

Judges Interpretation of “Simple Evidentiary” in Simple Court Settlements

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Against the background of the unclear regulation of “simple evidentiary” in The Supreme Court of the Republic of Indonesia by Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019, this study aims to find out judges’ interpretation and understanding of “simple evidentiary” in this regulation. As it is known, a rule regarding “simple evidentiary” is only set forth in one article, which is Article 18. This article sets directions that the verification procedure be carried out only against an objectionable claim, based on the applicable procedural law; there is no need for additional proof against an unobjectionable claim. This rule has no indicative differences to the evidentiary procedures of another civil claim procedure. In turn, the regulation of “simple evidentiary” in simple claims procedure is confusing, and the judge’s interpretation is needed to clarify this phrase. In this case, the interpretation is carried out by considering other aspects of the whole governing regulation to determine the simplicity of evidentiary process for submitted cases.

Key words: *Judges interpretation, simple claim, simple court settlement.*

Introduction

Simple claims are examinations of civil cases where the claim material value is no greater than Rp. 500.000.000,00, and which are completed through simple evidentiary procedure.¹ This procedure can be in regards to breach of contract and/or unlawful acts and are examined within the authority of the general court.² Even so, not all civil cases with a small value can be filed with a simple claim. Cases that are carried out through special courts and disputes over land rights are exempt from this procedure.

The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 have provided guidelines for proceeding through a simple claim. The guideline begins with case registration, which is done by filling out the form provided in the court registry office. At this time, plaintiffs are also required to attach documentary evidence that has been legalised. After that, the registrar will examine the completeness of the claim based on the provisions of Article 3 and Article 4 of Simple Court Settlement Regulation. If the claim meets the requirements, the process will proceed with the determination of a judge and the day of the hearing. The judge will conduct a preliminary hearing beforehand to see whether it is possible to examine the case through a simple claim or not. After passing the preliminary examination, the judge then sets the first trial. The case will then enter the stage of trial examination, settlement, evidentiary, and decision. All procedures are carried within a maximum of 25 (twenty five) working days of when the first hearing was held.³

One of the important stages in a court settlement is evidentiary process. The evidentiary process is a place in the hearing for the parties to provide certainty about their arguments through decisive evidence (Achmad and Wiwie, 2012). This activity is carried out as an effort to convince the judge of the arguments presented (Subekti, 2015) so that the judge can draw conclusions and put them in a decision. As a special hearings procedure, a simple claim has a specific evidentiary process; the specificity lies in its simplicity. As regulated in The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 Article 1 number (1), simple claims are settled by a simple evidentiary procedure. The evidentiary procedure is regulated in Article 18 PERMA 4/2019, as follows.

¹ Article 1 Number 1 of The Supreme Court of Republic of Indonesia Regulation No. 4 of 2019 on the Procedure of Simple Court Settlement.

² Article 2 of The Supreme Court of Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement *jo.* Article 3 of The Supreme Court of Republic of Indonesia Regulation No. 4 of 2019 on the Procedure of Simple Court Settlement.

³ Article 3 verse 2 of The Supreme Court of Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement.

- (1) *The claim that is fully confessed by the defendant does not need an additional evidentiary.*
- (2) *In the case of denied claim, the Judge shall conduct an examination of evidence based on the applicable procedural law.*

Even though there is a regulation regarding the evidentiary process of simple claims, it does not explain the notion of “simple evidentiary” definitively. There is no clear definition of what “simple evidentiary” is. Furthermore, the scope of simple evidence examination is also biased because it does not show any differences to the evidentiary process of an ordinary claim. Simple verifications have not yet been given to instruct the extent to which such simplicity must be carried out.

As a special procedure of claim, simple claim must show a specificity that distinguishes it from another type of claim. This is also the case for “evidentiary”; however, the evidentiary regulation in Article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 still does not show its specificity. In general, the evidentiary regulation contains similarities to what it is regulated in HIR for general civil cases. This can be seen from the formulation of Article 18, which states that the evidentiary process is held only for a denied claim, whereas additional proof is no longer needed for a confessed claim. This is in line with the general principles in Indonesian civil procedure for ordinary civil cases, which state that judges must only examine denied claims.

As stipulated in civil procedural law, the evidence in a lawsuit is usually only presented in matters that become disputes between two parties, when the proposition submitted by one party is denied or refuted by the other party. Matters that are recognized do not need to be proven, because there is considered to be no dispute (Subekti, 2015). Likewise, an argument that is not explicitly justified or not denied also does not need to be proven because in civil procedural law, the attitude of not denying is equated with acknowledging. Based on the description above, it can be seen that the regulations on evidence in The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 adhere to the same principles as evidences in ordinary lawsuits. The regulations do not define “simple evidentiary” specifically, which is what allegedly distinguishes simple claim from ordinary claim. This similarity causes the definitions of simple evidentiary and ordinary evidentiary to become biased, and it makes it difficult to differentiate the two.

The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 were issued to be the legal foundation of simple claim

settlement. They were enacted to avoid a legal vacuum, considering that there had previously been no rules to accommodate this procedure; however, when a rule that is the basis of a law is unclear, society is put into a condition of uncertainty. In this condition, the judge also has difficulty examining a case with unclear legal arrangements, but he is unable to refuse such an examination on the grounds of an unclear law (Subekti, 2015).

In order to fill the legal vacuum, judges must play more roles than merely being a mouthpiece of the law. The legal vacuum can be filled by judges' interpretations, analogies, etc., often termed as "finding a law" or "rechtsvinding". In accordance with Article 20 AB (Algemene Bepalingen van Wetgeving voor Indonesie), the judge is ordered to base his decision on statutory regulations.⁴ But with an Indonesian legal system that adheres to the flow of rechtsvinding, judges still have the freedom to interpret and argue (Naufal Fileindi, 2019). Rechtsvinding allows judges to interpret the law freely, but this freedom is not unlimited. In their interpretation, judges must not override statutory regulations, and these interpretations must only be based on good faith (Sudikno, 2007). Judges who make legal discoveries are tasked with creating concrete solutions through or with the help of legislation so that the events can be resolved satisfactorily (Sudikno, 2007).

The laws and regulations made by authorised bureaucratic organs of experience deficiencies, such as unclear intent. Sometimes, when there are unclear rules for a filed case, the judge has the freedom to interpret the regulation. In this interpretation, judges are required to explore, follow, and understand the legal values and sense of justice that live in society. In this situation, the judge is expected to be able to harmonize the laws and regulations with a sense of community justice.

In the context of a simple claim, the rules regarding evidentiary process is unclear. Therefore, the intervention of the judge is needed to release the knot of confusion. The procedural law, as part of holistic law, becomes a laboratory for judges' interpretations. With these interpretations, a simple evidentiary procedure in a simple claim is expected to run optimally. Based on this background, the author would like to conduct a study about JUDGES INTERPRETATION OF "SIMPLE EVIDENTIARY" IN SIMPLE COURT SETTLEMENTS by addressing following problem: What is the judge's interpretation of the "simple evidentiary" phrase in Article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment to The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019.

⁴ Article 20 AB (Algemene Bepalingen van Wetgeving voor Indonesie "Judges must examine according to law."

Discussion

Interpretation is a method of legal discovery that is used to determine the meaning of a regulation. These activities are closely related to law enforcement in court, especially the duties of the judge. Interpretation of the regulations that are conducted by judges is needed to simplify the application of regulations in a case. This is based on the fact that sometimes a regulation is formulated generally or is unclear, so it cannot be applied directly to a particular case. Therefore judges must first interpret the meaning of the regulation before applying it in a case. This is essential to avoiding court refusals on the pretext that the law does not exist or is unclear.⁵

Based on the legal principles of *ius curia novit* and *res judicata pro veritate habetur*, judges have central position as the determinants in resolving disputes. There is an assumption that a judge knows the law and considers their verdict, meaning that not only material law, but also formal law (procedure law) are in the realm of judge's interpretation.

Even though judges are allowed to carry out interpretations, the act of interpreting (laws) must not be carried out arbitrarily. According to Logemann Utrecht:

Judges must submit to the will of the law maker, as can be seen located inside of its law. When the will of the law maker cannot be read with just the words of the law, then the judge must find it out in the history of the words, in the law systems, or in the meaning of these words as they are used in everyday life in the present (Utrecht, 1957).

Law interpretation is a method that is not limited to statutory purposes. Basically every kind of regulation, as a part of law, has opportunities for interpretation by a judge. All regulations made by competent institutions are considered a laboratory in which judges may interpret. This activity is used to apply these regulations more easily in concrete cases that are submitted to the court.

In Indonesia, there are various types of laws and regulations, both public and private, both material and formal. All types of these laws are born of the basic principle to bring order, regulate social relations, and resolve any kinds of problems that arise from it (Endrik, 2018). In order to function in this basic principle, a regulation must be clearly and certainly formulated. When a norm that is regulated in a certain law has an unclear meaning, it must be interpreted before it can be applied. Interpretation activities are carried out to determine the meaning of such regulations so that they can be applied to resolve a problem in societal relations.

⁵ Article 10 verse (1) Law Number 48 of 2009 on Judicial Power.

There is a need for the interpretation of “simple evidentiary procedure” in article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019. The reason for the urgency of a judge’s interpretation of this law is because the legal norms that formulate the law’s articles are unclear, which is caused by the lack of a definitive understanding by the law maker. The application of this law is feared to cause to cause confusion or ambiguity.

Simple claims court is a new procedure in private procedure law, specifically for the settlement of cases with a low or small value object of dispute. Article 1 number 1 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement and its amendment on The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 states that simple claims court settlements are private law suits of no more than Rp.500.000.000,00 (five hundred billion rupiahs)⁶ that are completed with a simple evidentiary procedure (Endrik, 2018). This includes claims submitted against a breach of contract, default, or tort, but not cases whose resolution falls within the scope of a special court or land rights dispute.⁷ From these articles, the elements of the small claims court can be defined:

1. The object of dispute includes cases of breach of contract, default, and/or tort, except cases that are settled within the scope of a special court or land rights dispute;
2. The lawsuit object is at most Rp.500.000.000,00 (five hundred billion rupiahs);
3. Simple procedures;
4. Simple proof procedure.

One of the elements of the small claims court is the evidentiary stage, which is simpler procedure than in a civil case claim. This element is a distinguishing factor between simple claims court and common lawsuits, which do not recognise a simple evidentiary procedure. Therefore, when a private case has indications of simple proof procedure, then it can be resolved by simple claims court. In contrast, when a private case has indications of a complex proof procedure, then it will be handled by common lawsuit procedure. This is why the phrase “simple evidentiary” becomes an important parameter for determining whether a case can be resolved in small claims court or not.

⁶ In The Supreme Court of Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement, the highest value of dispute is Rp.200.000.000,00 (two hundred billion rupiahs), then it arise to Rp. 500.000.000,00 when The Supreme Court of Republic of Indonesia Regulation No. 4 of 2019 has been regulated.

⁷ Article 3 of The Supreme Court of Republic of Indonesia Regulation No. 4 of 2019.

Evidentiary procedure is regulated in article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 on the Procedure of Simple Court Settlement, as follows:

- (1) *A claim that is recognised and/or not denied by the defendant does not need to be proven.*
- (2) *Toward a lawsuit that denied, a judge conducts an examination of evidence based on the law of procedure.*

That regulation has been updated in article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 to the following:

- (1) *Proposition of a lawsuit that is admitted unanimously or clearly by the defendant does not need additional evidence.*
- (2) *Toward proposition of a lawsuit that is argued, a judge conducts examination of evidence according to the law of procedure.*

As stated in article 1 number 1 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019, small claims court is a lawsuit procedure with a maximum claim value of Rp.500.000.000,00 (five hundred billion rupiahs) that is resolved with a simple proof procedure. Furthermore, regulations regarding simple proof procedure are set out in article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019, as mentioned above. However, if you look at the formulation of article 18, it does not mention a definition of simple proof procedure, as referred to in article 1 number 1.

Article 18 is basically an explanation of the rules of “simple evidentiary”, as stated in article 1 number 1. As an advanced arrangement, article 18 should provide an explanation of the rules desired in the prior rules. Unfortunately, article 18 does not give any explanation or definition, and it is also unclear about the scope of simple proof procedure to fulfill the necessary elements of small claims court. Article 18 instead sets out the principles of proof, as regulated in HIR, that apply to common lawsuits. Such as the principle of recognized proposition does not need proof and against argued proposition is returned to law of procedure, which means that it is HIR.

Small claims court is basically the simplification of the proceedings or the process of examining private cases in general, and its simplicity is reflected in its cases. In addition to the objects of disputes being defaults or torts, both dispute parties must also be in the same court jurisdiction. This is in harmony with the principle of expedient justice.

Because article 18 does not give further explanation or definition of simple proof procedure, as stated in article 1 number 1, this article also contains the same proof principles as a common lawsuit. Therefore, in addition to providing an unclear definition of simple proof

procedure, this article also breeds confusion because the regulated procedure does not show any differences to that of a common lawsuit. A judge's interpretation of simple proof procedure thus becomes important for minimizing confusion and ensuring consistency of meaning.

Even though supreme court rules are part of procedural law, this does not rule out the possibility of interpretation by a judge. Formal law, as part of common law, has been made to be applied in disputes across society. Application of this law will hopefully resolve problems and restore order to social relations. Formal law also made for it, because basically it has function to stand material law and law enforcement.

In order to be implemented and to function as they should, rules in law need to be clear and firm. Moreover, formal law that regulates court procedure must be clear and firm in its formulation. When there is a rule that has unclear meaning, it becomes the judge's duty to interpret. Formal law that is unclear has to be interpreted first so that it can be implemented and function as expected. Included in this matter is the regulation of simple proof procedure in article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019.

According to the judge of the District Court of Sleman, Suparna, the interpretation of simple proof procedure is determined by considering other rules in The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019, especially the objects and requirements of a case.⁸ According to him, interpreting the meaning of "simple evidentiary" in article 18 can be done by correlating it with articles 3 and 4. Article 3 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 defines the object of a simple claim, while Article 4 stipulates requirements. When a case meets the criteria in these articles, it can be considered that the proof phase will be carried out simply. If it becomes clear that the proof procedure is not simple, then the judge can make a determination to divert the settlement of the case through an ordinary or common lawsuit.

The interpretation of "simple evidentiary" starts when judge conducts a dismissal procedure. This phase is preliminary examination by the judge after the submission of a lawsuit by the plaintiff. This procedure aims to determine whether that case can be examined through a simple claims court procedure or not. The preliminary examination is regulated in Article 11, as follows:

- (1) *The judge examines the material of small claims based on the conditions stipulated in article 3 and article 4 of this regulation.*
- (2) *The judge assesses whether the proof was simple or not.*

⁸ An interview with Suparna, Judge of District Court of Sleman, on 29 August 2019.

- (3) *If during examination, judge states that the lawsuit does not meet the requirements of a small claim, then the judge shall issue a stipulation or determination that the lawsuit is not a small claim, crossing out of the case register, and ordering the restitution of the case fee to the plaintiff.*
- (4) *Toward a determination as stated in paragraph (3) cannot be done any legal remedies.*

Based on Article 11, the preliminary examination process is carried out by examining the materials of a lawsuit based on the requirements that are stipulated in article 3 and article 4. Article 3 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 states:

- (1) *Small claims are submitted against a case of a breach of contract and/or tort with a material claim value of at most Rp.500.000.000,00 (five hundred million rupiah).*
- (2) *Not included in small claims, are:*
 - a. *A case where dispute resolution is carried out through a special court, as regulated in laws; or*
 - b. *A land rights dispute.*

Article 4 of The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 states:

- (1) *All parties in small claim consist of plaintiff and defendant that each of them may not be more than one, unless they have same legal interests.*
- (2) *For a defendant whose residence is unknown, a small claim cannot be submitted.*
- (3) *Plaintiff and defendant in small claim must be domiciled in the same court jurisdiction.*
- (3a) *in the event that plaintiff is outside of residence or domicile of defendant, the plaintiff filing the lawsuit must appoint representation, incidental representatives that have the same domicile in one jurisdiction or domicile of the defendant, with a letter of assignment from plaintiff's institution.*
- (4) *Plaintiff and defendant must directly attend every court process with or without the presence of an attorney at law, incidental representatives, or a representative with a letter of assignment from plaintiff's institution.*

While assessing the alignment of case material with the provisions in the two articles above, the judge must at the same time assesses the simplicity of the proof of the case. According to Suparna, the parameter for determining simplicity is that the case needs to be considered to fulfill the requirements of articles 3 and 4; if it does, then it is considered to have evidentiary simplicity.

Besides the consideration of articles 3 and 4, the process of interpreting the simple proof clause can be correlated with the norm of examination of case procedure that is in The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015, which states, “*In a process of simple claim examination, it cannot be submitted provisi, eksepsi, rekonvensi, intervensi, replik, duplik, or kesimpulan.*”

The process of determining simplicity of proof can be determined base on this article. If one party wants to submit provisi, eksepsi, rekonvensi, intervensi, replik, duplik, or conclusion, then the judge can interpret by systematic method that the case is not a simple proof process. On the contrary, the judge has an obligation to advise both parties that if they want to apply to small claims court, then all procedures, including article 17, must be followed by them, and the judge can determine this to be a simple proof process.

Similar to Suparna, Adi, one of judges in the same institution, said that besides considering the requirements in articles 3 and 4 and the procedures in article 17, interpretation of simple proof procedure can be done by looking into the case directly.⁹ Most cases in small claims court are those that have been proven by both parties’ legal conduct.¹⁰ For example, a case may be a breach of contract that involves a bank, as creditor, and its customers, as debtors. There was an agreement or contract between them, and acts of default performed by the customers have been supported by perfect evidence, such as deed of debt recognition or proof of late payment. With the support of this evidence, the judge can determine a conviction that tends toward the truth of the proposition of the plaintiff, that the defendant has conducted a breach of contract. Therefore, the proof becomes simpler.

The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 formally provides guidance for the judge in determining the simplicity of a lawsuit, along with the procedure of its proof. Through this implementation, the judge also seems to carry out a function as a mediator who participates in giving advice to dispute parties. For example, when a defendant states eksepsi or reverse lawsuit, the judge will then state that those are not part of small claim court procedure.

⁹ An interview with Adi, Judge of District Court of Sleman, on 29 August 2019.

¹⁰ An interview with Adi, Judge of District Court of Sleman, on 29 August 2019.

The judge, in practice, also examines whether the lawsuit fulfils the simple claim requirements or not. When the defendant admits the substance of lawsuit includes an indictment, then this is also a kind of simple proof procedure. In other words, the evidentiary simplicity can also be viewed from various perspectives that are outside the norms of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 and The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019, including:

1. There is no responses other than the main matter of the case by the defendant, even though it may be argued;
2. Based on a letter or other written evidence, as attached, a lawsuit also can be a category.

Based on the discussion above, the judge's interpretation of article 18 on simple verification is carried out in two ways: systematic interpretation and sociological interpretation. Systematic interpretation is a method of interpreting laws and regulations by linking them with legal regulations, other laws, or with the entire legal system (Sudikno, 2010). Systematic interpretation can cause words in law to be given a wider or narrower understanding than their meaning in ordinary language rules. The first one is called broadening or widening interpretation, and the second one is called narrative interpretation (Yudha). Systematic interpretation emphasizes the fact that laws are inseparable, but there will always be a relationship between them such that all legislation is a closed, neat, and orderly unit (Chainur, 2008).

Systematic interpretation is carried out by linking Article 18 with other articles in the regulation of simple claim procedure. Those articles are Article 3, related to cases which are subject to simple claims, and Article 4, which regulates the requirements of simple lawsuit cases. When a case that is filed complies with these two articles, the judge can interpret that the evidence will be held in simplicity. Furthermore, the interpretations of judges are also related to Article 17, which regulates the procedures that are not possible to be held in simple claims, such as provisions, exceptions, reconventions, interventions, replik, duplik, or conclusions. Therefore, when litigants want such processes, the judge can interpret the case as not being a simple proof.

In addition to systematic interpretation, a judge may also interpret simple proof phrases in a sociological way. Sociological interpretation is an interpretation carried out by looking for the intent or purpose behind making laws in the community. The purpose of the promulgation of simple lawsuit rules is to accommodate simple procedures for the settlement of civil cases. Through sociological interpretation, the judge can resolve the difference or gap between the positive nature of the law (*rechtspositiviteit*) and the legal reality (*rechtswerkelijkheid*) (Yudha). With this interpretation, the simplicity of proving a case can be correlated with the



aim of making the rule accommodate the simplicity of a case. A judge, in determining evidentiary simplicity, can also refer to the enforcement of the simplicity of the procedure.

Conclusion

The judge's interpretation of Article 18 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 and The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 can be done in two ways: systematic interpretation and sociological interpretation. Systematic interpretation is carried out by correlating Article 18 regarding simple verification with other articles, such as Article 3, Article 4, and Article 17. When a case meets the requirements of these articles, the judge can conclude that the proof may be done simply. In addition, sociological interpretation may be done by looking at the context of the case directly. The meaning of simple proof, as referred to in Article 1 number 1 of The Supreme Court of the Republic of Indonesia Regulation No. 2 of 2015 and The Supreme Court of the Republic of Indonesia Regulation No. 4 of 2019 and according to the judge's interpretation is not much different from the meaning of proof in general. Case examining judges are guided by Article 1, Article 3, Article 4, and Article 18, firstly by being filtered through a preliminary examination in which the plaintiff is required to attach written evidence along with the registration of a simple lawsuit. The simplicity of proof can also be seen through the way judges examine cases, for example by enforcing Article 17 of the PERMA and evaluating the evidence that has been submitted at the registration of the lawsuit.

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