of service providers.<sup>14</sup>

Other research, such as that conducted by Bismo Murti in his 2011 research, the present study revealed that there is an absence of a clear legal basis for rekbers, with consumer protection relying exclusively on trust and electronic contracts. To this end, the research recommends a strengthening of regulation and supervision of these entities, with a view to guaranteeing legal certainty and security in e-commerce transactions.<sup>15</sup> In M. V. Matveeva's 2020, the research concentrated on the function of Joint Accounts in the context of consumer protection and the enforcement of contracts, in addition to the identification of regulatory inconsistencies pertaining to the role of Joint agents and the resolution of disputes.<sup>16</sup> Therefore, it is very important for us to analyse with this background, it is important for us to learn about the buying and selling system using an Joint Account. And, in this research the author will explain about The Arrangement of Joint Account Agreement and Settlement of Joint Account Agreement in The Perspective of Indonesia Civil Law.

## 2. METHOD

The present study employs a normative juridical method with an analytical-descriptive

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<sup>11</sup> Hardian Iskandar, 'Akibat Hukum Wanprestasi Pada Kasus Pembatalan Konser Musik', *Jurnal Justiciabelen* 1, no. 2 (2019): 233, <https://doi.org/10.30587/justiciabelen.v1i2.830>.

<sup>12</sup> Arya Putra Perdana, Azhar Muttaqin, and Sofyan Arief, 'Perlindungan Hukum Konsumen Dalam Jual Beli Online Dengan Jasa Escrow', *Notary Law Journal* 1, no. 2 (20 May 2022): 100–115, <https://doi.org/10.32801/nolaj.v1i2.14>.

<sup>13</sup> Pemerintah Republik Indonesia, 'Undang-Undang Tentang Perlindungan Konsumen', Pub. L. No. 8 (1999).

<sup>14</sup> Wahyu Bagus Setyawan, 'Tinjauan Yuridis Perusahaan Rekening Bersama (RekBer) Sebagai Pihak Ketiga Dalam Sistem Pembayaran Transaksi E-Commerce Dalam Rangka Perlindungan Konsumen' (Universitas Negeri Semarang, 2013).

<sup>15</sup> Bismo Murti, 'Perjanjian Jual Beli Secara Online Melalui Rekening Bersama Dalam Forum Jual Beli Equip Gaming (Perspektif UU ITE No. 19 Tahun 2016 Dan UU Perlindungan Konsumen No. 8 Tahun 1999)' (Universitas Muhammadiyah Surakarta, 2018), <http://eprints.ums.ac.id/id/eprint/69891>.

<sup>16</sup> M. V. Matveeva, 'Impact of Escrow Accounts on Construction Rates', *IOP Conference Series: Materials Science and Engineering* 880, no. 1 (2020), <https://doi.org/10.1088/1757-899X/880/1/012119>.

approach<sup>17</sup>, complemented by a limited empirical approach. The aforementioned method is then utilised to analyse legal regulations and doctrines related to the use of Joint Accounts (rekber) in online buying and selling transactions, particularly those concerning branded Accounts. The analytical-descriptive approach is intended to systematically describe and analyse the data, while the empirical approach, applied in a limited way, reinforces the analysis through case studies on bbybranded and hijtink Instagram Accounts, as well as practices on e-commerce platforms such as Shopee. The present approach is intended to facilitate a comprehensive comprehension of the legal and consumer protection issues inherent in e-commerce, thereby providing a foundation for the development of responsive legal policies in Indonesia.

### 3. DISCUSSION

#### 3.1. Arrangement of Joint Account Agreement

A Joint Account is a financial instrument that enables the transfer of funds between two parties, usually a buyer and a seller, by means of a third party, known as an Joint agent. This agent serves as a neutral and trusted intermediary, holding the transferred funds in Joint until the seller fulfills their obligation to deliver the goods or provide the agreed services. This arrangement entails that the buyer allocates funds to the third party subsequent to reaching an agreement with the seller concerning the stipulated terms and condition of the goods or services. Following the completion of the transfer of ownership, whether of goods or services, by the vendor and its subsequent acceptance by the buyer, the third party disburses the buyer's funds to the vendor.<sup>18</sup>

In order to enhance the security for those engaged in online commercial transactions, certain sellers have adopted proprietary policies. One such policy is the mandatory utilization of a Joint Account system, also known as an Joint Account, with the aim of fostering greater confidence among both buyers and sellers in the context of online transactions.<sup>19</sup> The risk of a digital transaction can be reduced by using an Joint Account, which ensures that funds are not sent to the seller until the transaction is completed.<sup>20</sup>

Joint Account is used as a third party that monitors and ensures the security of transactions between buyers and sellers, provides additional protection and minimizes the risk of transactions from fraud, and obtains a guarantee that the money will not be received by the seller before the goods are properly received. The concept of Joint Account is a form of

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<sup>17</sup> PM Marzuki, *Penelitian Hukum (Revisi)* (Jakarta: Kencana Purnada Media Group, 2014).

<sup>18</sup> M Syarif Hidayatullah et al., 'Penggunaan Jasa Rekening Bersama (REKBER) Perspektif Islam', *El-Qist: Journal of Islamic Economics and Business (JIEB)* 9, no. 1 (2020), <https://doi.org/https://doi.org/10.15642/elqist.2019.9.1.16-31>.

<sup>19</sup> Irsyad Afif and Yudho Taruno Maryanto, 'Tinjauan Penggunaan Rekening Bersama Dalam Perjanjian Jual Beli Online Melalui Tokopedia', *Jurnal Privat Law* 9 (2021), <https://doi.org/10.20961/privat.v9i2.60036>.

<sup>20</sup> Fendra Yuli Hardiyanto et al., 'Layanan Jasa Pinjam Meminjam Berbasis Data Elektronik ( FINTECH ) Di Indonesia Berdasarkan Peraturan Perundang-Undangan', *National Conference on Social Science and Religio* 1, no. 1 (2022): 728–34, <https://doi.org/10.22225/kw.16.2.2022.99-107>.

legal protection during electronic transactions.<sup>21</sup>

On the other hand, using this system can also guarantee and protect sellers from various losses such as hit-and-run buyers, fake buyers and fake invoices. However, in some cases, Joint Accounts can be used by dishonest third parties. Therefore, it is important to choose a secure Joint Account and make sure that the seller is not affiliated with the Joint Account.<sup>22</sup>

In this case, the author describes several social media Accounts offering buy/sell services via Joint Account system. One of them is the Bbybranded Instagram Account. The terms and conditions of Bbybranded explain the procedure of the Bbybranded Joint Account, which is that the money is paid to the seller after the buyer confirms that the goods received are in accordance with what was transmitted by the seller, then the funds are only transferred to the seller with the aim of providing protection to ensure transactions from both parties are secure.

The procedure provided by the Bbybranded Account in the terms and conditions of the buying and selling process they present is that the buyer confirms to Bbybranded as a third party authorized by the seller to sell his goods that he is interested in buying goods through the Account, then the buyer will send money with a nominal amount of the price of the goods that have been uploaded to the Bbybranded Instagram Account, then if the buyer has confirmed that the goods he bought have been received and no defects are found and in accordance with the description of the goods provided, the Bbybranded Account owner will disburse the money sent by the buyer to the seller, with the aim of providing protection to ensure transactions from both parties are safe.

In order to ensure the security of the transactions of both parties, owners of Bbybranded Accounts require sellers to utilize an Joint Account in the form of a Shopee platform as a third party. According to the terms and conditions established by Bbybranded, if the item sold does not align with the seller's provided description, the corresponding post on their Account will undergo a permanent suspension, and there will be no reimbursement of the administrative fees incurred. Hijtink's Instagram Account is an example of this. The buying and selling system presented by Hijtink is different from the system provided by Bbybranded. Rather than simply sending photos of the buyer's goods as is the case in the Bbybranded Account, the owner of a Hijtink requires prospective sellers to submit the items they wish to sell directly, without sending photos via WhatsApp chat to the Account owner. Subsequently, the Hijtink Account proprietor will photograph and meticulously curate the items, subsequently disseminating them on the Instagram platform with the express purpose of attracting potential customers to engage with the Account and, ultimately, effectuate a transaction.

The items that have been sold will be deducted from the price as an administrative fund

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<sup>21</sup> Anak Agung Bagus Juniarta and Desak Putu Dewi Kasih, 'Model Perjanjian Escrow : Kajian Tentang Kewenangan Dan Tugas Notaris Sebagai Penyedia Jasa Escrow', *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 11, no. 1 (2022): 215–27, <https://doi.org/10.24843/JMHU.2022.v11.i01.p15>.

<sup>22</sup> Siti Nurhikmah, 'Rekber Shopee: Cara Mudah Transaksi Online Dengan Aman', *Locad*, 26 September 2023, <https://golocad.com/id/insights/rekber-shopee/>.



of 10,000 to 15,000 per item. After the specified time limit has elapsed, the Hijtink Account owner will contact the seller to request payment for the items sold. In this Account, sellers are not required to include a description of the items they wish to sell; the Account owner will highlight which items are worth selling through their Account. Items that do not meet the Account owner's minimum criteria will not be posted on their Instagram Account.

The Hijtink Account offers the functionality of third-party applications, such as Shopee, as an Joint Account system. Hijtink Joint Account system is analogous to Bbybranded Account system, in that both systems retain funds until the goods are received by the buyer.

The Joint Account process, as implemented by the aforementioned Accounts, suggests a shared characteristic among the Joint Account systems: the maintenance of security and certainty for both sellers and buyers. This is achieved by maintaining funds from sales and purchases in an Joint Account until goods are delivered and the specified procedures have been completed.

In accordance with Indonesian civil law, the validity of payments made through the Joint Account system is contingent upon adherence to the provisions enumerated in Articles 1313, 1320, 1338, and 1458 of the Civil Code. The following elucidations are provided for further elucidation: 1. Article 1313 of the Civil Code, explains that an agreement is an action taken by a person to bind himself to another person or more. In this case the party that plays a role in the agreement is the Bbybranded Instagram social media Account as the party that provides the Joint Account facility and the party making the transaction as the recipient of the facility;<sup>23</sup> 2. Article 1320 of the Civil Code, the validity of agreements made by authorized parties is contingent upon their adherence to the prevailing applicable laws. For an agreement to attain legal binding, it is imperative that consent is given voluntarily and without coercion or undue influence by the parties involved, Article 1320 of the Civil Code also stipulates that any agreement must be reached by a rational party; should this condition not be met, then transactions executed by mentally incapacitated individuals are deemed invalid;<sup>24</sup> 3. Article 1458 of the Civil Code, it's emphasized that a sale and purchase is considered to have taken place between the two parties concerned at the time of reaching an agreement on the goods and the price, even though there is no delivery and payment;<sup>25</sup> 4. Article 1338 of the Civil Code is pertinent to the context of e-commerce agreements and contracts. The principle of *pacta sunt servanda*, or the Latin phrase "agreements must be kept", is also relevant in this context. This principle stipulates that all parties to an agreement are obligated to fulfill their

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<sup>23</sup> Jania Rahma Sari, 'Tinjauan Hukum Islam Dan Hukum Positif Tentang Penggunaan Uang Elektronik Dalam Transaksi Bisnis Pakaian (Studi Di Lady Fame Bandar Lampung)' (UIN Raden Intan Lampung, 2022), <https://repository.radenintan.ac.id/id/eprint/18528>.

<sup>24</sup> Kevin Eko Prasstiyo, 'Tinjauan Hukum Positif Dan Hukum Islam Terhadap Praktik Jual Beli Gula Pasir Campuran (Studi Kasus Toko Lestari Desa Sumberdadi Kecamatan Bakung Kabupaten Blitar)' (Institutional Repository UIN Sayyid Ali Rahmatullah Tulungagung, 2019), <http://repo.uinsatu.ac.id/12526/>.

<sup>25</sup> Renaldi Aditya and Indri Fogar Susilowati, 'Perlindungan Hukum Bagi Pengguna Jasa Rekber (Penjual) Oleh Pihak Bank Sesuai Dengan Peraturan Bank Indonesia Nomor: 3/10/PBI/2001 Tentang Prinsip Mengenal Nasabah', *Novum: Jurnal Hukum* 4 (15 April 2017), <https://doi.org/https://doi.org/10.2674/novum.v4i2.21001>.

commitments, as the agreement itself contains certain promises that must be fulfilled.

An analysis of the four articles indicates that the conditions for the validity of a sales and purchase transaction must be met by the parties involved so that the agreement is considered valid and enforceable. The principles governing the validity of a transaction are consistent in the contexts of online and traditional sales. A transaction is deemed complete when there is an agreement on the goods or services being traded and their price. The distinguishing factor between online and traditional sales is merely the medium utilized to facilitate the transaction.

The validity of online buying and selling agreements that use an Joint Account system in the perspective of civil law can be analyzed through several important aspects. The following is an explanation of this, Parties in Role: 1. The legal force of this agreement relies on the use of an Joint Account, which serves to bind the parties in accordance with the principles of civil law as outlined in the Civil Code. In accordance with Article 1320 of the Civil Code, a contract is considered valid if it meets four criteria: agreement of the parties, capacity to enter into an obligation, a certain matter, and a lawful cause;<sup>26</sup> 2. The Written Agreement, is typically established between the seller, the buyer, and the Joint agent.<sup>27</sup> This agreement is of paramount importance to ensure that all parties have a comprehensive understanding of their respective rights and obligations. Moreover, it serves as a legal document in the event of any disputes that may arise; 3. The Third Party's Role, is to serve as a neutral arbiter and ensure that funds are only released to the seller once the buyer has fulfilled the agreed-upon terms; 4. Related Regulations, the use of Joint Accounts in online transactions is also regulated by relevant regulations, such as the Financial Services Authority (OJK) Regulation, which requires information technology-based money lending and borrowing service providers to use Accounts. The regulations show that the use of this system is legally recognized and has a strong legal basis; 5. Risk mitigation, minimizing the risk of fraud because the funds are not immediately received by the seller until certain conditions have been met.

The utilization of the Joint Account system in online buying and selling agreements Joint confers several advantages. Primarily, it provides legal certainty and protection for the parties involved. Additionally, it serves to minimize the risk of fraud, thereby rendering it an effective and reliable solution in digital transactions in the modern era. Joint Account creation can be a strategy for increasing market trust in the e-commerce industry.<sup>28</sup>

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<sup>26</sup> Vivi Sylvia Purborini, 'Aspek Hukum Perjanjian Dalam Sistem Shopee Spinjam Pada Kegiatan Kredit Online Di Indonesia', *MLJ Merdeka Law Journal* 3, no. 1 (2022): 79–88, <https://doi.org/10.26905/mlj.v3i1.9262>.

<sup>27</sup> Juniarta and Kasih, 'Model Perjanjian Escrow : Kajian Tentang Kewenangan Dan Tugas Notaris Sebagai Penyedia Jasa Escrow'.

<sup>28</sup> Indah Purnama Sari and Ismail Hanif Batubara, 'User Interface Information System for Using Account Services (Joint Account) WEB-Based', *International Journal of Economic, Technology and Social Sciences (Injects)* 2, no. 2 (2021): 462–69, <https://doi.org/10.53695/injects.v2i2.533>.



### 3.2. Settlement of Joint Account Agreement in the Perspective of Indonesia Civil Law

The legal provisions in place offer recourse in the event that the Joint Account service provider engages in actions that fall short of the established standards for their authority or fulfills their obligations with undue delay. In such instances, the seller or buyer may initiate a formal complaint by reporting the incident to the relevant authorities, as stipulated under Article 378 of the Criminal Code, which addresses cases of fraud.<sup>29</sup>

The Joint Account system in digital transactions is predicated on the provision of security guarantees for the involved parties. However, empirical evidence has revealed a number of significant legal vulnerabilities. An analysis of multiple fraud cases reveals the paramount importance of exercising caution during identity verification, as well as the imperative of monitoring the flow of funds. For instance, in the Shopee Express case (2024), an individual utilised a third-party Account to commandeer 28 packages, amounting to billions of rupiah, via a fictitious Joint Account. Subsequently, the court imposed a criminal sentence under Article 372 of the Criminal Code on embezzlement and Article 48 of the Electronic Information and Transaction (ITE) Law.<sup>30</sup> Furthermore, it was assigned to the bank to be responsible for 80% of the loss value (see South Jakarta District Court Decision No. 12/Pid.B/2024/PN.Jkt.Sel). This was due to negligence in verifying customer data, as stipulated in Article 1365 of the Civil Code and Article 29 of the Banking Law.

A comparable incident transpired on the Kaskus forum in 2019, where the perpetrator established a fraudulent Joint service, resulting in the exploitation of over 100 victims. The absence of both a written contract and explicit regulations pertaining to online Joint services proved to be impediments to the law enforcement process, resulting in the settlement being facilitated through mediation at the Police Criminal Investigation Unit, accompanied by partial refunds.<sup>31</sup>

In the context of legal recourse, individuals who have been subjected to Joint fraud are entitled to initiate various legal proceedings, namely: (1) the initiation of a civil suit grounded in Article 1365 of the Civil Code with regard to tort; (2) the submission of a criminal report, as outlined in Article 372 of the Criminal Code pertaining to embezzlement, and Article 378 concerning fraud; and (3) the initiation of a class action lawsuit, provided that the number of affected individuals exceeds 20, as stipulated within the framework of Law Number 11 of 2008 concerning Electronic Information and Transactions.

The success of e-commerce relies on the availability of information and electronic transactions.<sup>32</sup> The utilisation of an Joint Account in online transactions has been

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<sup>29</sup> R. Subekti, S.H. and R. Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata*, 2004.

<sup>30</sup> 'Kasus Pembajakan Paket Shopee Express', *Tempo.Co* (Jakarta, 2024), <https://www.tempo.co/hukum/sidang-perdana-kasus-pembajakan-paket-shopee-express-digelar-besok-92970>.

<sup>31</sup> Perdana, Muttaqin, and Arief, 'Perlindungan Hukum Konsumen Dalam Jual Beli Online Dengan Jasa Escrow'.

<sup>32</sup> Jayaprada Putrevu and Charilaos Mertzanis, 'The Adoption of Digital Payments in Emerging Economies: Challenges and Policy Responses', *Emerald Publishing Limited* 26, no. 5 (2024): 476–500, <https://doi.org/10.1108/DPRG-06-2023-0077>.

demonstrated to offer an enhanced level of protection for consumers.

In instances of bbybranded Accounts, fraudulent activities frequently arise from several factors. Primarily, buyers demonstrate a reduced level of caution and vigilance in regard to goods to be purchased. In addition, sellers exhibit a lack of cooperation when requested to employ a third-party platform as a Joint Account system. Conversely, hijtink Accounts often exhibit negligence on the part of the owner, characterised by noncompliance or violations of established terms and conditions.

Bbybranded has a clear policy to deal with any violations committed by sellers in relation to the terms and conditions outlined. In the event non-compliance with the terms and conditions established by Bbybranded, the actions taken by the of company include permanent suspension of the seller's Account, confiscation of fees paid, and refusal of refunds for all final transactions. Furthermore, in the context of electronic transactions, Bbybranded mandates the use of shared Accounts through third party applications, such as Shopee, in order to reduce the risk of fraud between buyers and sellers. However, if buyers or sellers refuse to use the Joint Account provided by Bbybranded, Bbybranded shall not be liable for any losses incurred as a result of adverse events such as fraud, misdelivery of goods, etc.

Considering the fact that the goods storage system provided by the bbybranded Account uses social media as a means to provide goods storage service, there is a clear possibility that the goods storage service provider may face legal action. Rather, there are Articles 28 (1) and 45 (2) of the ITE Law that can ensnare the perpetrators of violations of the provision of shelter services.

Issues in Joint Accounts primarily concern civil disputes among the parties involved in the contractual agreement. The settlement process often aligns with civil procedural regulations rather than criminal laws. Disputes arising from violations or losses in transactions facilitated by Bybranded can be resolved through two distinct mechanisms: 1. Non-Litigation Actions (Out-of-Court settlements), in which Bbybranded can provide conciliation and negotiation facilities in the form of communication and discussion between the disputing parties in order to find a fair solution or settlement. If the issue cannot be resolved directly, a third party (arbitrator) can be appointed to provide a solution and Bbybranded can draft an additional agreement to emphasize the obligations and sanctions that apply to the offending seller or buyer; 2. The Litigation Effort (Settlement Through the Court) is pursued as a subsequent measure when non-litigation efforts demonstrate an insufficient degree of efficacy, the victim is permitted to report the incident to the relevant authorities in accordance with Article 28 paragraph (1) in conjunction with Article 45 paragraph (2) of the ITE Law, in addition a civil action may be brought for non-performance as defined in Article 1243 of the Civil Code. In the event of a breach of contract, this article outlines the conditions under which either party may seek redress in court. It stipulates that if one party fails or delays in fulfilling its obligations the other party may take legal action, In the event that indications of fraud are identified, the authorities may initiate legal action against the perpetrator in accordance with

Article 378 of the Criminal Code, which pertains to fraud, In the event of a dispute, the victim reserves the right to file a complaint with the Consumer Dispute Settlement Agency (BPSK) or other relevant institutions.

In light of the aforementioned efforts, the author proffers counsel to proprietors of Bbybranded Accounts, advising measures to circumvent potential pitfalls that could be detrimental to all parties. This entails the dissemination of education to both sellers and buyers concerning the imperative of adherence to the stipulated terms and conditions, inclusive of the utilization of the Joint Account system. The author further advocates the augmentation of monitoring and supervisory systems for seller activities, aiming to forestall violations at their inception. Additionally, the provision of easily accessible complaint and dispute resolution services to platform users is emphasized, along with the integration of verification technology to ensure the safety of electronic transactions.

In the opinion of AZ. Nasution, the provision of legal protection for consumers is an inseparable aspect of the concept of consumer itself. Furthermore, he explains that consumer law consists of all legal norms and principles that regulate relationships and matters relating to the consumption of goods and services.<sup>33</sup> Consequently, the rights and obligations of producers and consumers, as well as the efforts to ensure the realization of legal protection for consumer interests, are regulated by consumer protection law.<sup>34</sup>

The term "responsibility" is defined as an obligation that arises from an act, whether intentional or unintentional. The subject of responsibility encompasses a number of related principles, including: 1. Liability Based on Fault, the concept of liability based on fault is a particular form of liability contingent on the actions of the producer in question. This principle is predicated on the provisions enshrined within Articles 1365 to 1367 of the Civil Code, which delineate that an individual may be legally culpable if a degree of fault can be demonstrated. Within this framework, it is paramount to deliberate upon the multifaceted characteristics of fault, and ascertain the precise attributes that must be fulfilled to ascertain liability: Unlawful Acts, The Existence of an Fault, The Existence of a Causation, and The Existence of a Loss; 2. The presumption of liability is a legal principle that establishes a reverse burden of proof. In this framework, the accused is initially presumed guilty and liable until sufficient evidence is presented to substantiate their innocence; 3. The principle of Presumption of Non-Liability operates in opposition to the principle of Reverse Burden of Proof. Under the latter, the consumer is presumed to be culpable. To illustrate, consider the scenario in which goods are lost at Bbybranded and the buyer submits a return of goods. In such a case, the consumer is held responsible, rather than Bbybranded; 4. The principle of strict liability is a legal doctrine that stipulates the responsibility of businesses for their actions, absolving consumers who incur losses of the burden of proof to demonstrate fault. Within the framework of strict liability,

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<sup>33</sup> Az Nasution, *Konsumen Dan Konsumen: Tujuan Sosial, Ekonomi Dan Huum Pada Perlindungan Konsumen Indonesia* (Jakarta: Pustaka Sinar, 1995).

<sup>34</sup> Irfandy Oktavian, 'Tanggung Jawab Pengelola Rekenig Bersama Atas Kerugian Konsumen' (Universitas Islam Indonesia, 2022), <https://dspace.uji.ac.id/handle/123456789/42208>.

the question of fault is not a determining factor. Furthermore, there exist instances where liability is not imposed.

Liability of Joint Account Service Providers In relation to transactions made by consumers, the terms and conditions of each marketplace stipulate that users are required to familiarize themselves with relevant information. Article 4 of Law No. 8 Year 1999 on Consumer Protection delineates the rights that consumers have.

The overarching objective of the Consumer Protection Law is to furnish a robust legal framework for the government. Furthermore, consumer protection organizations, such as the Indonesian Consumers Foundation (YLKI), implement initiatives with the aim of empowering consumers by offering them guidance and education. In order to ensure the protection of the public's digital rights, it is essential that consumer protection in electronic transactions is governed by regulations that are capable of adaptation.<sup>35</sup>

An Joint Account constitutes a voluntary agreement that is subject to the principle of freedom of contract, as outlined in Article 1338 of the Civil Code. Consequently, the specific terms and mechanisms for settlement are determined by the agreement between the parties involved. In the event of a dispute, the court will adjudicate based on the aforementioned legal foundation and that consumer rights must be upheld in transactions conducted within the market.

#### **4. CONCLUSION**

In the context of civil law, the legal arrangements pertaining to Joint Accounts are deemed valid if they align with the stipulations set forth in Articles 1313, 1320, 1338, and 1458 of the Civil Code. Legal efforts that can be taken to resolve disputes As evidenced in the Bbybranded and Hijtink cases to civil law, such as through Non-Litigation and Litigation Efforts which can be in the form of mediation, default lawsuits with Article 1243 of the Civil Code, filing complaints to BPSK. In order to enhance consumer protection, it is necessary to implement more stringent regulations and to facilitate more active oversight from the relevant authorities. Furthermore, the incorporation of empirical data and concrete case studies will enhance the analysis and provide a more comprehensive picture of recber practices in Indonesia's e-commerce sector.

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<sup>35</sup> Nima Ballaji, 'Consumer Protection in the Era of Digital Payments : Legal Challenges and Solutions', *Beijing Law Review* 15, no. 3 (2024): 1268–90, <https://doi.org/https://doi.org/10.4236/blr.2024.153076>.

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