

Juridical Analysis of Default Disputes in Online Loan Agreements under the Indonesian Civil Code

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Abstract

The development of electronic transactions has created ambiguity in the mechanisms for resolving disputes arising from breaches of contract (*wanprestasi*) in online lending agreements. This study aims to analyse the juridical basis for resolving breach of contract disputes based on the Civil Code (KUHPerdata). The method used is normative juridical, with a statutory and literature approach. The results of the study indicate that online agreements remain valid under Article 1320 of the Civil Code and possess binding legal force; therefore, breaches of contract can be legally enforced. However, the digital nature of online lending agreements presents its own challenges, particularly in terms of dispute resolution mechanisms. The novelty of this research lies in analysing the relationship between the characteristics of electronic agreements and the models of dispute resolution for breach of contract. This study contributes by providing a more specific juridical framework as a basis for the development of practices and policies in resolving disputes arising from online agreements.

Keywords: resolution, breach of contract, agreement, online lending, Civil Code

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INTRODUCTION

The development of technology in the modern era has progressed rapidly, making everything easily accessible, placing nearly all activities within one's grasp. With the advancement of information technology, human activities have become increasingly diverse, including in the field of agreements. Agreements that were previously limited to written forms and conducted face-to-face have now evolved into electronic agreements or electronic contracts, particularly in business. Initially, payment transactions were carried out in person using cash; however, today, transactions can be completed anywhere within seconds. One form of Financial Technology (FinTech) is online-based lending.

Online lending is a service that facilitates borrowing funds through digital platforms. This is closely related to Online Lending Services. Regulation of the Financial Services Authority (POJK) Number 77/POJK.01/2016 governs online lending. These services operate through online platforms that establish loan agreements in Indonesian Rupiah between borrowers and lenders, as stated in Chapter I, Paragraph (3) of the Financial Service Guidelines (PLK). As technology continues to develop rapidly, online lending services in Indonesia have become highly popular. Financial assistance provided by financial sector institutions through online platforms is commonly known as "Pinjol." By simply downloading an application from the App Store or Play Store, obtaining an online loan has become very easy. Compared to banks, savings and loan

cooperatives, and other lending institutions, people increasingly prefer using online lending applications. In the past, applying for a loan was a time-consuming process with many complex requirements before the emergence of online-based lending. Generally, people who urgently need funds and lack access to banking services can obtain them through online loans. These services simplify the borrowing process as everything is conducted online. The increasing demand for financial services, along with technological advancements and public demand for easier access to financial or credit services, has driven the growth of this sector. Online lending has made the process simpler, faster, and more efficient. Loan applications are as easy as filling out an online form and uploading several documents. In some cases, only a phone number and an identification image are sufficient to obtain a loan.

On the other hand, this convenience also brings negative impacts for certain individuals. Issues arise from practices such as improper and dishonest debt collection, including the use of threats, intimidation, and even extortion. Intimidating and threatening debt collection practices constitute serious violations of law and business ethics. Fair law enforcement must prioritize consumer protection without compromising privacy rights. Online loans often carry very high interest rates and are difficult to repay, as interest is typically calculated per instalment. Therefore, the public must exercise caution and thoroughly understand the terms and conditions before using any online lending service. Many people are also unaware of the risks associated with online borrowing activities, which can lead to various problems, including breach of contract (*wanprestasi*). Breach of contract (*wanprestasi*) is a condition in which a debtor fails to fulfil their contractual obligations as agreed. According to Article 1238 of the Civil Code (KUHPperdata), failure to fulfil obligations grants the injured party the right to claim compensation for the losses incurred. Such compensation represents restitution provided by the party at fault to the injured party due to unlawful conduct. Each form of breach of contract carries its own legal consequences, including compensation, contract cancellation, and legal execution against the debtor's assets. Therefore, understanding the meaning, forms, and juridical consequences of breach of contract is crucial, not only for legal practitioners but also for the general public involved in civil legal relationships.

The main issue discussed in this study lies in analysing the juridical basis for resolving disputes arising from breach of contract in online lending agreements under the Civil Code. Normatively, online lending agreements still meet the validity requirements set out in Article 1320 of the Civil Code and have binding force under Article 1338 of the Civil Code; thus, breaches can be legally enforced. However, the digital nature of online lending agreements presents unique challenges, particularly in terms of dispute resolution. Therefore, further analysis is needed to examine the relationship between the characteristics of electronic agreements and mechanisms for resolving breach of contract disputes. This study aims to analyse the juridical foundations of dispute resolution for breach of contract in online lending agreements. Accordingly, it offers a state-of-the-art contribution by examining the relationship between the characteristics of electronic agreements and models of dispute resolution for breach of contract.

The research method employed is normative legal research using a statutory approach and a conceptual approach. Data sources include primary legal materials, namely the Civil Code (KUHPperdata) and regulations related to electronic transactions; secondary legal materials such as literature, journals, and previous research; and tertiary legal materials such as legal dictionaries and encyclopedias. Data analysis is conducted descriptively and qualitatively by outlining and interpreting legal provisions concerning the resolution of breach of contract disputes in online lending agreements. Through this approach, the study is expected to provide an in-depth juridical understanding of the relevance of the Civil Code in regulating online agreements, as well as to offer new perspectives on resolving breach of contract disputes in the digital era.

DISCUSSION

Legal Analysis of Default Disputes in Online Loan Agreements Based on the Civil Code

Fintech lending, or online lending, is one of the innovations in the financial sector that utilizes technology to enable lenders and borrowers to conduct loan transactions without meeting in person. Online lending is a facility for borrowing money provided by financial service providers integrated with information technology, where the entire process—from application and approval to fund disbursement—is carried out online or through SMS and/or telephone confirmation. Online lending binds the parties through electronic-based

agreements, similar to conventional agreements, where the validity requirements still refer to Article 1320 of the Civil Code (KUHPperdata), which include consent, legal capacity, a specific object, and a lawful cause.

Online lending agreements are often accompanied by additional fees and a lack of transparency from credit providers, causing consumers to not fully understand the commitments they undertake. In addition, assessments of consumers' repayment capacity are often inadequate before credit is granted, leading to high default rates. This indicates that many consumers do not fully understand the legal requirements and risks associated with online lending. On the other hand, the public is also generally unaware of the business risks involved in borrowing and lending activities via the internet. As a result, payment defaults frequently occur in online lending agreements. When payment delays occur, the initial action taken by the provider is the collection process. Providers often carry out collection efforts directly through internal mechanisms, such as notifications via SMS, email, or telephone calls (Muhammadiyah and Barat 2025). If the debtor still fails to fulfil their obligations, collection actions may continue by visiting the debtor's residence or contacting other parties listed in the debtor's contact data. These collection practices often raise issues, particularly regarding personal data protection and potential violations of ethical collection practices.

If the debtor continues to ignore these efforts, the provider may proceed with dispute resolution mechanisms for breach of contract through litigation or non-litigation methods, such as arbitration, either in court or outside the court. Litigation is pursued when out-of-court dispute resolution fails to reach an agreement. However, the public generally prefers dispute resolution through arbitration. Arbitration begins with an agreement between the parties, usually in the form of an arbitration clause in the contract, as regulated under Law Number 30 of 1999 on Alternative Dispute Resolution. This agreement forms the basis of arbitration authority and reflects the principle of freedom of contract. The aggrieved party then submits a claim to an arbitration institution or appointed arbitrator, followed by notification to the opposing party to respond. The parties appoint neutral and independent arbitrators and agree on the schedule and procedures for examination. After the process is completed, the arbitrators deliberate and issue a final and binding decision, which cannot be appealed or challenged through cassation. If the decision is not voluntarily executed, the winning party may request enforcement through the district court (DPR 2021).

Mechanisms for resolving breach of contract disputes through litigation and non-litigation channels can be carried out in accordance with classical civil law dynamics. However, online lending agreements have distinct characteristics that create gaps in dispute resolution. The development of online lending as part of financial technology (fintech lending) has transformed civil legal relationships, but this transformation has not been fully accommodated by the normative framework of the Civil Code (KUHPperdata). Theoretically, the Civil Code is based on the principles of freedom of contract and equality of the parties, as articulated by scholars such as Subekti and Sutan Remy Sjahdeini, which positions parties as equal in determining the contents of an agreement. In practice, however, online lending agreements take the form of standard electronic contracts drafted unilaterally by providers, creating an imbalance between creditors and debtors. Recent studies show that electronic contracts in fintech not only raise issues of validity but also concerns related to consumer protection and dispute resolution in cases of breach of contract (Triasih, Muryati, and Nuswanto 2021). Furthermore, the rapid development of fintech has introduced various legal issues, such as high interest rates, misuse of personal data, and unethical collection practices, highlighting that the assumption of equality in the Civil Code is no longer fully relevant in the digital context (Putera 2026).

On the other hand, gaps are also evident in dispute resolution mechanisms and the effectiveness of law enforcement. Doctrinally, breach of contract disputes under the Civil Code are resolved through litigation. However, in practice, this mechanism is often ineffective in online lending due to the fast, massive, and relatively low-value nature of transactions. Recent studies indicate that fintech lending disputes are more frequently resolved through non-litigation mechanisms such as mediation or internal platform resolution, although their effectiveness remains limited. Additionally, the digital nature of transactions, which rely on electronic systems, presents new challenges in evidentiary processes and enforcement of obligations, particularly in cases where electronic data serves as the primary form of evidence. These conditions demonstrate a fundamental gap between the classical civil law framework and the dynamics of digital transactions, thereby requiring a more adaptive and integrative legal approach to ensure legal certainty and protection for all parties involved in online lending disputes.

Along with technological advancements, Alternative Dispute Resolution (ADR) methods are increasingly utilized, particularly in the fintech sector. In many developed countries, the concept of Online Dispute Resolution (ODR) has emerged, offering faster, more efficient processes that align with the characteristics of digital transactions. Therefore, the development of technology-based dispute resolution mechanisms has become an urgent necessity to provide balanced legal protection for creditors, debtors, and online lending providers.

Legal Consequences and Challenges of Legal Protection in Breach of Contract Disputes

The legal consequences of breach of contract (*wanprestasi*) in online lending agreements may take the form of compensation as regulated in the Civil Code (KUHPperdata), particularly Article 1246, which includes costs, losses, and interest. Furthermore, the legal consequences for a party proven to have committed a breach are stipulated in Article 1243 of the Civil Code, which states that compensation for costs, losses, and interest becomes obligatory if the debtor, despite having been declared in default, still fails to fulfil their obligations or fulfils them beyond the agreed time limit. In addition to compensation, the injured party also has the right to seek cancellation of the agreement as regulated in Article 1266 of the Civil Code. Moreover, another possible consequence is the transfer of risk to the debtor, which may be realized in the form of interest payments or late penalties if previously agreed upon. In cases where the agreement is secured by collateral, breach of contract may also result in seizure or execution of the collateral in accordance with applicable regulations (Anon 1848)

In principle, each party to an agreement should draft the contract carefully and in detail to prevent breach of contract. However, if a violation still occurs, understanding the procedures will help the injured party take appropriate and effective legal action. The procedure for handling breach of contract serves as an important mechanism in enforcing civil justice through structured stages. A party committing breach of contract may be subject to legal sanctions, including compensation, contract cancellation, transfer of risk, or forced performance of obligations. Additionally, a party that fails to fulfil its obligations may be placed on a blacklist, which can result in difficulties in accessing financial services in the future (Udayana, Klod, and Denpasar 2025). Breach of contract itself consists of several forms, namely delayed performance, improper performance, performance not in accordance with the agreement, or complete failure to perform (Marpaung, Lawolo, and Siregar 2022).

From the perspective of legal protection, civil law should ideally provide both repressive and preventive protection effectively. However, in the practice of online lending, these functions have not been optimally implemented. Mechanisms for filing breach of contract claims often fail to provide meaningful recovery due to costs and time that are disproportionate to the value of the dispute, while preventive protection through agreements is weakened by the use of standard contracts drafted unilaterally. This condition indicates that the framework of the Civil Code has not yet fully accommodated the characteristics of unequal digital legal relationships. Although Law Number 11 of 2008 on Electronic Information and Transactions recognizes the validity of electronic evidence, in practice, there are still limitations in law enforcement officers' understanding as well as technical difficulties in assessing the validity of digital evidence (Laughton et al. 1972). On the other hand, weak law enforcement and challenges in electronic evidence further widen the gap between legal norms and practice. The proliferation of illegal online lending and unlawful collection practices reflects that regulations have not been effectively implemented (Triasih et al. 2021). Coupled with limited access to justice and low levels of legal literacy among the public, the position of debtors becomes increasingly vulnerable. Thus, this issue is not only normative but also structural, requiring legal reforms that are more adaptive to digital dynamics.

Therefore, it can be concluded that the ineffectiveness of legal protection in online lending is not solely caused by regulatory weaknesses, but is more influenced by weak law enforcement, evidentiary challenges, and limited access to legal remedies. Accordingly, a more comprehensive approach is needed, not only through regulatory reform but also through strengthening law enforcement, enhancing institutional capacity, and developing dispute resolution mechanisms that are more adaptive to the characteristics of digital transactions, such as Online Dispute Resolution (ODR). A further juridical issue that deserves closer attention is the legal status of consent in online lending transactions. In conventional agreements, consent is usually evidenced by a wet signature and direct acknowledgment of the contractual clauses. In online lending, by contrast, consent

is represented through digital actions such as clicking an approval button, checking an agreement box, or submitting personal data through the platform. From the perspective of contract law, these actions may still satisfy the requirement of consent under Article 1320 of the Civil Code as long as the parties clearly understand the substance of the agreement and voluntarily bind themselves to it. The legal problem arises when the platform uses lengthy standard clauses, inaccessible interfaces, or fragmented disclosure practices that prevent borrowers from understanding the legal consequences of their approval. In such situations, the formal existence of consent does not automatically guarantee substantive fairness. This means that a court or other dispute resolution forum should not stop its examination at the fact that the borrower clicked “agree,” but should also assess whether the agreement process fulfilled the principles of transparency, balance, and good faith. In the context of online lending, therefore, the juridical evaluation of default disputes should involve not only the debtor’s non-performance, but also the procedural fairness of the digital contracting process that produced the obligation in the first place.

The classification of default in online lending agreements also requires a more precise analytical framework. In civil law doctrine, default may take the form of non-performance, late performance, defective performance, or conduct contrary to the agreed undertaking. These classical categories remain relevant in digital lending, yet their application becomes more complex when the transaction is automated and platform-based. A debtor may default by failing to pay on time, by paying in an incomplete amount, or by using false data during the application process, while the lender or platform may also commit a juridical fault when it imposes unlawful collection methods, conceals fees, or unilaterally changes material terms. This reciprocal possibility is important because online lending disputes are often narrated as if only the borrower can breach the contract. In fact, a fair legal analysis must recognize that breach may occur on both sides of the digital relationship. Once this perspective is adopted, dispute resolution becomes more balanced and better aligned with the principle of equality before the law. It also helps distinguish purely civil disputes from situations that may involve consumer protection violations, unlawful acts, or administrative non-compliance by platform operators. As a result, the legal construction of online lending disputes should move beyond a narrow debtor-centered approach and instead examine the entire contractual ecosystem in which digital credit is created, performed, and enforced.

Another important dimension concerns the evidentiary regime in default disputes arising from online agreements. In litigation based on conventional contracts, written documents, signatures, receipts, and witnesses are typically used to establish the existence of the obligation and the occurrence of breach. In online lending, however, essential proof is embedded in electronic records such as application logs, digital account registrations, electronic communications, payment histories, screenshots, and automated notifications. This creates practical challenges regarding authenticity, accessibility, and evidentiary continuity. A borrower may claim that consent was not given properly, while the provider may rely on platform-generated records that are difficult for ordinary consumers to independently verify. Consequently, the effectiveness of dispute resolution depends not only on the Civil Code provisions governing default, but also on the ability of legal institutions to recognize, assess, and test electronic evidence in a fair manner. In doctrinal terms, the existence of electronic evidence should strengthen the enforceability of online agreements, yet in practice it may also deepen asymmetry because the platform usually controls the relevant data. For that reason, judges, arbitrators, and mediators handling online lending disputes should pay particular attention to the reliability of the digital trail, the clarity of proof of notification, and the proportionality of the platform’s claims. Without such scrutiny, the evidentiary structure of digital lending may privilege the stronger party and reduce the protective function of civil law.

From the standpoint of legal protection, the problem of default in online lending cannot be resolved solely through post-dispute sanctions. Preventive protection is equally important because many disputes arise from structurally weak contracting practices. Borrowers frequently face standard-form agreements drafted entirely by the provider, limited opportunities to negotiate terms, and inadequate explanations of interest calculations, penalties, or data processing mechanisms. When these elements are unclear, the risk of later default increases because the debtor may not fully comprehend the scope of the obligation assumed. Therefore, the juridical response should include a stronger emphasis on pre-contractual disclosure, plain-language contract design, and accessible complaint mechanisms before the dispute escalates into litigation. This is consistent with the broader function of civil law as an instrument not only for settling disputes after harm occurs, but also for guiding parties toward lawful and balanced contractual conduct. In the online lending sector, that preventive

function becomes especially important because the transaction is fast, remote, and often entered into by financially vulnerable users. A more effective legal framework should thus connect the rules on default with consumer-oriented safeguards that reduce the probability of breach from the outset. In this sense, the proper resolution of default disputes is inseparable from the prior quality of legal protection embedded in the digital lending relationship.

These considerations lead to a broader policy implication. The Civil Code continues to provide the foundational framework for determining the validity of agreements, the existence of default, and the legal consequences of non-performance. Nevertheless, its application to online lending disputes requires interpretive adaptation so that classical contract principles remain responsive to digital realities. The future development of legal practice should therefore encourage a more integrated approach that combines contract law, consumer protection, electronic evidence standards, and sectoral supervision in one coherent dispute-resolution model. Such an approach would not replace the Civil Code, but would operationalize it more effectively within the context of contemporary financial technology. For courts and dispute settlement institutions, this means assessing not only whether the debtor failed to pay, but also whether the agreement was transparently formed, whether the evidence is digitally reliable, and whether the collection process remained within lawful limits. For regulators and service providers, it means designing contractual and procedural mechanisms that reduce ambiguity and support legal certainty.

A more adaptive juridical framework of this kind would strengthen the enforceability of lawful online agreements while at the same time improving fairness and protection for all parties involved in digital lending transactions. In practical terms, this study also indicates that legal certainty in online lending depends on the synchronization of substantive contract rules with digitally responsive enforcement mechanisms. The clearer the agreement structure, notice procedure, and evidentiary record, the easier it is to determine whether a true default has occurred and what form of remedy is legally justified.

CONCLUSION

The resolution of breach of contract disputes in online lending agreements, in accordance with the classical Civil Code (KUHPperdata), can generally be carried out through litigation or non-litigation mechanisms. However, due to the specific characteristics of online lending agreements, fintech lending disputes are more commonly resolved through non-litigation methods such as mediation or internal platform settlement. From a juridical perspective, a party committing a breach of contract may be subject to legal consequences in the form of compensation, cancellation of the agreement, transfer of risk, and forced performance of obligations in accordance with civil law provisions. Additionally, there are administrative implications, namely the potential inclusion in a blacklist, which may limit access to financial services in the future. However, the implementation of these provisions has not been fully effective in practice due to inconsistencies with the nature of digital transactions, influenced by various obstacles such as weak law enforcement, difficulties in electronic evidence, limited access to legal remedies, and low levels of public legal literacy.

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