COMPARISON STUDY BETWEEN SIMPLE LAWSUITS IN SMALL CLAIM COURT AND USUAL CLAIMS

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Abstract
Settlement of disputes through the courts is not the right choice if the loss is small because what is demanded is not worth what is incurred. Then the Supreme Court issued Perma Number 2 of 2015, amended by Perma 4 of 2019, concerning simple lawsuits. The birth of the Perma has the consequence of a settlement through an ordinary civil lawsuit and a simple lawsuit. Based on this, the authors examine the differences and similarities in settling ordinary civil lawsuits with simple lawsuits and the constraints of both. This research uses a normative-empirical legal method with a descriptive research type with a statutory approach. The data used are primary and secondary data, consisting of primary legal materials, secondary, and tertiary, then data analysis was carried out qualitatively and comparatively. The study results show that: First, the equation of a simple lawsuit and an ordinary lawsuit is to accommodate the classification of lawsuits against the law and default, applying the actor sequitur forum rei principle, there are verses legal remedies, and others. While the difference between a simple lawsuit and an ordinary lawsuit is that in a simple lawsuit, there are various restrictions, such as the value of a material claim is a maximum of IDR 500,000,000.00 and is not resolved through a special court or dispute over land rights, only one party each, the Principal must be present in person at every trial, in ordinary civil lawsuits there are no such restrictions, and so on. Second, there are obstacles to resolving ordinary civil lawsuits, such as a long time, no restrictions on cases that can be appealed, and various obstacles hamper the implementation of decisions. While the obstacles to resolving a simple lawsuit are that the Principal must attend in person at every trial, filing an objection by the Plaintiff nullifies the Defendant's right to file verzet and implement a decision that has not been specifically regulated.

Keywords: Comparative Study, Ordinary Civil Lawsuit, Simple Lawsuit

A. Introduction
Humans, in their daily lives, face disputes or disputes regarding the fulfillment of rights and obligations between parties that cannot be resolved between them. The way to overcome them is to ask for a settlement through the Court as an authorized and impartial agency. All types of civil disputes are resolved in the same way as stipulated in the applicable laws and regulations. 1Regarding the settlement of civil disputes in Court, there is an adage that has developed in society "If you sue for a goat, you will lose a buffalo," 2meaning that civil dispute resolution with a judicial mechanism is not the right choice for parties to a dispute with a small claim for damages, because what demanded is not worth the cost, time and effort spent.

1 Anita Afriana & Chandrawulan, “Menakar Penyelesaian Gugatan Sederhana Di Indonesia”, Jurnal Bina Mulia Hukum, Fakultas Hukum Universitas Padjadjaran, Vol. 4, No. 1, 2019, hlm. 53..
Disputes in civil cases with a small claim for damages require a settlement process in a fast and simple way while still accommodating all the rights of the parties and culminating in obtaining a judge's decision that has permanent legal force. Responding to this problem, in 2015 the Supreme Court (hereinafter referred to as the Supreme Court) issued Perma Number 2 of 2015 concerning Procedures for Settlement of Simple Claims (hereinafter referred to as Perma GS 2015) which was then amended by Perma Number 4 of 2019 (hereinafter referred to as Perma GS 2019) which is a new idea in simplifying the process of settling civil cases.

The presence of a simple lawsuit mechanism has the consequence that there are differences and similarities between simple lawsuit settlement and the ordinary lawsuit settlement process along with the constraints. So it is necessary to analyze related norms and theories in order to be able to provide a detailed picture of the differences and similarities between simple lawsuit settlements and ordinary lawsuit settlement processes.

Based on the description above, the writer will examine and discuss the background of the problem in a thesis entitled Comparative Study Between Small Claim Court and Ordinary Lawsuits. This research uses a normative-empirical legal method with a descriptive research type with a statutory approach. The data used are primary and secondary data, consisting of primary legal materials, secondary, and tertiary, then data analysis was carried out qualitatively and comparatively. This study aims to understand and analyze the similarities and differences between simple civil lawsuits and their constraints.

B. Discussion

1. Similarities and Differences Between Ordinary Civil Lawsuits and Simple Lawsuits

   Similarities and differences between ordinary civil lawsuits and simple lawsuits is studied and analyzed from several aspects such as classification, claims for damages, the legal standing of the parties, the composition of judges, settlement period, stages of examination at trial, and legal remedies.

   a. Classification and Claims in Ordinary Civil Lawsuits and Simple Claims

   The concept of the case includes 2 (two) conditions, namely, there is a dispute and there is no dispute. There is a dispute means there is a subject of dispute or there is a dispute. The task of the Court to try the parties to the dispute is included in jurisdiction contentious. No dispute means nothing is disputed or nothing is disputed. The party concerned does not ask for a court decision but asks for a decision from the Court regarding the status of a right so that they can obtain legal certainty that must be respected and recognized by everyone. Court duties like this are included in the jurisdiction voluntarily.³

   Table 1. Comparison of Claim Classification and Value

<table>
<thead>
<tr>
<th>Claim Classification and Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary Lawsuit</td>
</tr>
<tr>
<td>1. Accommodate the classification of unlawful acts (PMH) and defaults;</td>
</tr>
<tr>
<td>2. Claims for damages accommodate material and immaterial losses, besides that there is no limit to the value of claims;</td>
</tr>
</tbody>
</table>

to the classification of the lawsuit filed, both ordinary lawsuits and simple lawsuits accommodate the classification of lawsuits against the law (PMH) based on the provisions of Article 1365 of the Civil Code and default based on the provisions of Article 1238 of the Civil Code, in simple lawsuits this matter is regulated in the provisions of Article 3 paragraph (1) Perma GS 2019, which determines: "A simple lawsuit is filed against a case of breach of contract and/or an act against the law with a maximum material claim value of Rp. 500,000,000.00 ".

2) Difference

a) Limitation of Claim Value

In a simple lawsuit, the maximum material claim value is IDR 500,000,000.00, while in an ordinary lawsuit, there is no limit on the value of the lawsuit being filed, meaning that no matter how big the value of the lawsuit filed is allowed. In addition to limiting the value of claims in simple lawsuits, it is also determined that not included in simple lawsuits are cases whose disputes are resolved through a special court regulated in law, or or disputes over land rights.

b) Claims for Damages

The next difference is that in a simple lawsuit, material claims can only be filed, immaterial claims cannot be filed, whereas in ordinary lawsuits, value can claim both material and immaterial claims. The impossibility of filing an immaterial claim in a simple lawsuit can be seen from the history of discussions on the formation of the 2015 GS Perma by the Working Group. In the draft Perma GS 2015 prepared by the Working Group in the provisions of Article 1 point 2 of the draft Perma it states "a simple lawsuit is a civil lawsuit with a principal claim value not exceeding Rp. 100,000,000.00 with the parties and the types of disputes regulated in this regulation. The formulation above is different from Article 1 point 1 Perma GS 2015 which was ratified, both in terms of the value of the lawsuit and the editorial. Article 1 number 1 Perma GS 2015 states "Simple Claim Settlement is a procedure for examining in court a civil lawsuit with a maximum material claim value of Rp. 200,000,000.00 which is resolved by simple procedures and proof".

Whereas apart from the nominal value, the other difference is that the phrase "principal claim value" has changed to "material claim value". The two phrases have different meanings, the main claim is generally interpreted as a primary claim in the petitum of a lawsuit, while a material claim is a claim for a loss in the amount of money. This means that the principal claim contains the value of material and immaterial losses, while material claims do not include immaterial claims. Thus it can be interpreted that in a simple lawsuit that can be sued only regarding the value of material losses.

b. Position of the Parties in Ordinary Civil Lawsuits and Simple Claims

In all civil disputes, it must be related to the place of residence / domicile of the parties. Civil procedural law is known as the actor sequitor forum rei principle, which emphasizes filing a lawsuit in the Court where the Defendant resides. 4Residence/domicile is a place where a person resides or is domiciled and is bound by legal rights and obligations. Domicile/place of residence is the place where a person lives or is domiciled and where he has legal rights and obligations. Residence is always located in a certain area/region or it can be an office or house located in a certain area/region. If a human's residence is called a residence, then the residence of a legal entity is called a domicile, then Article 17 of the Civil Code states "everyone is deemed to have a residence called a house as his place of residence".

<table>
<thead>
<tr>
<th>Table 2. Comparison of the Legal Position of the Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Position of the Parties</strong></td>
</tr>
<tr>
<td>Ordinary Lawsuit</td>
</tr>
</tbody>
</table>

4 Ibid, hlm 93.
1. no limit on the number of parties.
2. A lawsuit can be filed even if the Defendant’s place of residence is unknown.
3. There is no obligation for the Plaintiff and the Defendant to be domiciled in the same court jurisdiction;
4. The Plaintiff and the Defendant do not have to attend each trial in person if they have appointed a lawyer who is present at the trial to represent them;

| 1. | There may not be more than one Plaintiff and Defendant, unless they have the same legal interest. |
| 2. | Against a defendant whose residence is unknown, a simple lawsuit cannot be filed. |
| 3. | The Plaintiff and the Defendant are domiciled in the jurisdiction of the same Court. |
| 4. | In the event that the Plaintiff is outside the jurisdiction where the Defendant resides or is domicile, the Plaintiff in filing a lawsuit appoints a power of attorney, incidental power of attorney, or representative having an address at the jurisdiction or domicile of the Defendant with a letter of assignment from the Plaintiff's institution. |
| 5. | The Plaintiff and the Defendant are required to attend each trial in person with or without being accompanied by a power of attorney, incidental power of attorney or representative with a letter of assignment from the Plaintiff's institution. |

1) **Equation**

   a) **Application of the Actor Sequitur Forum Rei Principle**

   The jurisdiction of each District Court only covers the Municipality or Regency area, where he is located and domiciled outside of that has no authority. Both ordinary lawsuits and simple lawsuits in submitting lawsuits to Court apply the principle of *actor sequitur forum rei*, meaning that the district court where the Defendant resides is authorized to adjudicate a case. Provisions for implementing the *actor sequitur forum rei* principle in ordinary civil lawsuits it refers to the provisions of Article 118 paragraph (1) HIR and in simple lawsuits it can be seen from the provisions of Article 4 paragraph (3) and paragraph (3a) of Perma GS 2019.

   b) **The Right to Be Accompanied by a Legal Counsel**

   In the civil procedural law for ordinary lawsuits the parties (principals) have the right to be assisted or represented/accompanied by legal counsel regulated in Article 123 paragraph (1) HIR which. The same goes for simple lawsuits the parties have the right to be accompanied by their attorneys at trial as stipulated in Article 4 paragraph (4) of Perma GS 2019. Provisions that parties have the right to be accompanied by attorneys in accordance with Aristotle's *communitatif theory of justice* which gives equal amounts to everyone without discriminating between their achievements, in this case both parties are given the same rights without discrimination.

2) **Difference**

   a) **Number of Parties**

   In an ordinary lawsuit there is no limit to the number of parties in a case, this refers to the provisions of Article 118 paragraph (2) HIR which allows more than one Defendant. In a simple lawsuit, the Plaintiff and the Defendant may not be more than one each unless they have the same legal interest. Apart from that, in civil procedural law (HIR/RBG) there is no terminology for co-defendant, but judicial practice recognizes and accepts the terminology for co-defendant. On the other hand, in a simple lawsuit, there is no party that can be positioned as co-defendant. This can be seen in the provisions of Article 4 paragraph (1) of Perma GS 2019.
b) Defendant whose residence is unknown

In a civil lawsuit, if the whereabouts of the Defendant are unknown or the address of the Defendant is unknown, the lawsuit is filed with the district court where the Plaintiff lives (Article 118 paragraph (3) HIR). Article 390 paragraph (3) HIR anticipates this situation in the form of a public summons by the Mayor or Regent. The law cannot eliminate a person's civil right to sue another person just because his place of residence is unknown. In a simple lawsuit, the provisions of Article 4 paragraph (2) of the Perma GS 2019 require that a simple lawsuit cannot be filed against a defendant whose residence is unknown.

c) Domicile of the Parties

In civil procedural law the relative competence of the Court is regulated in Article 118 HIR/142 Rbg, there are no restrictions regarding the domicile/residence of the parties must be in the same jurisdiction. Against a party outside the jurisdiction of the Court where the lawsuit was filed, summons is conveyed through a summons by delegation (Article 5 Rv), by asking for assistance from the Court where the residence of the party outside the jurisdiction is to be summoned. While in a simple lawsuit Article 4 paragraph (3) and paragraph (3a) of the Perma GS 2019 stipulates that the Plaintiff and the Defendant must be domiciled in the jurisdiction of the same Court, the Plaintiff is allowed to be outside the jurisdiction of the residence or domicile of the Defendant by appointing an attorney with an address in the area the law or domicile of the Defendant. This can overcome the problem of delegation calling which requires a relatively longer time, so that the summons is delivered through the place of the attorney.

d) Principal's Presence at Court

In civil procedural law for ordinary lawsuits, the parties (principals) have the right to be assisted or represented by their attorneys as stipulated in Article 123 paragraph (1) HIR, in contrast to the arrangements for simple lawsuits. It is determined that the Parties are required to be present in person at the hearing either with or without being accompanied by their attorneys (Article 4 paragraph (4) Perma GS 2019). So if the party (Principal) has appointed a lawyer for the case simple lawsuit, the Principal must still be present at every hearing. The position of attorney is not "representing" but only "accompanying" the Principal in Court. Arrangements that limit the position of attorneys to accompanying principals in Court are not in line with the theory of utility/utilitarianism, law should provide the greatest possible benefit to many people, with such restrictions making plaintiffs who already have legal power must still be present in person at trial is certainly burdensome especially if the Plaintiff resides outside the Defendant's domicile (different island or province), the Plaintiff will incur a lot of costs in addition to the costs of attorney services and must also pay for court accommodation.

c. Composition of Judges in Ordinary Civil Lawsuits and Simple Claims

The provisions of Article 11 of Law Number 48 of 2009 concerning Judicial Power stipulates that at least three judges will settle cases by the Court, unless otherwise provided for by law. Whereas in a simple lawsuit based on the provisions of Article 1 point 3 Perma GS 2015 that the Judge is a Single Judge.

Table 3. Comparison of the Composition of Judges

<table>
<thead>
<tr>
<th>Order of Judges</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ordinary Lawsuit</strong></td>
<td>Simple Lawsuit / Small Claim Court</td>
</tr>
<tr>
<td>In the form of a panel of at least three judges,</td>
<td>In the form of a panel consisting of a minimum of</td>
</tr>
<tr>
<td>unless the law determines otherwise.</td>
<td>three judges unless otherwise stipulated by law</td>
</tr>
</tbody>
</table>

1) Equation

Equality, that is, both are tried by Judges at the District Court as general judicial bodies which are under the Supreme Court of the Republic of Indonesia.
2) **Difference**

In an ordinary lawsuit, it is resolved by a panel of judges consisting of 3 (three) judges, while in a simple lawsuit implementing a Single Judge system. Simple claims cases are examined and decided on two levels by the same district court. At the first level, cases are examined and decided by a single judge. Meanwhile, at the legal effort level, objections are examined and decided by a panel of judges. This provision regarding the composition of judges applies to all cases, of course in harmony with Aristotle's theory of *commutative justice* and Hans Kelsen's Theory of Justice, which applies the law equally to everyone without discriminating. A general rule is "fair" if it is actually applied, while a general rule is "unfair" if it is applied to one case and not applied to other similar cases.

d. **Completion Period**

In ordinary lawsuits, HIR and Rbg do not limit the timeframe for settling cases, while the process for settling simple claims cases is limited to a maximum of 25 working days from the day of the first trial.

<table>
<thead>
<tr>
<th>Completion Period</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ordinary Lawsuit</strong></td>
</tr>
<tr>
<td>HIR and Rbg do not limit the timeframe for settling ordinary lawsuits. The time limit is regulated by SEMA Number 2 of 2014, namely settlement at the Court of first instance no later than 5 months. However, in essence, the 5-month limit is not certain and there is no limit to the settlement of cases.</td>
</tr>
<tr>
<td><strong>Simple Lawsuit / Small Claim Court</strong></td>
</tr>
<tr>
<td>no later than 25 (twenty five) working days from the day of the first hearing.</td>
</tr>
</tbody>
</table>

1) **Equation**

Similarities between Ordinary Claims and Simple Claims, namely that both are regulated regarding the time frame for settling cases.

2) **Difference**

The time period for settling simple lawsuits is limited to a maximum of 25 working days from the day of the first trial, not only that, the process for settling simple lawsuits ends only at the level of the District Court. While HIR and Rbg do not limit the timeframe for settlement of ordinary lawsuits, the time limit is regulated in SEMA Number 2 of 2014, namely settlement of cases at the Court of first instance, namely no later than 5 (five) months and at the High Court no later than 3 months. However, in essence the 5 (five) month limit is not certain due to the nature and circumstances of the settlement of the case. If it exceeds this time, the Panel of Judges will report to the Chairperson of the District Court with copies addressed to the Chairperson of the High Court and the Chief Justice of the Supreme Court. This means that in certain circumstances the settlement of ordinary lawsuits becomes limitless. Moreover, if there is a legal effort, the settlement of the case will take longer. The time limit for settlement of simple lawsuits is no longer than 25 working days, of course in accordance with the theory of utility/ *utilitarianism* which aims to provide the maximum benefit and happiness to as many people as possible. It is hoped that the faster the settlement of cases will accelerate the achievement of legal certainty and also justice besides that it is in accordance with the principle

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of a fast, simple and low-cost trial. These restrictions also provide legal certainty to litigants when the case process will end.

e. Stages of Examination in Trials Between Ordinary Civil Lawsuits and Small Claim Courts

The stages of ordinary civil lawsuit trials and simple lawsuits have similarities and differences, the hallmark of the stages of trials in simple lawsuits is that there is a preliminary examination. After the lawsuit is registered, the appointed judge conducts a preliminary examination whether the lawsuit is included in the category of simple lawsuit or not. If the judge is of the opinion that it does not include a simple lawsuit, the judge issues a stipulation that the lawsuit is not a simple lawsuit 11 and no legal remedies can be taken against this stipulation. If the judge considers the lawsuit to be a simple lawsuit, the first day of trial will be determined. 12 In the examination of a simple lawsuit, the parties are required to be present in person at each trial with or without being accompanied by a lawyer. Whereas the Perma GS stipulates strictly that it cannot file charges for provisions, exceptions, conventions, interventions, replicas, duplications, and conclusions so that the case settlement process becomes faster. 13

Table 5. Comparison of Trial Stages

<table>
<thead>
<tr>
<th>Trial Stages</th>
<th>Ordinary Lawsuit</th>
<th>Simple Lawsuit / Small Claim Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Stages of the trial:</td>
<td>a. Mediation in Court (failed);</td>
<td>a. Preliminary examination;</td>
</tr>
<tr>
<td></td>
<td>b. Lawsuit;</td>
<td>b. Determination of trial day;</td>
</tr>
<tr>
<td></td>
<td>c. Answer;</td>
<td>c. Lawsuit;</td>
</tr>
<tr>
<td></td>
<td>d. Replica;</td>
<td>d. Answer;</td>
</tr>
<tr>
<td></td>
<td>e. Duplicate;</td>
<td>e. Proof of the parties;</td>
</tr>
<tr>
<td></td>
<td>f. Proof of the parties;</td>
<td>f. decision;</td>
</tr>
<tr>
<td></td>
<td>g. Conclusion of the parties;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>h. Decision;</td>
<td></td>
</tr>
<tr>
<td>2. Allowance for exceptions and provisional demands;</td>
<td></td>
<td>2. Exceptions and demands for provisions are not allowed;</td>
</tr>
<tr>
<td>3. It allows for replicas, duplications, and conclusions;</td>
<td></td>
<td>3. Replica, duplication and conclusion are not allowed;</td>
</tr>
<tr>
<td>4. Reconventions and interventions are allowed;</td>
<td></td>
<td>4. Reconvention and intervention are not allowed;</td>
</tr>
</tbody>
</table>

1) Equation

The similarity is that a settlement is sought, in an ordinary civil lawsuit the Judge is obliged to seek peace based on Article 130 HIR/154 RbG 14, while in a simple lawsuit the provisions are regulated in Article 15 paragraph (1) Perma GS 2015. It's just that in an ordinary lawsuit it is mandatory for the mediation process in Court, while a simple lawsuit is excluded from the mediation process in Court. Then another similarity is that there is a lawsuit trial agenda, the Defendant's response, evidence and reading of the verdict. That efforts to make peace are in accordance with the theory of utility utilitarianism which is the best way to solve problems is by making peace with peace the parties can take a win-win solution but a judicial settlement will be resolved in a win-lose solution . In addition, if there is peace, the peace agreement can

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also be supported by a decision of the peace deed/vandading deed which has the same strength as the inrah decision, thus it is also in accordance with the theory of legal certainty.

2) **Difference**

1) **Mediation in Court**

In ordinary civil lawsuit examinations, the parties are required to mediate in Court, whereas based on Article 4 paragraph (2) of Perma 1 of 2016 and Article 5 paragraph (1) of Perma GS 2015 simple claims are exempted from the obligation to mediate in Court, which is quite reasonable, considering the settlement period for a simple lawsuit is only 25 working days.\(^{15}\)

2) **Provision and Exception Claims**

Provisional claims are allowed in ordinary civil lawsuits referring to the provisions of Article 53 to Article 57 Rv and Article 332 and Article 351 Rv. The provisional decision is carried out by the Chief Justice of the District Court (Article 195 HIR/Article 206 Rbg), while in the trial of simple lawsuits Article 17 GS 2015 prohibits provision. While in ordinary civil lawsuits the right of the Defendant to file an exception is regulated in the provisions of Article 125 paragraph (2) HIR Jo Article 133 HIR, Article 136 HIR and Article 114 Rv. Meanwhile, in the settlement of a simple lawsuit, the provisions of Article 17 of the GS 2015 Perma prohibit exceptions.

3) **Reconvention and Intervention**

The definition of counterclaim is a counterclaim filed by the Defendant against the Plaintiff which was filed simultaneously with the filing of an answer. Regarding counterclaims in the ordinary lawsuit procedural law (HIR) is regulated in the provisions of Article 132 a paragraph (1) HIR, while in the simple lawsuit examination procedures the provisions of Article 17 Perma GS 2015 prohibit any counterclaims. Because if there is still a counterclaim, the proof will no longer be easy because the initial lawsuit and counterclaim are processed simultaneously in one trial.\(^{16}\)

4) **Replica, Duplicate and Conclusion**

The ordinary lawsuit procedure law regulates and accommodates jinawab responsibility in the form of replicas and duplications and conclusions, whereas in simple lawsuit examination procedures it is expressly not permitted to submit replicas, duplications and conclusions.\(^{17}\) This arrangement aims to speed up the settlement of cases, and is quite reasonable because the Perma GS has prohibited conventions and interventions so that it does not require too long jinawab answers.

### f. Legal Remedies Against Ordinary Civil Lawsuits and Simple Lawsuits

Legal remedies consist of ordinary legal remedies and extraordinary legal remedies. Ordinary legal remedies are legal remedies proposed by the parties as long as the case has not yet become final and binding, while extraordinary legal remedies are legal remedies that can be used by the parties after the decision has permanent legal force.

<table>
<thead>
<tr>
<th>Legal effort</th>
<th>Ordinary Lawsuit</th>
<th>Simple Lawsuit / Small Claim Court</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Legal remedies in procedural law for ordinary civil lawsuits, namely: a. Ordinary remedies: - Verzet; - Appeal;</td>
<td>Legal remedies in procedural law for Small Claim Court, namely: - Verzet; - Object;</td>
</tr>
</tbody>
</table>

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\(^{15}\)Muhammad Noor, “Penyelesaian Gugatan Sederhana Di Pengadilan (Small Claim Court) Berdasarkan Perma Nomor 2 Tahun 2015”, Jurnal Pemikiran Hukum dan Hukum Islam, Fakultas Hukum IAIN Kudus, Vol. 11, No. 1, 2020, hlm. 61


1) **Equation**

The similarity is that there are legal remedies, meaning that the decision handed down at the first level is not final and binding. Another similarity is the existence of legal remedies against verstek decisions. But not entirely the same, the difference is related to the grace period, in ordinary civil lawsuits, the grace period is 14 days from the date of notification of the verstek decision to the Defendant (Article 129 HIR/153 Rbg), while the time limit for filing a verzet in a simple lawsuit is 7 days from the notification of the verdict (Article 13 paragraph (3a) Perma GS 2019). The provision that a decision is open to legal remedies is in line with Aristotle's theory of corrective justice which relates to correcting mistakes, with legal remedies making decisions at first instance corrected again if something goes wrong will be corrected by a higher authority.

2) **Difference**

There are only ordinary legal remedies in simple lawsuits and there are no extraordinary legal remedies as in ordinary civil lawsuits. The usual legal remedies in ordinary lawsuits are verzet, appeal and cassation. Legal remedies for simple lawsuits are verzet and objections. Settlement of simple lawsuits limits legal efforts to the first level only.

2. **Obstacles in Settlement of Ordinary Civil Lawsuits and Simple Claims After the Issuance of Perma Number 4 of 2019 Concerning Amendments to Supreme Court Regulation Number 2 of 2015**

a. **Obstacles in Settlement of Ordinary Civil Lawsuit Cases**

Settlement of civil lawsuits encounters obstacles or obstacles in implementation and implementation, as follows:

1) **Settlement of Cases Takes a Long Time**

Civil procedural law for ordinary civil lawsuits (HIR and Rbg) does not regulate and limit the time for completion of a case. This makes the settlement of cases by the Supreme Court and the judicial bodies under it to be long and take years. Overcoming this, the Supreme Court has implemented electronic-based case management which makes settlement of cases faster and more measurable in each Court. Apart from that, the Supreme Court regulates that the handling of appeals and reconsiderations must be completed no later than 250 days, starting from receiving the files until they are sent to the Court of appeals. The Supreme Court also issued SEMA Number 2 of 2014, which regulates the settlement of court cases of first instance no later than 5 months. Settlement of cases at the Court of Appeal no later than 3 months. However, if the nature and circumstances of a particular case are resolved beyond the stipulated time, the panel of judges will make a report to the head of the respective Court, a copy of which is sent to the head of the Supreme Court. This means that in certain circumstances the settlement of ordinary civil lawsuits has no limits.

2) **No There are limitations on cases that can be cassated**

At present, civil procedural law does not have a classification of cases based on quality, such as ordinary cases and petty cases, causing everyone to be able to appeal, which in the end results in ineffective and efficient settlement of cases and causes a buildup of cassation cases at the Supreme Court. It is necessary to regulate the classification of cases whether a case is classified as a small or ordinary case, a small case is based on a certain claim value limit but the small case is not included in a simple lawsuit. To determine whether a case is classified as

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a minor or ordinary case is based on: Claim value, Determination of the lower limit, for example IDR 500,000,000.00 (five hundred million) and below is categorized as a small claim.

If there is a classification of cases regulated regarding legal remedies, for ordinary cases legal remedies are open in the form of appeal and cassation, but for small cases the usual legal remedies are only in the form of appeal and closed for cassation. Restrictions aim to create an effective and efficient justice system so as to shorten the process of settling cases and reduce the number of cases in the Supreme Court.

3) Execution of Decisions/Execution Impeded by Various Obstacles

The implementation of the execution in practice found problems both juridically and non-juridically. Juridical problems include, among other things, statutory regulations that are unclear or conflict with each other, there is resistance by third parties (derden verzet), there is resistance from the litigants (party verzet), there is a judge's decision that is declarator or constitutive execution cannot be carried out because what can be executed is the judge's decision whose decision is punitive (condemnatoir).

b. Obstacles in Settlement of Simple Claims After the Issuance of Perma Number 4 of 2019 Concerning Amendment to Supreme Court Regulation Number 2 of 2015

Since the enactment of the simple lawsuit settlement mechanism in Indonesia, there have been obstacles or obstacles in its implementation, as follows:

1) The Principal is obliged to attend in person at every trial with or without being accompanied by a lawyer

In a simple lawsuit, the Plaintiff and the Defendant must attend each trial in person with or without being accompanied by a lawyer (Article 4 paragraph (4) Perma GS 2015). Based on the results of interviews with the Judges of the Blambangan Umpu District Court who have experience in handling simple tort cases, that this provision has legal consequences when the plaintiff or defendant (principal) has legal power of attorney, the Principal must still be present in person at every trial, meaning the position of power of attorney the law does not "represent" the Principal but "accompanies" the Principal in Court. This is very detrimental to the parties, apart from issuing material for advocate services, it turns out that they still have to take the time to be present in person at each trial, especially if the Plaintiff is in a different jurisdiction (different island/province) with the Defendant, of course the Plaintiff incurs huge costs. not a few to be able to attend the trial.19

The purpose of Perma GS 2015 is to require the Principal to be present in person at every trial because a simple lawsuit is exempt from the obligation to mediate in Court. It is hoped that the presence of the Principal at the trial can achieve peace because to determine whether to make peace or not, the Principal is the decision maker.

Whereas the stipulation that the Principal must be present at every trial even though he already has legal power has a detrimental effect. Then there are 2 (two) better options as follows:

a) If the obligation of the Plaintiff and the Defendant to be present at the trial in person is only at the first trial then the judge seeks peace, and if peace is not reached then at the next session the Principal is not required to be present in person but can be represented by his attorney.

b) In every trial the Principal is not required to attend in person if his presence has been represented by his attorney.

If the obligation of the Plaintiff and the Defendant to be present at the trial in person is only at the first session, then peace is not reached, then at the next session the Principal does not have to be present in person but can be represented by his attorney, the aim is to simplify the

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process according to the principle of simple, fast, low cost. Or the Principal is not required to be present in person if his presence has been represented by his attorney because if the Principal's presence directly at the trial aims to reconcile the parties to the dispute, then essentially peace can also be achieved outside the trial, if peace is reached then the peace agreement can be made into a deed decision reconciliation/deed of van dading as stipulated in Perma GS 2015 Article 15 paragraphs (3) and (5).

2) Submission of Objections by the Plaintiff, Aborts the Defendant's Rights to File Verzet

In a simple lawsuit, when the Defendant is handed a verstek decision, the Defendant can file a verzet (Article 13 paragraph (3a) of Perma GS 2019). Meanwhile, the Plaintiff's legal action is not a verzet but an objection (Article 21 of Perma GS 2015). What if the verstek decision grants part of the lawsuit, not only does the Defendant feel aggrieved by the verstek decision but the Plaintiff also feels aggrieved because the lawsuit was not granted in its entirety, then the Plaintiff files an objection, then what about the Defendant's verzet rights? Do objections and verzet checks go hand in hand? Of course it is impossible to avoid decisions that conflict with one another. Such matters have not yet been regulated in the Perma GS, because the simple tort procedural law has not regulated such matters, so the provisions in the civil procedural law on HIR/RBG apply as the main rules for civil procedural law, and other procedural law legislation.

In the procedural law for ordinary lawsuits, if a verstek decision is issued, the Defendant has the right to verzet (129 paragraph (1) HIR or Article 83 Rv). The Defendant's legal remedy for the verstek decision is verzet, not an appeal. The provisions of Article 8 paragraph (1) of Law Number 20 of 1947 provide for the Defendant's legal remedy in the form of an appeal. If the Defendant files an appeal, the Defendant cannot file a verzet. The Plaintiff's appeal against the verstek decision aborted the Defendant's right to file verzet, what about the simple lawsuit procedural law, will the objection law remedy filed by the Plaintiff also invalidate the Defendant's right to file verzet?

If the legal action against a first instance decision in an ordinary lawsuit is an appeal, then in simple lawsuit procedure law the legal remedy against a decision is an objection. Appeal is the right of the parties to take legal action if they do not accept the decision of the Court of first instance. Meanwhile, an objection is a legal remedy for a party that does not accept the judge's decision in a simple lawsuit. Objection is an analogy with an appeal because an objection is the same as an appeal, both of which have in common that is the legal effort makes the decision of the first degree re-examined and the one who examines and decides is the judex facti (the Court that examines the facts). Procedurally, both appeals and objections have in common, that is, case examinations are basically carried out on documents decided at the first level and the Panel of Judges who examines the appeal or objection is a judge who is more senior than the judge who made the previous decision. From the description above, it can be concluded that in the procedural law for an ordinary lawsuit, if the Plaintiff files an appeal, the Defendant's right to file verzet is closed, as well as in the procedural law for a simple lawsuit, if the Plaintiff files an objection, the Defendant's right to file verzet is closed because it is impossible for verzet and objections to proceed simultaneously, because the result is that decisions conflict with each other and will disrupt legal certainty.

Attempts to appeal the examination were carried out against the documents that were decided at the first level. If the High Court deems it necessary, it has the power to summon the parties to hear their reasons or witnesses. In addition, the parties can submit additional evidence as regulated in Article 199 paragraph (1) Rbg and Article 11 paragraph (3) Law Number 20 of 1947 concerning Repeat Trial Courts. How about an objection to a simple

21 Abdulkadir Muhammad, 2010, Hukum Perdata Indonesia, (Bandung: Citra Aditya Bakti), hlm.181.
lawsuit? In the legal remedies for objections to simple lawsuits, examination of objections is limited by the provisions of Article 26 paragraph (3) of Perma GS 2015, examination of material objections is only against:

a) Simple lawsuit and verdict  
b) Application for objection and memorandum of objection  
c) Cons memory objection

Then it is emphasized in Article 26 paragraph (3) that "in the examination of objections no additional examination is carried out" which means only examining files related to decisions, lawsuits, requests for objections and counter memorandum of objections.22

If a simple lawsuit is decided on verstek, then the Plaintiff files an objection because he feels aggrieved, his lawsuit is partially granted and by submitting an objection, the Defendant's right to file for verzet becomes null and void. This has resulted in the Defendant sitting as the respondent objecting, while the objection may not carry out additional examinations, then where is the space for the Defendant to submit evidence to prove his argument in counter memorandum of objection? Of course this is considered unfair to the Defendant, the Perma should still provide space when the verdict is passed verstek, so the Defendant is still given the right to submit answers and evidence. Arrangements can be made if a verstek decision is issued and the Plaintiff files an objection and the Defendant submits a verzet at the same time, such as for example:

a) Examination of verzet takes precedence over objections, because if objections take precedence then there will be no additional examinations and examinations are limited to decisions, lawsuits, requests for objections and counter memorandum of objections. So that there is no room for the Defendant to submit an answer and the evidence is limited to filing a counter memorandum of objection, while the verzet examination must examine the initial claim that has been decided by the verstek. overall. Examination of verzet cases is carried out normally.

b) The Defendant was still given the opportunity to submit answers and evidence during the objection process, so that the decision handed down by the Panel of Judges for objections was based on balanced evidence from both parties.

3) Execution of the Decision

Implementation of decisions in simple lawsuits is regulated in Article 31 paragraph (2) of Perma GS 2019, which states that decisions that have legal force are still implemented voluntarily. If the losing party does not comply with the decision voluntarily the decision will be carried out according to the process of implementing civil procedural law for ordinary lawsuits (Article 31 paragraph (3) Perma GS 2019). Based on the results of interviews with the Judges of the Blambangan Umpu District Court who have experience in handling simple lawsuit cases, they stated that based on the simple lawsuit procedure law above, it can be said that the implementation of the decision not specifically regulated, thus referring to the rules and procedures for implementing a decision in the ordinary law of litigation. It is better if there is a special arrangement for the implementation of a simple lawsuit decision23, in accordance with the spirit and purpose of the simple lawsuit settlement process mechanism to achieve a fast, simple and low-cost judicial process.

C. Conclusion

The conclusions that can be drawn from the above description are:

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There are similarities between ordinary lawsuits and simple lawsuits, such as lawsuits included in the scope of *jurisdiction contentiosa*, Accommodating the classification of lawsuits against the law (PMH) and defaults, Applying the principle of *actor sequitur forum rei*, Having the right to be accompanied by attorneys, At trial peace is sought. In addition, there are characteristics of simple lawsuits that are different from ordinary civil lawsuits, such as in a simple lawsuit, there is a limitation on the value of a material lawsuit at most IDR 500,000,000. more than one, Can only be submitted if the domicile/residence of the Defendant is known, Principal must be present in person at trial, Completion time is no longer than 25 working days, Provisions, exceptions, conventions, interventions, replications, duplications and conclusions are prohibited, The parties must domiciled in the same jurisdiction, if the Plaintiff is outside the jurisdiction of the Defendant, a simple lawsuit can be filed on condition that the Plaintiff appoints a power of attorney with an address at the jurisdiction or domicile of the Defendant, Tried by a single Judge, Exempted from the obligation of mediation in Court, and legal remedies in the form of verzet and objection. The similarities and differences above are related to the theories of justice, benefit and legal certainty, the result is that arrangements related to the right to be accompanied by attorneys are in accordance with the theory of *comutative justice* arrangements which limit attorneys to accompanying the Principal at trial are not in harmony with the theory of utility/ *utilitarianism*, The settlement limitation for simple lawsuits is no longer than 25 working days and arrangements are sought for peace, of course in accordance with the theory of utility/ *utilitarianism* and legal certainty. The provision that decisions are open to legal remedies is in line with the theory of corrective justice.

Obstacles in the settlement of ordinary civil lawsuits, namely first, the settlement of cases takes a long time. Second, there is no classification of cases based on quality, such as ordinary cases and minor cases, causing all cases, both ordinary and small, to be able to seek cassation. Thirdly, the implementation of the decision/execution in practice found both juridical and non-juridical problems. Meanwhile, the obstacle in resolving a simple lawsuit is that first, the Principal is obliged to attend each trial in person with or without being accompanied by a lawyer. The position of attorney at trial is not "representing" the Principal but limited to "accompanying" the Principal at trial. The two submissions of objections by the Plaintiff nullified the Defendant's right to submit a verzet. Implementation of decisions that are not specifically regulated so that they refer to the rules for implementing decisions in the law of ordinary lawsuits.

References

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