Buying and selling activity of online game accounts containing virtual goods that are sold on an online marketplace

Atividade de compra e venda de contas de jogos on-line contendo bens virtuais que são vendidos em um mercado on-line

Actividad de compraventa de cuentas de juegos en línea que contienen bienes virtuales que se venden en un mercado en línea

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ABSTRACT
With so many online game players today, various problems arise. There are so many online game players today who carry out buying and selling activities on online game accounts containing virtual objects that are widely available in various marketplaces in Indonesia. However, in these activities, the buyer often suffers losses such as the account being hacked or re-accessed by the seller. For this reason, it is necessary to have the validity of buying and selling online game accounts containing virtual objects, and how to protect the law against the buyer who purchases an account containing virtual objects. This writing uses a normative juridical approach, namely by reviewing the provisions in the Civil Code regarding the validity of buying and selling and most importantly the Law No. 19 of 2016 regarding buying and selling in electronic systems, to then be analyzed.
descriptively qualitatively, namely by first providing a detailed description and analysis, systematic, and comprehensive regarding the laws and regulations, norms in various countries and legal theories which are then applied to the problems studied. The results of the study show that firstly, the activity of buying and selling online game accounts which contain virtual objects based on the Law No. 19 of 2016 is legal if the organizer does not prohibit the existence of buying and selling activities by third parties. Second, legal protection for buyers who purchase online game accounts containing virtual objects based on Article 30 of the Law No. 19 of 2016 is that the seller is prohibited from re-accessing accounts that have been sold, while based on Article 49 paragraph (3) Regulation No. 71 Of 2019 the buyer has the right to get a return of goods and money if there is a difference between the goods purchased and the goods received.

Keywords: online game accounts, virtual objects, buying and selling activities.

RESUMO
Atualmente, com tantos jogadores de jogos on-line, surgem vários problemas. Atualmente, há muitos jogadores de jogos on-line que realizam atividades de compra e venda em contas de jogos on-line contendo objetos virtuais que estão amplamente disponíveis em vários mercados na Indonésia. No entanto, nessas atividades, o comprador geralmente sofre perdas, como o fato de a conta ser hackeada ou acessada novamente pelo vendedor. Por esse motivo, é necessário conhecer a validade da compra e venda de contas de jogos on-line contendo objetos virtuais e como proteger a lei contra o comprador que adquire uma conta contendo objetos virtuais. Este artigo usa uma abordagem jurídica normativa, ou seja, revisando as disposições do Código Civil relativas à validade da compra e venda e, mais importante, a Lei nº 19 de 2016 relativa à compra e venda em sistemas eletrônicos, para então ser analisada descritivamente de forma qualitativa, ou seja, primeiro fornecendo uma descrição e análise detalhadas, sistemáticas e abrangentes das leis e regulamentos, normas em vários países e teorias jurídicas que são então aplicadas aos problemas estudados. Os resultados do estudo mostram que, em primeiro lugar, a atividade de compra e venda de contas de jogos on-line que contêm objetos virtuais com base na Lei nº 19 de 2016 é legal se o organizador não proibir a existência de atividades de compra e venda por terceiros. Em segundo lugar, a proteção legal para os compradores que adquirirem contas de jogos on-line contendo objetos virtuais com base no Artigo 30 da Lei nº 19 de 2016 é que o vendedor está proibido de acessar novamente as contas que foram vendidas, enquanto com base no Artigo 49, parágrafo (3) do Regulamento nº 71 de 2019, o comprador tem o direito de obter a devolução dos bens e do dinheiro se houver uma diferença entre os bens adquiridos e os bens recebidos.

Palavras-chave: contas de jogos on-line, objetos virtuais, atividades de compra e venda.

RESUMEN
Con tantos jugadores de juegos en línea hoy en día, surgen varios problemas. Hoy en día hay muchos jugadores de juegos en línea que realizan actividades de compra y venta en cuentas de juegos en línea que contienen objetos virtuales que están ampliamente disponibles en varios mercados de Indonesia. Sin embargo, en estas actividades, el comprador suele sufrir pérdidas, como que la cuenta sea pirateada o que el vendedor vuelva a acceder a ella. Por esta razón, es necesario tener la validez de la compra y venta de cuentas de juegos en línea que contienen objetos virtuales, y cómo proteger la ley contra el comprador que adquiere una cuenta que contiene objetos virtuales. Este escrito utiliza un enfoque jurídico normativo, a saber, mediante la revisión de las disposiciones
del Código Civil relativas a la validez de la compra y venta y lo más importante la Ley N° 19 de 2016 relativa a la compra y venta en los sistemas electrónicos, para luego ser analizado descriptivamente cualitativamente, a saber, proporcionando primero una descripción detallada y análisis, sistemático y exhaustivo en relación con las leyes y reglamentos, normas en diversos países y teorías jurídicas que luego se aplican a los problemas estudiados. Los resultados del estudio muestran que, en primer lugar, la actividad de compra y venta de cuentas de juegos en línea que contienen objetos virtuales basada en la Ley n° 19 de 2016 es legal si el organizador no prohíbe la existencia de actividades de compra y venta por parte de terceros. En segundo lugar, la protección jurídica de los compradores que adquieran cuentas de juegos en línea que contienen objetos virtuales sobre la base del artículo 30 de la Ley N° 19 de 2016 es que el vendedor tiene prohibido volver a acceder a las cuentas que se han vendido, mientras que sobre la base del artículo 49 párrafo (3) Reglamento N° 71 de 2019 el comprador tiene derecho a obtener una devolución de bienes y dinero si hay una diferencia entre los bienes adquiridos y los bienes recibidos.

**Palabras clave:** cuentas de juegos en línea, objetos virtuales, actividades de compra y venta.

1 INTRODUCTION

Video games (video games) have progressed very rapidly since they were first known around the 1960s. According to Nicolas Esposito, video games are games that are played thanks to an audiovisual set and can be based on a storyline.\(^1\) Over the past half century, video games have evolved from something simple and popular with few people, to something complex and enjoyed by billions of people around the world.\(^2\) In the past, video games were only played on dedicated consoles and were a luxury. The activity of buying and selling virtual objects in online games is a legal problem that is currently happening in Indonesia. The objects traded in online games are virtual objects that have economic value in the game.

Nowadays, video games can be played anywhere such as on consoles (PlayStation, XBOX, or Nintendo) computers, smart phones, tablets, or even on watches. Video games that were once synonymous only for young children and teenagers, now know no age. Examples of famous video games are Mobile Legends: Bang Bang, Free Fire, PUBG, DOTA, and others. Video games have grown since the discovery of the

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internet. Discussing the internet is very continuous with the development of information technology. The term information technology is used for data processing or also known as information system management. The term information technology was first recognized in Europe in 1989. In 1989, there was a merger between two well-known technology companies, Siemens and Nixdorf.

The term Information Technology can be understood as all equipment, processes, procedures and systems used to provide and support information systems within an organization for customers and suppliers. At this time all information technology has been carried out virtually in a network including converged telecommunications and data transmission. With the coming together of information technology and video games, a new video game phenomenon has been created, namely online games. An online game is defined as any computer-based game played over an internet network including Personal Computer (PC), consoles, and wireless games. With the internet, video game players can interact with other players quickly and conveniently. These interactions can include fighting, becoming friends to defeat enemies together, buying items online and/or simply chatting through the medium of the game. In general, a player's performance in MMORPG games is based on the level of the character being played as well as the electronic information owned by the player's character/avatar. The buying and selling of virtual property between players in online games is based on the player's need for certain electronic information. Buying and selling electronic information in online games can basically be done with game currency. However, due to several reasons, such as the limited game currency owned by the player, or the economic value of the electronic information in the game is very large when valued with game currency, there are many trades of electronic information with real currency payment methods / Real Money Trade (RMT).

Mobile games that are very popular today in Southeast Asia specifically Indonesia and Malaysia, are very diverse including Mobile Legends: Bang Bang, PUBG, and Free Fire. These games are so popular that many annual tournaments are held to compete for prizes. The President's Cup, PON (National Sports Week), and SEA Games also include these games as one of the electronic sports branches or commonly called E-Sports. Due to the popularity of this game, there are many accounts sold using real money or RMT. In the account, there are several aspects that are considered valuable by players, namely

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rank and hero skins (character skins), weapon skins (weapon skins), which if you have to
get it yourself will consume a lot of time, effort, and money.

Virtual property has three legal issues that are currently emerging, namely regarding ownership, trade, and theft. The four constraints of cyberspace are; law, social norms, markets, and architecture and "regulation". This is the sum of these four constraints. The government has a variety of tools used to regulate. Cyberspace expands that reach. The code from cyberspace has only become another tool of state regulation. Reflecting on Lawrence Lessig’s opinion above, where virtual objects are a set of codes, the government should regulate through regulation.

Problems related to virtual objects in online games are not only a debate in Indonesia, but also in various countries around the world such as China, Taiwan, South Korea, and the United States. Many transactions are found buying and selling accounts on social media platforms such as Instagram, Facebook, Twitter, and so on very freely, and many frauds occur because of it. RMT behavior is clearly prohibited by the Terms of Service of Moonton Mobile Legends: Bang-Bang, as follows:

"You agree that you voluntarily publish content on the Service using the technology and tools provided by Moonton. You understand and agree that you may not distribute, sell, transfer or license this content and/or application in any way, in any country, or on any social network or other media without Moonton’s express written permission. You grant Moonton the right to act as agent on your behalf as the operator of the application."

In addition to the Terms of Service, RMT activities are also generally prohibited by the End User License Agreement (EULA), where the meaning of EULA itself is a contract, or set of rules, which regulates and determines how people may use a computer software or application. However buying and selling accounts in Mobile Legends games and/or other online games continues to be carried out by players. Meanwhile, if the players do not carry out the contents of the agreed agreement before being able to play, then this is a violation of the agreement they agreed to. Another consequence of this transaction is that the accounts being sold tend to have problems such as being vulnerable to being hacked by the previous account owner, because the login information is still owned by the previous account owner. If the hack occurs, the organizer, Moonton, will not be responsible because the buying and selling activity has been previously prohibited. Based on the things described above, the problems were, how is the validity of buying

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and selling accounts of online games containing virtual objects in online marketplace that were prohibited by the Online Games Terms of Service.

2 LITERATURE REVIEW

Thesis entitled, “Legal Analysis of Transactions above Virtual Property in Organizing Online Games” by Mahendra Adhi Purwanta, with the object of research namely Virtual Property with the formulation of the problem “How are the legal provisions that regulates Virtual Property?” the gap in knowledge is that the Mahendra's thesis discusses the status of virtual goods arrangements, while this research discusses the rampant sale of accounts containing virtual objects, even though it has been prohibited by regulations related to game makers.

3 METHODOLOGY

The approach method used in the preparation of this research is the Normative Juridical approach method, namely: A legal method that is carried out by examining library materials or secondary data. Normative legal research library materials are basic materials that are classified as secondary data related to legal protection of online game account buying and selling activities that contain virtual objects. The research conducted is Descriptive Analysis research. Data analysis in this research is carried out normatively qualitative. Literature Research, in order to obtain primary legal materials, secondary legal bodies and tertiary legal materials.

4 FINDINGS AND DISCUSSION

4.1 LEGITIMACY OF BUYING AND SELLING ACTIVITY OF ONLINE GAME ACCOUNTS CONTAINING VIRTUAL GOODS THAT ARE SOLD ON AN ONLINE MARKETPLACE

In the Indonesian Law No. 19 of 2016 concerning Amendments to Indonesian Law Number 11 of 2008 concerning Electronic Information and Transactions (Law No. 19 of 2016), there are no specific rules governing electronic transaction agreements, in general all activities related to an agreement, especially sale and purchase agreements use
the legal basis of Article 1320 of the Indonesian Civil Code (Civil Code). Likewise, trade acts or buying and selling transactions carried out through electronic media that developed previously using the legal rules in the Civil Code.⁵

Sale and purchase is a reciprocal agreement in which one party (the seller) promises to give up title to an item, while the other party (the buyer) promises to pay a price consisting of a sum of money in return for acquiring the property.⁶ Sale and purchase according to Article 1457 of the Civil Code, says sale and purchase is an agreement by which one party binds himself to hand over an object, and the other party to pay the price that has been promised.⁷

According to Article 1458 of the Civil Code, buying and selling is considered to occur between the two parties immediately after they reach an agreement on goods and prices, even though the goods have not been delivered or the price has not been paid, so that with the birth of the "word of agreement" the agreement is born and at that time causes rights and obligations to arise, therefore the sale and purchase agreement is also said to be a consensual agreement and is often also called "Obligatory Agreement".⁸

Because it is clear that the activity of buying and selling is an agreement, the agreement must be seen whether it is valid or not which we can see in Article 1320 of the Civil Code which contains the conditions for the validity of the agreement, namely:

a) Agreement of the parties binding themselves to the agreement. Agreement is defined as a statement of will be agreed between the parties. The statement of the offering party is called an offerte. The statement of the party receiving the offer is called acceptatie. The agreement reached must not be due to the presence of elements of coercion or dwang, fraud or bedrog, and oversight or dwaling. If the agreement is made based on any of the above elements, then the contract may be canceled. It is stipulated in Article 1321 of the Civil Code that no agreement is valid if the agreement is given by mistake or obtained by coercion or fraud. Therefore, the agreement must be made voluntarily between the parties. This means that no party should feel burdened by the content of the agrément;

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⁷ Ibid.
⁸ Ibid., p. 39.
b) The ability to make an engagement. According to Article 1329 of the Civil Code, it stipulates that everyone is competent to make engagements if by law it is not declared incompetent. The article contains the understanding that basically everyone is capable of making an engagement except certain persons as mentioned in Article 1330 of the Civil Code which reads as follows: “Incompetent to make a covenant is: a) Immature persons; b) Those who are put under care; (c) Women men, in matters established by law, and in general all persons to whom the law has forbidden, make certain agreements.”;

c) A particular subject matters. Various literature mentions that the object of the agreement is achievement. According to Yahya Harahap, achievements are what debtors are obligated to and what creditors are entitled to. Achievement can be in the form of giving something, doing something, or not doing something;

d) A cause that is not forbidden. A covenant without cause or causa (causa) or made based on a false or forbidden causa, has no force in the eyes of the law. If it is not stated that a cause for the agreement to be made, but there is indeed a causal that is not prohibited, the agreement is valid in the eyes of the law. The treaty is prohibited if it is contrary to the law or contrary to decency or public order (Articles 1335-1337 of the Civil Code). The law does not give a specific definition of causa. According to jurisprudence, what is interpreted with causa is the content or intent of the agreement. The judge can test whether the purpose of the agreement is enforceable and whether the content of the agreement does not contradict the law, public order, and decency.

At first glance, if we look at the phenomenon of buying and selling online game accounts that occur a lot in society today, it seems that there are no legal problems. Because there is no law that specifically prohibits buying and selling. In fact, it is not prohibited and allowed to be sold on large Marketplaces such as Shopee.

According to the author, it must be seen first whether online game players are indeed allowed to carry out buying and selling activities with third parties without the knowledge of the online game organizer concerned.

As the author has said before, regarding some examples of EULA and Terms of Service (ToS) from some of the most popular online games in Indonesia (Mobile Legend, Free Fire, and PUBG), all of which prohibit players from selling their accounts to third parties, the player's position in these games is only as a connoisseur and not the owner,
automatically players are not entitled to benefit from the game without the permission of the organizer.

The phenomenon that occurs today is a lot in some marketplaces these accounts are traded. In fact, all players are bound by the ToS that each player agrees to before playing the game. In general, ToS is a standard clause, because players cannot change the content of the agreement, the agreement is rigid and non-negotiable. The definition of standard clauses can also be found in Article 1 number 10 of Law Number 8 of 1999 concerning Consumer Protection (UUPK), namely:

"Standard clauses are defined as any rules or conditions and conditions that have been prepared and determined in advance unilaterally by business actors as stated in a binding document and/or agreement and must be fulfilled by consumers."

With the recognition of standard clauses in positive law in Indonesia, every player or consumer of the online game must comply with the agreement as stated in the ToS, because in fact every agreement is a law for the parties, as stated in Article 1338 of the Civil Code, namely: "All legally concluded agreements are valid for the laws of those who make them."

Furthermore, Article 18 paragraph (1) of the Law No. 19 of 2016 also emphasizes that electronic contracts or electronic agreements must be obeyed by the parties, while Article 18 paragraph (1) of the Law No. 19 of 2016 is as follows:

"Electronic transactions incorporated into an Electronic Contract are binding on the parties."

Therefore, if players are bound by the ToS of a game that prohibits buying and selling activities with third parties, account buying and selling activities with other parties becomes invalid. Given the fourth legal requirement in Article 1320 of the Civil Code, which is a lawful cause, the content of the agreement must not violate the Law. Because the ToS agreement between the organizer and the player is considered a law, the fourth condition is automatically not fulfilled. As a result of non-fulfillment of objective conditions, the agreement is considered null and void.

Null and void is a legal term that means that from the beginning there has never been a covenant or agreement. Another term that can be used is "void ab initio", which
means "considered invalid from the beginning". Cancellation that occurs under the law, resulting in the legal action concerned is considered never to have occurred.

So, the conclusion is that the activity of buying and selling online game accounts containing virtual objects cannot be concluded to be legitimate or illegitimate. This depends on the ToS that has been agreed by the parties in advance, if the organizer does not prohibit buying and selling activities by third parties, then the activity is legal. However, if in the agreed ToS it is clearly prohibited, then the activity of buying and selling accounts is declared invalid which is null and void.

4.2 LEGAL PROTECTION AGAINST BUYERS WHO CONDUCT ONLINE GAME ACCOUNT BUYING AND SELLING ACTIVITIES CONTAINING VIRTUAL OBJECTS IN THE ONLINE MARKETPLACE

Legal protection for buyers in buying and selling online game accounts themselves is regulated in the Law No. 19 of 2016 and Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (Regulation No. 71 of 2019) which is a derivative of the Law No. 19 of 2016.

4.2.1 Legal protection in government regulation of Indonesia number 71 of 2019

Buying and selling transactions, even though they are carried out online, based on the Law No. 19 of 2016 and Regulation No. 71 Of 2019 are still recognized as electronic transactions that can be accounted for. The Electronic Contract itself according to Article 48 paragraph (3) of Regulation No. 71 Of 2019 must at least contain the following; identity data of the parties; objects and specifications; Electronic Transaction requirements; price and cost; procedure in case of cancellation by the parties; provisions that give the right to the injured party to be able to return the goods and/or request replacement of the product if there are hidden defects; and choice of law for settlement of Electronic Transactions.

Thus, electronic transactions that occur in cases can use the instruments of the Law No. 19 of 2016 and / or Regulation No. 71 Of 2019 as a legal basis in solving the problem. Related to consumer protection, Article 49 paragraph (1) of REGULATION NO. 71 OF 2019 confirms that Business Actors who offer products through Electronic Systems are required to provide complete and correct information related to contract
terms, manufacturers, and products offered. In the next paragraph, it is further emphasized that Business Actors are required to provide clarity of information about contract offers or advertisements. Then the question arises that what if the goods for the consumer are not as agreed?

Article 49 paragraph (3) of Regulation No. 71 Of 2019 specifically regulates this, namely Business Actors are required to give a time limit to consumers to return the goods sent if they are not in accordance with the agreement or there are hidden defects. In addition to the two provisions mentioned above, if it turns out that the goods received do not match the photo in the online store advertisement (as a form of offer), we can also sue the Business Actor (in this case the seller) civilly under the pretext of default on the sale and purchase transaction that the buyer made with the seller.

4.2.2 Legal protection in law No. 19 of 2016

As for in general, fraud that occurs in buying and selling online game accounts is that after being sold, the seller re-accesses the account that is already in the hands of the buyer, because there is still some account information owned, such as Email to reset the password which in the end the buyer cannot access the account again.

The ITE Law also regulates the protection of electronic information specifically mentioned in Article 30 paragraph (2) which reads, "Everyone intentionally and without rights or against the law accesses Computers and/or Electronic Systems in any way with the aim of obtaining Electronic Information and/or Electronic Documents ". If you violate this article, the ITE Law also contains criminal threats as mentioned in Article 46 paragraph (2) which reads, "Any person who fulfils the elements as referred to in Article 30 paragraph (2) shall be sentenced to a maximum imprisonment of 7 (seven) years and/or a maximum fine of IDR 700,000,000.00 (seven hundred million rupiah)".

4.2.3 Online game account purchaser protection for null and void agreements

As a result of the cancellation of the agreement regulated in Articles 1451 and 1452 of the Civil Code. The legal effect of the cancellation of the agreement is the return to the original position as it was before the agreement. The consequences of the

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Cancellation of the agreement can be seen from two aspects. First, the cancellation of an agreement that violates the subjective terms of validity of the agreement so that the agreement can be canceled, and second is the cancellation of an agreement that violates the objective conditions of the agreement that are null and void.

Because in general the virtual online games mentioned above prohibit buying and selling activities with third parties in their ToS, the result is that the Objective Conditions of the agreement are not fulfilled whose legal effect is that the relevant sale and purchase agreement is null and void. Therefore, the money that the buyer has handed over to the seller must be returned as well as the account information that has been provided by the seller to the buyer, which in essence restores the position of each party before the sale and purchase agreement is implemented.

5 CONCLUSION AND RECOMMENDATIONS

The activity of buying and selling online game accounts containing virtual objects cannot be concluded as valid or invalid. This depends on the ToS that has been agreed upon by the parties in advance, as long as the organizer does not prohibit the existence of buying and selling activities by third parties, then the activity is legal. However, if in the agreed ToS it is clear that this is prohibited, then the buying and selling activity of the account is declared invalid, i.e. null and void.

There are several protections for buyers in buying and selling online game accounts containing virtual objects in positive law, including the ITE Law, Regulation No. 71 Of 2019, and the Civil Code. In the ITE Law, especially Article 30 of the ITE Law which prohibits the seller from re-accessing accounts that have been sold, then in Article 49 paragraph (3) of the Regulation No. 71 Of 2019 which regulates the return of goods and money if there is a difference in goods sold, and in the Civil Code Articles 1451 and 1452 of the Civil Code which explain that the legal effect of canceling the agreement is the return to the original position as it was before the agreement.

It is necessary to make a regulation that specifically regulates the definition of an online gaming account, and the rights attached to it. Because currently, Indonesian people do not really understand whether their online game accounts are protected or not. Therefore, regulations that are specific in knowing the protection of online game accounts are very necessary, these regulations can be in the form of Government Regulations or Regulations of the Minister of Communication and Information.
The development of the virtual world is inevitable, because there are so many people whose lives depend on the virtual world. With the creation of regulations specifically regarding online gaming account buying and selling transactions containing virtual objects in the form of Government Regulations or Regulations of the Minister of Communication and Information, the public will understand more about legal protection of their online game accounts, so it is hoped that cases related to online game account buying and selling fraud can be reduced.
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