

CHAPTER ONE

INTRODUCTION

A. Background of Research

Currently the Indonesian people are experiencing a change which is planned to have a very broad impact both in the economic and social fields.¹ In order to increase national development that focuses on the economic sector, funds are needed to support this development. One of the ways to obtain a source of funds, the community gets it from the facilitation of bank credit and credit provided by non-banking financial institutions.

Consumer financing is a financing model carried out by financial companies in the form of providing financial assistance for the purchase of certain products. Funds assistance is defined as providing credit that is not giving cash in cash for the purchase of an item and the customer will only receive the item, "consumer financing is a sale credit because consumers do not receive cash but only receive goods purchased from the credit".²

The construction of the consumer finance company uses an agreement with the principle of freedom of contract as a legal basis. So the parties involved must be careful in concluding the agreement. According to Muhammad Chidir, in consumer financing transactions, there are three parties involved, namely: (a) the consumer finance company (financing funder or creditor), (b) the consumer (the

¹ Soerjono Soekanto, 2008, *Pengantar Penelitian Hukum*, Jakarta, UI-Press.

² Munir Fuady, 2002, *Hukum Tentang Pembiayaan Konsumen*, Bandung, PT. Citra Aditya Bakti.

recipient of the financing or debtor) and (c) the supplier (seller or supplier of goods).³

One of the most dominant cases in the Special Region of Yogyakarta, namely, problematic motor vehicle loans or leasing (leasing) become a consumer dispute problem with business actors. There are about 50% of public complaints regarding consumer financing issues received by the Yogyakarta Dispute Resolution Agency (BPKS). The problem of financing that often occurs is because consumers sometimes do not carefully read the agreed letter of agreement.⁴

In this case, the public's understanding of dispute resolution outside the court is only in the form of mediation through the Financial Services Authority (OJK). In fact, there are other models applied by the Financial Services Authority in resolving consumer financing disputes. The model that is meant to resolve this dispute is the facilitation model.

The existence of this facilitation model has been implemented since the Financial Services Authority Regulation No.01 / POJK.07 / 2013. This facilitation model is still not widely known by the disputing parties and the community. If this facilitation model is used to resolve the accident, it will certainly benefit the disputing parties and the community.⁵

³ Muhammad Chidir, 1993, *Pengertian-Pengertian Elementer Hukum Perjanjian Perdata*, Bandung, Mandar Maju.

⁴ Ahmad Syarifudin, 2018, *Sengketa Konsumen Dengan Leasing Jadi Persoalan Dominan di Yogyakarta*, <https://jogja.tribunnews.com/2018/12/04/sengketa-konsumen-dengan-leasing-jadi-persoalan-dominan-di-yogyakarta>, (accessed on 4 December 2020, at 18.11 pm).

⁵ Dewi Nurul Musjtari, Ani Yunita, Khaeruddin Hamsin, "Efektifitas Penyelesaian Sengketa Perbankan Syariah Melalui Mekanisme Fasilitasi Oleh Otoritas Jasa Keuangan (OJK)", *Masalah-Masalah Hukum*, Vol 49 No 1 (2020).

To resolve disputes between the disputing parties, the Financial Services Authority also organizes dispute resolution with the facilitation model stipulated in the Financial Services Authority Regulation No.31 / POJK.07 / 2020 concerning the Implementation of Consumer and Community Services in the Financial Services Sector by OJK as stated in Article 1 paragraph 11.

The facilitation that has been carried out by the Financial Services Authority has been going well, but in its implementation it still requires evaluation. In reality, the resolution of consumer financing disputes at the Financial Services Authority based on the perspective of some consumers is deemed not going well. Based on these reasons, it is necessary to explore the reasons for the ineffective settlement of consumer financing disputes through the Financial Services Authority.

Research conducted related to dispute resolution by previous researchers was about dispute resolution by Luthfi Asshiddieqy with the title "Legal Review of Consumer Protection in Consumer Financing Agreements After the Establishment of the Financial Services Authority (OJK)", with the aim of research "to find out the forms of actions or actions of consumer finance companies that are categorized as detrimental to consumers, and factors that are obligations of consumer finance companies to consumers". Another study, conducted by Dewi Nurul Musjtari, Ani Yunita, Khaeruddin Hamsin with the title "Effectiveness of Sharia Banking Dispute Resolution Through a Facilitation Mechanism by the Financial Services Authority (OJK)", with the aim of the study "to find out several models of sharia banking dispute resolution through the OJK and to find out

effectiveness of the implementation of sharia banking dispute resolution through OJK”.

The difference between the research conducted by the author and the research conducted by Dewi Nurul Musjtari, Ani Yunita, Khaeruddin Hamsin, is that the findings of the researchers written in this thesis are to find out the facilitation mechanism carried out by the Financial Services Authority for the settlement of consumer financing disputes and to find out what obstacles are in the implementation of facilitation. settlement of consumer financing disputes by the Financial Services Authority.

From this background, the authors are interested in conducting research on The Using of Facilitation Conducted by Financial Services Authority in Resolution of Consumer Disputes in the Special Region of Yogyakarta.

B. Statement of Problem

Considering the background above, the author formulated two questions, namely:

1. How is the facilitation mechanism carried out by the Financial Services Authority (OJK) to resolve consumer financing disputes in the Special Region of Yogyakarta?
2. What are the obstacles in the implementation of facilitation for the settlement of consumer financing disputes in the financial services sector by the Financial Services Authority (OJK) Special Region of Yogyakarta?

C. Objective of Research

Based on the above problems:

1. To find out how the mechanism for facilitation the settlement of consumer financing disputes in the financial services sector by the Financial Services Authority Special Region of Yogyakarta

2. To find out what are the obstacles faced in the implementation of the facilitation of dispute resolution in the financial services sector by the Financial Services Authority Special Region of Yogyakarta.

D. Benefit of Research

There are some benefits of this research, namely:

1. Theoretically

This study will provide deeper knowledge about the implementation of the use of facilitation in resolving consumer financing disputes in the Special Region of Yogyakarta. This study will open our views on the importance of using facilitation in resolving consumer financing disputes in the Special Region of Yogyakarta.

2. Practically

This research will provide a better understanding of the use of facilitation in resolving consumer financing disputes in finding justice for the community.