Reduction Mass Cases-Supreme Court Through Mediation Of Small Claims Court

Bambang Sugeng Ariadi Subagyono

Faculty of Law, Airlangga University.

Email: bambang.sas@fh.unair.ac.id

Abstract

This research aims to reveal the mediation as the solution in decreasing many mass cases in Supreme court. It particularly often occurs on small claims court. This study applied the normative legal method. Meanwhile, this study used statute and conceptual research. The result of this study found the total of cases that occurs due to the increase mass amount of submitted cases and those that have been reconsideration in District and High Courts, the number of decisions that have been submitted to Supreme Court at the Cassation level has become a serious problem. The settlement of legal action in small claims court was done by filling an objection to the Chairman of the Court by signing the statement of objection before the clerk. The objections were filed not more than seven days after the verdict is pronounced or after the decision is notified.

Keywords: *Mass Cases, Small Claims Court, Indonesia Court, Supreme Court.*

1. INTRODUCTION

The accumulation of mass cases that occurs was happen due to the increase number of submitted case, and the cases that have been settled in District court and High Court, and then the amount of cases presented to the Supreme Court at the advanced Cassation development, became a significant issue. It can be proven from the case data in the Supreme Court.

The consequence of case delinquent behavior in Court was due to judicial officers at the first example and plaintiffs who were not cautious when determining the cases. As a result, the public started questioning the Supreme Court's notion of fairness. As a result, a few corporate strategy steps are required to address this issue (Suherman, 2017).

It is certain that the flow of cassation cases every year will not be able to be resolved by Supreme Court justices even though the number exceeds 51 people. Overcoming efforts for this are not sufficiently carried out through judicial management approach without being related to changes the procedural law provisions and assistance within the systemic approach of judicial practice (Ibrahim, 2018).

Based on the Supreme Court's mass cases, this occurs as a result of rules concerning cassation and judicial remedies. For the aforementioned reasons below, constraints on efforts to disclose cassation demands are obligated (Assegaf, 2012):

a. Improve the quality of verdict
b. Facilitate the Supreme Court to map their legal cases.
c. Lowering the quantity of cases at the categorization, thereby minimizing the Supreme Court's tasks

In relation to the length of settlement process of cases through court, it is actually the opposite of employment of the basic of easy, fast and inexpensive justice as what decided inside article 2(4) of constitution number 48/2009 regarding the judicial power stating that “The trial is performed easy, fast and at inexpensive cost”

Based on the statements above, the issues have been formed on Supreme Court Regulation in Indonesia called as *Peraturan Mahkamah* Agung or PERMA number 2/2015. It is concerning on Resolution Procedures. According to the Chief Justice of Supreme Court, Hatta Ali, that one of the objectives of the issuance of the regulation was a way of decreasing the cases quantity in Supreme Court, which in the last three years Supreme Court received a work load around 12 thousand to 13 thousand cases per year (Satria Bombing, 2021). The concepts of small claim court are used to differentiate claims established on their asset value, which is typically low (Fu, 2016).

Regarding the existence of an objective which was decided by Supreme Court Regulation number 2/2015 is to decrease the volume of Supreme Court cases and at the same time to realize the program of clear, rapid and inexpensive-cost judicial principles. Therefore, this research examines the reduction of case buildup by small claims court settlement at Supreme Court. This research is expected to provide encouragement and ideas for legislators, the government as policy makers and those who are involved in the world of justice.

2. RESEARCH METHOD

This research includes as legal research. According to Peter Mahmud Marzuki, legal research is a process to find any solution of certain legal issues within a purpose to provide a prescription regarding what suitable for current legal issues (Marzuki, 2016). Normative legal research is used in the analysis of this research; it was derived on the distinct character of legal science on legal research methods. This method is used to examine statutory regulations, jurisprudence, and even agreements. The approaches used in this case are the statute approach and the conceptual approach. The statute approach was completed by evaluating all applicable laws and rules to the managed legal issue (Efendi, Jonaedi & Ibrahim, 2016).

Data collection technique in this analysis was literature research, which means a normative analysis technique from several norms and regulations and a review of several relevant literature within the discussed material. The data that has been obtained from the results of this study are compiled and analyzed within the purposes of legal interpretation; includes authentic and systematic interpretation. It is conducted because basically material law and formal law have provided legal arrangements for a legal relationship that exists in society to answer the studied problems.

3. RESULT AND DISCUSSION

3.1. The Settlement of Mass Cases

Supreme Court Circular Letter number 6 of 1992 regarding Case Settlement in High Court and District Court, dated October 21, 1992, by Indonesian Supreme Court, which controls the timeframe of case finalization of not and over 6 (six) months supplied that, if the duration exceeds the date, it should be reported to High Court and Supreme Court of Indonesia pertaining to the delay. According to Hanifah (2016) cited Supreme Court Regulation No. 1/2008 on Mediation Procedures in Courts as governing the steps and guidelines for mediation as an option to civil conciliation. Despite the fact that the Supreme Court Regulation was amended with PERMA 1/2016, she stated that this activity is carried out by the mediator as an entity who assists in the discovery of different potential resolving disputes The relationship between mass cases and mediation in court is to help settle cases more quickly by seeking agreements between the two parties such as arbitration, negotiation, adjudication and so on (Hanifah, 2016).

According to Candra Irawan, the mediation process consists of four stages, these are pre-mediation, implementation of mediation, closing of mediation and the deed of reconciliation implementation (Irawan, 2017). Effective mediation in the settlement of mass cases in court is quite difficult because the problem is not only in the substance of the arrangement, but also from the implementing factors such as humans, these are judges, parties and advocates. However, the efforts should still be committed to improve the current mediation, such as establish a mediation commission in the District Court, increase the number of certified mediator judges, provide incentives to judges who successfully resolve cases through mediation, choose mediators who are not judges paid by the state, and build a legal culture of mediation among judges, advocates and the public. In addition, the easy, fast and low-priced principles are part of the mediation mechanism of civil case evaluations in the official court, according to Supreme Court Regulation 1/2016 regarding Mediation Practices in Courts.

The Supreme Court's caseload has reached 30 thousand documentations, which are reviewed by 49 Supreme Court Justices. As a result, several Rulings appear "improved" without being represented by extensive legal arguments. It is due to our Supreme Court Justices' task; as a result, Supreme Court Justices are less focused on analyzing every case. Coherently, it will undoubtedly have an effect on the quality of the Supreme Court's decision.

The total number of cases occurring due to the increased number of submitted cases, added by the cases that have been decided by District Court and High courts, resulted in the amount of settled cases in the Supreme Court and began to make a serious problem.

It can be seen in the details of the total cases data at Supreme Court as following below:

Table 1. Data Recapitulation on Cassation and Civil Cases

Data Recapitulation on Cassation and Civil Cases							
Year	General Cases		Special Cases		Total		Total
	Cassation	Civil Cases	Cassation	Civil Cases	Cassation	Civil Cases	
2008	2,959	803	935	170	3,894	973	4,867
2009	3,081	819	940	134	4,021	953	4,974
2010	2,943	828	340	60	3,283	888	4,171
2011	3,165	824	853	174	4,018	998	5,016
2012	3,525	799	897	209	4,422	1,008	5,430
2013	3,280	660	658	156	3,938	816	4,754
2014	3,200	707	769	135	3,969	842	4,811
2015	3,615	656	854	125	4,469	781	5,250
2016	3,817	788	1,125	146	4,942	934	5,876
2017	3,536	897	1,534	169	5,070	1,066	6,136
2018	3,600	1,004	1,184	251	4,784	1,255	6,039
Average	3,164.71	777.14	770.29	148.29	3,926.00	925.43	4,851.43

Source: (Lembaga Kajian & Advokasi Independensi Peradilan, 2008)

The effort of Supreme Court to reduce the accumulation of cases is by conducting technical updates and the case management system continuously, such as accelerating the settlement of cases from one year to eight months through SK KMA No. 214/KMA/SK/XII/2014 (Direktori Putusan Mahkamah Agung Republik Indonesia, 2014). The Important efforts that should be made in the context of limiting cases by enabling the first level of court (District Court) or second level of court (counterpart) to become a court of final level for certain cases, need to limit the criteria of legal classification effort and the review. Many of the necessities that can be applied to restrict cases defined at the equal position can be analyzed in terms of case type and variability in civil matters.

Acknowledgement of case constraints referring to the case form and expertise, rather than the value of the lawsuit, has been based primarily on a few considerations, restriction on the valuation of the litigation that is regarded to be personal and encourages various perceptions, for instance, in perceiving inconsequential failures, the significance is frequently deliberated to be high. Furthermore, the determined values may vary due to time (Wibowo & Wijaya, 2021). As a result, case restriction based on case type and qualifications is deemed more suitable. Without any categorization of cases, ineffectual activities have transpired as a result of every panel of Supreme Court Justices analyzing cases involving the similar legal problems not devoting an equal amount of time to study and discussion.

3.2. The Settlement of Small Claims Court

Past centuries, the concept of simplicity, speed, and inexpensive appeared when the Governor General (*Gouverneur Generaal*) Jan Jacob Rochussen assigned Mr H.L. Wichers, the Head of the Supreme Court in Batavia, to draft rules for Indonesian citizens. Small claims court is a technological development that embodies simplicity, quickness, and inexpensive. Otherwise, the benefits and drawbacks of the small court are unfamiliar. It is directed to people seeking lawfulness, particularly those unable to offer it—the limited utilization of small claims courts throughout many Courts (Tjoneng, 2017). In Mainland China, the amount of the small claim payment is less than 30% of the employee's income every year. It helps simplify the process, from a complicated process to an easy one (Fu, 2016).The philosophy of straightforward, fast and inexpensive principle in Herziene Indonesisch Reglement (HIR). It is related to the application of HIR which compiled and enforced by considering the condition of the knowledge level and economy of Indonesia which different from Europe at that time. Thus, there are four disabled institution, including combination, intervention, guaranty, and civil request, as in *Reglement op de Burgelijke Rechtsvordering (Rv).*

According to the explanation of Article 2 paragraph (4) of Law Number 48/2009 concerning Judicial Competence, the most basic principles of justice are transparency, speed, and affordability. These are the fundamentals of efficiency and efficacy that guide the provision and management of justice services. Akhyar (2019) stated that simple justice means a clear, understandable, fast and not complicated agenda. It means that the examination is effective and efficient with low-cost payment case that can be reached by public. Simple here can be seen through the process, including; registration, court, legal effort and the implementation of verdict (Putri et al., 2018). Rapid concerns to the manner in which the agenda is carried out, beginning with its inquiry and ending with the agreement of the ruling. This rapid court application may increase society's confidence in the court (Fakhriah, 2013). While low-cost is aimed at the general public who do not have enough money to file a lawsuit in court (Mukti Setiyawan, 2019). In practice, however, simple fundamentals are perceived as merely procedural matters, with no comprehension that understandable principles ought to serve as spirit and inspiration for law enforcement personnel.

The use of simple, quick, and low-cost precepts in examining and resolving civil lawsuits did not compromise precision and accuracy, as defined in Article 2 paragraph (4) of Law No. 48/2009. As a result, the case resolution to the conflict should be strictly enforced. Alan Ryan stated that justice is unusually strict and that its requirements cannot be amended because justice is inextricably linked to respect for rights. According to Fleischacker, each person has a sanctity based on fairness that no amount of societal welfare can override (Prihatiningtias & Julianto, 2020). Thus, justice must defend individual rights and cannot be violated or broken in order to achieve societal wealth.

For claims that are admitted does not need to be proved. While for the denied claims, the judges need to do examinations on the applicable procedural law. The judges should read the verdict in open trial and inform the rights of the parties. Legal efforts in small claims courts could file objections to the Head of the Court by signing the objection statement certificate in front of the clerk (Syafaat, 2021). Objection can be filed for no more than 7 days after decision or notification of verdict.

There are several aspects that should be noticed in establishing the small claims court settlement;

1. The defendant will be summoned twice in summons 1 but if he is not present at the summons without a valid reason, the judge will decide the case without the presence of the defendant. However, the decision was not in the form of a *verzet* because the legal action in the small lawsuit court was only in the form of an objection.

2. In the preliminary examination phase, judges should check the small claims court cases in detail to see whether it is related to the simple proving or not, even if the nominal for each case is under Rp.500.000.000.00 (five hundred million rupiahs). Because small claims courts only limit in 25 working days which means that there is no possibility for complicated proving. If it is not included in a small claim, then the judge can delete the case and return the payment to the plaintiff.

3. If the defendant is a legal entity, then the determination of the accused party to represent the legal entity is a legal officer/employee who has the same domicile with the defendant and is included in district court jurisdiction.

4. The plaintiff and defendant must be in one legal domicile of the District Court which investigates the cases. Thus, even if the plaintiff and defendant domiciled in one place but having different jurisdiction then the small claims court could not be used.

5. The petite within the lawsuit should be implemented in a simple way, either voluntary or through execution. For instance, the petite which is allowed to be granted is only those that relate to the agreement validity with the proof of *wanprestasi* (breach of contract) and penalty of paying obligation or compensation. Since the mechanism which regulated the Supreme Court Regulation (*PERMA)* is voluntary, then if the implementation is not voluntary then an execution auction is requested.

The small claims court mechanism is not yet maximally utilized by society, especially in the minimum limit value for Rp.200.000.000.00 (two hundred million rupiahs) notably in Jakarta District Court and Surabaya District Court since the value of Rp.200.000.000.00 (two hundred million rupiahs) is less accommodating the small claims court. However, after issuing Supreme Court Regulation (PERMA*)* No. 4/2019 on the value of material lawsuit for at most Rp.500.000.000.00 (five hundred million rupiahs), the total cases using small claims court mechanism is increased. According to Noor statement that Supreme Court Regulation (*PERMA)* No. 4/2019 has requirement to file small claims court (Noor, 2020), such as:

1. The plaintiff is an individual or legal entity,
2. The existence of legal relationship as a basic dispute with defendant party,
3. Both the plaintiff and defendant must within the same legal region/domicile,
4. The dispute is not related to land rights or other cases managed in legal regulation, such as business competition, consumer dispute and settlement of industrial relations,
5. The lawsuit value filed on the loss is no more than Rp500.000.000,00 (five hundred million rupiahs),
6. The small claims court investigation is only within 25 days by a single judge.

As stipulated in Article 3 Point 2 of PERMA No. 4/2019, there are two types of disputes that may not be remedied through small claims court: (1) cases in which conciliation is undertaken via special courts and (2) cases of land rights disputes. There is a dismissal process that establishes the requirements of cases that include in small claims court. If the instance does not meet the criteria, the adjudicator will issue a ruling to dismiss the case, as stipulated in Chapter IV, Part Four of Article 11 Point 3 of Supreme Court Regulation No. 2/2015. The Supreme Court also stated that neither the plaintiff nor the defense attorney party may have more than one, unless they have the same legal interest. As a result, a small claims court can serve as a mechanism for resolving disputes in a timely, efficient, and effective manner. Small claims court cases are resolved in a maximum of 25 (twenty-five) days (Retnaningsih & Velentina, 2019).

According to Article 5 paragraphs (2) and (3) of PERMA No. 2/2015, there are various methods in small claims court resolution, such as enrollment, investigation of file comprehensiveness, judges perseverance and registered agent appointment, preliminary hearing, session hearing, the involvement of judges in ending the conflict through the act of compromise, proof, choice, and application of the judgment (Badan Penelitian dan Pengembangan Hukum dan HAM, 2017).

If the cumulative amount of civil cases examined using the small claim courts mechanism at the Jakarta District Court and several District Courts outside Jakarta is estimated, it demonstrates that the small claim courts mechanism can recognize the justice principles that are simple, fast, and low cost. Furthermore, it has the potential to reduce the number of classification cases pending before the Supreme Court. As a result, this is in line with the objectives of the issuance of Supreme Court Regulation No. 2/2015 jo and Supreme Court Regulation No. 4/2019 concerning Small Claim Court Procedures.

4. CONCLUSION

The high workload on Supreme Court Justices contributes to the total number of cases noticed by the Court. As a result, it is fewer concerned with investigating every case. Rationally, it will have an impact on the quality of the Supreme Court's verdict. Mass Cases accumulation can be solved by small claims court methodology. Which means a recognized lawsuit did not need to be proven, however the cases against a lawsuit which have been denied should be examined by judge based on the applicable procedural law. Furthermore, the judge reads to the verdict of trial which is open to public and is obliged to inform the right of the involved parties. The legal effort of a small claims court is to file an objection to the Head of Court by signing a deed of

objection statement in front of court secretary. Implementing a small claims court process in court litigation is quite advantageous to society in resolving civil cases in District Court in a simple, fast, and inexpensive manner.

Based on the conclusions above, there is several suggestions as follows: Both judges and lawyers must have an active role in the legal rule. It is necessary to publicize data on the advantages of the small claims court method in the legal system before the court regarding the implementation of the rule in a fast, simple, and inexpensive trial. It needs a clear arrangements in the context of implementing small claims court mechanism of litigation process on court regarding simple evidence and summoning process for every parties at the first trial, electronically (through email), therefore the summoning process of parties does not obstruct the process of cases solving, which is limited to only 2 days of work.

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