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Urgency Of Interpretation Of Standard Contract To Achieve Justice

Dr. Siti Malikhatun Badriyah, S.H. M.Hum
Faculty of Law Diponegoro University Semarang, Indonesia

Abstract:- Standard contract is an agreement drawn up unilaterally by the constituent agreement, without the knowledge of the other party. In this case the parties just to leave or take the agreement, without being able to increase or decrease the contents of the agreement. Therefore, in general the opposition (which is not involved in setting up the agreement), are in a weak position. Standard contract is intended to save cost, time and effort, so it is very helpful when viewed in economic terms. The background of standard contract is due to socio-economic circumstances. Standard contract has binding force based on the traditions prevailing in the society and trade traffic. Because drafted unilaterally by the parties who have a strong position they often determine to be maker agreement of clauses that indicate an imbalance in the legal relationship of the parties, which in turn leads to injustice. Therefore, efforts to achieve a sustainable contract that are extremely vital to always be done by various parties, including legislators, government, business, and society in general, including in the standard agreement. One of them is to do the interpretation of the contract.

***Keywords** : urgency, interpretation, standard contract, justice, legal relationship*

I. INTRODUCTION

In Black's Law Dictionary contract as an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. According to Treitel[1] contract as an agreement giving rise to obligations which are enforced or Recognized by law. The factor which distinguishes from of other legal contractual obligations is that they are based on the agreement of the contracting parties.The contract provides a variety of benefits for the life of society, because the contract will lead to the engagement for the parties to realize the objectives of the contract. On the other hand, many contracts pose a problem, since there is often an imbalance of legal relations between the parties to the contract, which leads to inequities that arise in the life of society.

At the present time the contract is often made in standard form. In this case the contract is determined by one of the parties that usually have a higher bargaining position. The other party can only accepts or rejects it. Parties that have not participated determining that the agreement referred to as the adherent. As a determinant of the agreement, the parties often have a strong position makes clause which often indicates an imbalance of rights and obligations of the parties. In terms of that it raises potential conflicts in society, which would distract the balance of the order in the society. Therefore, the efforts to realize the contract based on values of justice are extremely vital to always be done by various parties, including legislators, government, business, and society in general. In its development, namely the creation of legal, ideally looking for three basic ideas in law, namely the rule of law (*rechtssicherkeit*), utility (*zweckmassigkeit*), and justice (*gerechtigkeit*),[2] included in the contract. These three elements are by Gustav Radbruch[3] said as the support of legal ideals *(idee des Rechts*). This law will guide humanity in a lawless life. These three basic values that must exist in balance, but often they are not always in a harmonious relationship with one another, but rather contradictory (spannungsverhaltnis) of each other. In the event of such a conflict, which should be a justice. To promote justice in the contract, the interpretation of the contract becomes one of the very urgent thing to do.

II. RESEARCH METHODS

Research Methode in this paper is mixed method, qualitative and quantitative. Face-to-face interviews (instrument: questionnaire and indepthinterview). Key Person:Notaris, Judge, Lawyer, Businessman. Tools of

[1]Treitelin Paul Richards, *Law of Contract*, (London: Pitman Publishing, 1993), 10
[2]SudiknoMertokusumo, Mr. A. Pitlo, *Bab-babTentangPenemuanHukum*,(Jakarta: PT Citra AdityaBakti) .
[3] Gustav RadbruchdalamSatjiptoRahardjo, *HukumdalamJagadKetertiban*, Cetakan I, (Jakarta: UKI Press, 2006), 135.

Analysis is Legal Pluralism, which integrate phylosophical, normative approach, sociological approach. The validity Trianggulation based on indepth interview as Qualitative Tools

III. DISCUSSION

1.1. Relationships in the Contract Law and the Development of Society

The law is dynamic (*historsisch bestimnt*), always follows the development.[4] Changes in the law as a result of the changing dynamics of the community is also the case in the law of contract agreement (*overeenkoms*). Sir Henry Maine[5] in his book "Ancient Society" said that the law developed from status to contract (from status to contract). Legal developments from status to contract is in accordance with the developments of simple (primitive)societies and homogeneous ones to the people who have complex and heterogeneous structure, and the relationships between people with more emphasis on the element of self-interest. At first, the person's legal action is determined by the position / status. In a complex society, one has some certain freedom, then tied it in the provisions of the contract. Laws alone in this society evolved through three ways, namely: fiction, equity, and legislation. “Maine” differentiates their societies are static and progressive. Progressive society is capable of developing the law through three ways: "fiction, equity, and legislation.

At the present time the development of the law of contract is from contract to status. This is evident from the increasing number of standard contract use in a variety of activities. Hondius[6] stated that the agreement is a draft standard written agreement that was drawn up without discussing their contents and typically poured into a number of agreements that are not limited to the specific nature. Purwahid Patrik[7] found standard contract is an agreement in which there have been certain requirements made by either party. Standard contract have the nature to take it or leave it. The opponent parties that constitutes an agreement, commonly called adherent, dealing with the parties that make up the agreement has no choice, but to accept or reject. According to Sudikno Mertokusumo[8] standard contract is an agreement whose contents are determined unilaterally by the parties which make up, so that the adherent do not feel free will, because there is no rapprochement will be on the weaker side. From the notions it can be concluded that the standard agreement is an agreement drawn up unilaterally by the constituent agreement, without the knowledge of the other party. In this case the opponent parties accept or reject the agreement, without being able to increase or decrease the contents of the agreement. Therefore, in general the opposition (which is not involved in setting up the agreement), are in a weak position. standard contract is intended to save cost, time and effort, so it is very helpful when viewed in economic terms.

The background of standard contract is due to socio-economic circumstances.[9] standard contract has binding force based on the traditions prevailing in the society and traffic.[10] Pursuant to Article 1338 paragraph (3) K.U.H. Civil Agreement must be implemented in good faith. As a consequence of these provisions, then all agreements, including those made in the form of a standard must always consider the feasibility and appropriateness. In Article 18 of Law No. 8 of 1999 on Consumer Protection contained provisions regulating the standard clause states that:

a. Business agents in offering goods and / or services for trading are prohibited from creating or include the standard clause in every document and / or agreement if:
b. declare the transfer of responsibility of business agent;
c. stated that business agent is entitled to reject the handover to the goods that consumers buy;
d. states that business agent has the right to refuse handing back the money paid for the goods and / or services purchased by consumers;

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[4] Sudikno Mertokusumo, 1990 *Perkembangan Hukum Perjanjian*, Seminar Nasional Asosiasi Pengajar Hukum Perdata/Dagang, Faculty of Law, UGM-Konsorsium Ilmu Hukum, Yogyakarta (12-13 Maret, 1990), 2.

[5] Sir Henry Maine in Carl Joachim Friedrich, *The Philosophy of Law in Historical Perspective*, translated by Raisul Muttaqien with the title*Filsafat Hukum Perspektif Historis*, Cetakan Ketiga (Bandung: Nusa Media, 2010) 177.

[6] Mariam Darus-, *Aneka HukumBisnis*, Alumni, Bandung, *Perjanjian Baku (Standard), Perkembangannya di Indonesia*, (Bandung: Alumni, 1994).

[7] Patrik, Purwahid -, *AsasItikadbaikdanKepatutansebagaidasarUntukMerevisi Isi Perjanjian*, (Jakarta, Elps Project, 1993), 145.

[8] Sudikno Mertokusumo, 1990, *Perkembangan Hukum Perjanjian*, Nasional Seminar “Asosiasi Pengajar Hukum Perdata/Dagang, Fakultas Hukum UGM-Konsorsium Ilmu Hukum” Yogyakarta: 12-13 Maret 1990), 4.

[9] Pitloin Mariam DarusBadrulzaman, 1994, 61

[10] Hondiusin Mariam DarusBadrulzaman, *Op.Cit*. 50

e. express authorization from consumers to businesses either directly or indirectly to any unilateral action relating to goods purchased by consumers in installments;
f. arrange the concerning proof of loss of use of goods or utilization of services purchased by consumers;
g. give rights to business agent to reduce the benefits of the services or reduce the wealth of consumers who becomes the object of sale and purchase of services;
h. states the submission of consumers to the regulations in the form of new rules, additional, secondary and / or advanced conversion made unilaterally by business agent in the future consumers to use services purchased;
i. states that the consumer authorizes the business agent to load encumbrance, lien or security interest against goodspurchasedbyconsumersininstallments.

(1). Business agents are prohibited include standard clauses that location or shape is hardly visible or can not be read clearly, or the disclosure of which is difficult to understand.
(2). Each standard clause that has been set by the business agent on a document or agreement which meets the requirements referred to in paragraph (1) and paragraph (2) declared null and void.
(3) Business agents are required to adjust the standard clause that is contrary to this Law.

Sudikno Mertokusumo[11] argued that the legal relationships arising from this contract is reflected on the rights and obligations conferred by law. Every legal relationship created by the law always has two aspects contents in the right hand, while on the other obligations, so there are no rights without obligations, and vice versa, there is no dutywithoutrightsJ. Satrio[12] suggested that engagement is a legal relationship between two or more parties in a court of law where the wealth on the one hand there is right in one party and the other party has obligation. The definition of rights and obligations in this case is achievement. H.M.N. Purwosutjipto argued that the legal relationship between the two parties are independent (zelftandige rechtssubjecten), which led to one party against the other party is entitled to an achievement, this achievement is the duty of the latter to the first party.[13]

1.2. Interpretation of the Contract

According to Herlien Budiono, the parties' agreement is not separated from the actual relation of the society, so that a new agreement is valid if the individual interests and the public interest is in balance[14] This balance will be the fundamental of the agreement, even before people are aware of its existence, the principle of balance has been commonly applied. According to Hijma,[15] the goals and the purpose of the treaty has juridical and bound force, also no attachment or bound force in a psychological perspective (bound flavor) and sociological bound . According to P.S. Atiyah agreement has three main objectives, namely: first, it is inspired by the desire to enforce promises and to protect the reasonable expectations roomates are generated both by promises and by other forms of conduct) secondly, contract law itself is also powerfully influenced and affected by the idea that unjust enrichment should not be permitted; thirdly, contract law is also designed to Prevent Certain kinds of harm, particularly harm of an economic nature, or at least to compensate thos who suffer such harm to Prevent Certain kind of harm) In addition to the three main objectives, as stated by Atiyah, the author agrees with Herlien Boediono to add one purpose of the treaty, which is achieving a balance of interests between the parties. It is pointed out by the Sri Redjeki Hartono,[16] that one of the principles of economic law is important to note is the principle of balance of interests.

Agus Yudha Hernokouses proportionality to descibe a balance between the parties in the contract. H.L.A. Hart argued that the hallmark of justice and special relationship with the law began to emerge, when it was observed that most of the criticisms made in the review is fair and not fair as it could be expressed with words fair (impartial) and unfair (unequal).

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[11] SudiknoMertokusumo, *MengenalHukum (SuatuPengantar),* 4ThEdition, (Yogyakarta: Liberty, 1996), 39.

[12] J. Satrio, Hukum Perjanjian (Bandung: PT. Citra Aditya Bakti, 1992), 2. Gr. Van der Burght, Buku Tentang Perikatan, dalam Teori dan Yurisprudensi (Berisi Yurisprudensi Nederland Setelah Perang Dunia II), Disadur F. Tengker, Cetakan I, (Bandung: Mandar Maju 1999).

[13] H.M.N. Purwosutjipto, PengertianPokokHukumDagang Indonesia *1 PengetahuanDasarHukumDagang, CetakanKeempat,(*Jakarta:Djambatan, 1984), 4

[14] http//www. Hukumonline.com

[15] HijmainHerlienBudiono, *Het Evenwichtsbeginselvoor het IndonesischContractenrecht op IndinesischeBeginselGeschoeid,* Translated byTristam P. Moelionowith the title*AsaskeseimbanganbagiHukumPerjanjian Indonesia, HukumPerjanjianBerlandaskanAsas-asasWigati Indonesia, (*Bandung: PT Citra AdityaBakti, 2006), 308.

[16] Sri Redjeki Hartono, *Hukum Ekonomi Indonesia* (Malang: Bayumedia Publishing, 2007)62-63

Justice in this case is justice as stated by Al-Ghazali[17] in advance is the perfection of all the virtues, which stood above the equilibrium (a state of balance) and moderation in the behavior of private and public affairs. Most importantly, justice is an attitude of fairness (inshaf) that encourage people to go through what he described as the path of justice. Street of Justice according to Al-Ghazali is the correct path (ash-shirath al-mustaqim), based on which man achieves happiness in the world and the hereafter later.

In Indonesia,[18] the value of justice together with the other basic values of Pancasila is a value that is used as the destination of a value system. For the people of Indonesia, Pancasila values placed as a fundamental value. Pancasila has the basic values that are universal and permanent. The values were arranged in a hierarchical and pyramidal. Pancasila substance with the five principles are contained in divinity, humanity, unity, democracy and social justice is a value system. The basic principle that contain certain quality it represents the ideals and expectations or what should be achieved by Indonesia which will translate into concrete reality both in the life of society, nation and state.[19] When viewed from the stratification[20] of the basic values of Pancasila, the value of social justice is the peak value of the pyramid of the system of values of Pancasila. According Notonagoro,[21] the values of Pancasila including spiritual values, but the value of spirituality that recognizes the value of the material and vital values. Value of the first principle, namely God as its base and social justice as its goal.

As noted above, that the agreement is a legal relationship between two or more parties based on an agreement to give rise to legal consequences, then in each agreement will create a legal consequences for the parties that is the legal relationship between the parties that make up the agreement. Sudikno Mertokusumo[22] argued that the legal relationship is reflected in the rights and obligations conferred by law. Every legal relationship created by the law always has two aspects contents in the right hand, while on the other obligations, so there are no rights without obligations, and vice versa, there is no duty without rights. In essence, it caused binding agreement between the parties, so that the agreement is one source of the engagement. Purwahid Patrik[23] argued that engagement is a legal relationship between certain persons is between creditors and debtors. J. Satrio[24] suggested that engagement is a legal relationship between two or more parties in a court of law where the wealth on one hand there are right and the other party is no obligation. The definition of rights and obligations in this case is to achieve. H.M.N. Purwosutjipto argued that the legal relationship between the two parties are each independent (zelftandige rechtssubjecten), which led to one party against the other party is entitled to an achievement, this achievement is the duty of the latter to the first party.[25]

Engagement can be sourced from laws, treaties, court decisions, and moral. Laws, treaties, court decisions give rise to civil engagement. Moral engagement can give birth naturally. According to Sudikno Mertokusumo, natural engagement (obligatio naturalist, natuurlijke verbintenis), is an engagement that has no legal consequences. Thus, the engagement of this nature is not met, then the submission to the court will be rejected. Civil engagement (obligatio civilis), is a legal effect of the engagement, an engagement which, if not met can be submitted to the court. Agreement spawned civil engagement. In the agreement there is more than one engagement. According to J. Satrio,[26] the actual agreement is a group or set of engagement that binds the parties to the agreement in question. Overall engagement that have links to each other is what is called agreement. The engagement provides a characteristic that distinguishes an agreement with other agreements. From the opinions above, it is said that the agreement is a legal relationship between two or more parties based on an agreement to give rise to legal consequences in the form of rights and obligations in a feat. In the engagement, there are four elements, namely (a) the legal relationship, (b) the two parties, namely the debtors and creditors, (c) the rights and

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[17]MajidKhadduri, *The Islamic Conception of Justice,* translated byMochtarZoernidanJoko S. Kahlarwith the title *TeologiKeadilanPespektif Islam,* (Surabaya:RisalahGusti, 1999), 177.

[18]Danniel J. Muller, *MengukurSikap-sikapSosial,* CecepSyarifuddindkk, (Bandung: FISIP Press PasundanUniversity, 1990), 5.

[19]Kaelan, *PendidikanPancasila*, Paradigma,(Yogyakarta, 2003), 70-71.

[20] Max SchelerNotonagoro, *PancasilaSecaraIlmiahPopuler*, (Jakarta:PantjuranTujuh, 1975). Kaelan, *FilsafatPancasila: PandanganHidupBangsa*, (Yogyakarta: Paradigma, 2002) 124-125.

[21] Darji Darmodiharjo, *Santiaji Pancasila,*(Jakarta: Usaha Nasional, 1979).

[22]SudiknoMertokusumo,*op.cit.* 39.

[23]PurwahidPatrik, *Dasar-dasarHukumPerikatan (*Bandung; MandarMaju, 1994), 2.

[24]J. Satrio, *Hukum Perjanjian*, (Bandung: PT. Citra Aditya Bakti, 1992), See Gr. Van der Burght, *Buku Tentang Perikatan, dalam Teori dan Yurisprudensi (Berisi Yurisprudensi Nederland Setelah Perang Dunia II)*, F. Tengker, (Bandung: Mandar Maju, 1999).

[25]H.M.N. Purwosutjipto, *PengertianPokokHukumDagang Indonesia 1 PengetahuanDasarHukumDagang, (*Djambatan: Jakarta, 1984) 4

[26]SudiknoMertokusumo, *Op.Cit.*. 19

obligations, (d) achievement. Because of this agreement gives rise to civil engagement, if it does meet , it can be submitted to the court.[27]An agreement made by the parties will lead to the engagement. In such case, each party is bound to implement the agreement in accordance with the achievement concerned. If this achievement is met, then the purpose of the parties to make the agreement has been reached and agreement expires. The implementation of achievement (also called payment) will erase the existence of engagement (Article 1381 Civil Code).The fulfillment of accomplishment as the realization of the implementation of a contractual obligation, other than determined by the autonomous (things that are determined by the parties in the agreement, are also determined by factors heteronomic (factors outside the parties.) Power tied an agreement was influenced by autonomous or heteronomous. Article 1339 Code civil, said that the contract does not only bind to the things which expressly stated therein factor (autonomous), but also for everything that, by the nature of the contract, required by propriety, customs, and laws (factor heteronomic).

To determine the nature and the extent of the rights and obligations arising from the contractual relationship, Nieuwenhuis[28] stressed on two main aspects, namely:

a. Interpretation (interpretation; uitleg) the nature and the extent of contractual rights and obligations,
b. Factors that influence the nature and the extent of the rights and contractual obligations, including:
   1) The autonomous factors (related power tying contract)
   2) Heteronomic factors (the factors that come from outside the parties), consisting of: laws, customs (gebruik), a condition commonly agreed (bestandig gebruikelijk beding), and propriety (billijkheid).

Nieuwenhuis thought with regard to the nature and the extent of the rights and obligations arising from the legal relationship in the agreement, which focuses on two major aspects of interpretation as well as autonomous factors and heteronomic there is compliance with Article 1339 of the Civil Code. From the provisions of Article 1339, as mentioned above, it is said that the parties in the legal relationships arising from the agreement that has been made source from what was agreed (autonomous factors), and other factors (factors heteronomic). According to Agus Yudha Hernoko,it is considered a contract made by the parties is sometimes just a set of fundamental things , so that when problems arise in the implementation of the contract, it has been anticipated through the applicationof heteronomic factor.The substance of Article 1339 of the Civil Code, the principle is the same with the provisions of Article 6: 248 NBW on the Effects of Contract (Juridical Effect of Contracts; Rechtsgevolgen van Overeenkomsten), which states that "A contract not only has the Juridical effects agreed to by the parties, but also reviews those which, according to the nature of the contract, resulting from the law, usage or the requirements of reasonableness and fairness. This means that the contract is binding not only what was agreed by the parties, but also by the nature of contracts, laws, customs, decency and propriety. Such provisions, in the UNIDROIT Principles and the draft Contract (ELIPS) set out in Chapter V of Contents (Content), Article 5.1 and 5.2. Article 5.1.1.states that the contractual obligations of the parties may be express or implied (the contractual obligations of the parties, can be explicitly or implicitly). Furthermore, in Section 5.1.2 states that Impliedobligationstemfrom:

(A) The nature and the purpose of the contract ;
(B) Practices established between the parties and usages (practices that determined the parties (associated with the habit);
(C) good faith and fair dealing;
(D) reasonableness (fairness).

To compare some of the foregoing, it is said that the factors that determine the content of the agreement / contract is the will of the parties (factor of autonomous), as well as other factors (factors of heteronomic), which include: customs, laws, norms, and justice. According to Agus Yudha Hernoko the autonomous factors is the primary factor, while heteronomic factors are secondary factors. According to the authors these two factors existence must be impartial, they must be integrated in such a way, so that the agreement made by the parties to provide legal protection for the parties concerned as well as its links with the communities in which the agreement was made and implemented, so that any agreement made by the parties also reflect the values that exist in the community concerned. Given the general nature of a treaty is sometimes, less obvious, it is necessary to discover the law (*rechtsvinding*).There are various methods of legal discovery, one of which is the interpretation.

According to Scholten,to understand a text of laws, contracts or business documents is necessary to perform the interpretation well. Legislation is not always clear, there may be legislation providing for the settlement of issues raise in 1001 problems appear easily. Thus, it is an arogance or a mistake made by those who claim that the codification of laws have been able to accommodate all the problems that arise in the community, they

[27]SudiknoMertokusumo, *Op.Cit*.. 19
[28] J. Satrio, *Op.Cit*. 4

consequently assume that the interpretation does not need even banned. Every law, even the most well formulated though, requires interpretation. In doing legal discovery for all concrete events, including legal relations in the agreement, the values of fairness, expediency and legal certainty should be
proportional. However, there is often tension between the three. Among the three, that must always be aware of is that in each of finding concrete law, justice becomes the beginning and the end. This is because the law is for man, not man for the law. Ulpianusargued that "Quam vis sit manifestissimum Edictum Praetoris, attamen non est ejus negligenda interpretation." (Also although the rules of praetor obvious, but nevertheless the interpretation should not be overlooked).Vollmar recalled the importance of interpretation, given the language used in the legislation, including treaties is difficult to realize the thoughts constituent, so that it always appears the events wholy or in partially that do not include in the formulation. Through interpretation, searchable purpose and intent of the words contained in the legislation, so that no other interpretation finds the law (rechtsvinding).
Interpretation is a method to locate or find the meaning of the intrinsic (real) of a provision, regulations, statements and others. An obvious interpretation would serve as an ideal reconstruction of the hidden laws.[29]

Which require interpretation primarily treaties and laws. Good laws or agreements require interpretation or explanation, because it is often unclear or incomplete. In terms of sounds or words in the clear agreement, it should be emphasized that the agreement should not be interpreted to deviate from the wording or contents of the agreement. This principle is called the principle of sens clair, set forth in Article 1342 of the Civil Code, which says when the words in a clear agreement, is not permitted to deviate from the words by way of interpretation.[30]

According to Dharma Pratap,[31] interpretation is an explanation of each term of a contract if there is a double sense or is not clear and the parties provide a different understanding of the same term or can not give any sense of the term. The main purpose is to explain the interpretation of the true intentions of the parties or an obligation to provide an explanation of the intention of the parties as expressed in words used by the parties views on the circumstances surrounding it.[32]Interpretation is used to search for the meaning of what is written, or in other words look for implicit than explicit. According to Corbin, the interpretation of the contract is the process whereby a person gives meaning to a symbol of the expressions used by others (either in the form of oral language, writing and deed). Interpretation of the contract must be distinguished by the construction contract. In the contract that always begins with the interpretation of the language used (grammatical), the process stops when the interpretation up to the determination of the legal relationship between the parties. The interpretation of the contract is the determination of the meaning that must be determined from the statements made by the parties to the contract and the legal consequences that arise from it. Thus, a comprehensive understanding of the substance of the contract depends on the ability and mastery of the method of interpretation, and of course this can only be done by those who are professionals in their fields (ie the jurist).

Interpretation Regarding this, the Civil Code has provided signs the application through Section 1342-1351, namely:

1. If the words in the contract is clear, is not allowed to disobey by a way of interpretation. A kind of doctrine clear understanding or "plain meaning rules" (Article 1342 Civil Code).
2. If the words of a contract containing multiple interpretations, the intention of the parties take precedence over the word in the contract (Article 1343 Civil Code);
3. If a contract can be given two meanings, the meaning allows to be implemented (Article 1344 Civil Code);
4. If these words in a contract are ambiguous, it must have the meaning which best correspond to the nature of the contract (Article 1345 Civil Code);
5. If the engagement that has two meanings, the sense should be adjusted according to local custom (Article 1346 Civil Code);
6. The terms are always agreed, according to custom, it should be deemed to have been included in the contract, although it is not stated in the contract (Article 1347 Civil Code);
7. Between one clause with another clause in a contract there must be interpreted in conjunction with each other (comprehensive interpretation-exhaustive) (Article 1348 Civil Code);
8. If there is doubt that should be interpreted for the losses of people who ask an agreement for something for himself, a kind of doctrine of "contra proferentem" (Article 1349 Civil Code);
9. If the words that are used to draw up a contract has a significance that extends, it must diinterprestasi limited to things that are obviously intended the parties at the time of making the contract (Article 1350 Civil Code);10.

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[29] Peter Mahmud MarzukiinAgusYudhaHernoko, *Hukum Perjanjian, Asas Personalitas dalam Kontrak Komersial*, Yogyakarta: LaksBang Mediatama, *2008*) *207.*

[30]SudiknoMertokusumo& Mr. A Pitlo, *op.cit* 14.

[31] Dharma Pratapin Bhakti Ardhiwisastra, *PenafsirandanKonstruksiHukum*, (Bandung: ALUMNI, 2000), 19.

[32]O'Connell inYudha Bhakti Ardhiwisastra, *Loc.Cit.*

If a contract there is the affirmation of a thing, did not reduce or limit the contract applies to other things that are not stated in the contract (Article 1351 Civil Code).

Thus, understanding the contents of the contract in a comprehensive manner, can not be done simply by interpreting the word for word, but it can be done in various ways of discovering the law, so as to find the meaning of a contract either express or implied in the contract concerned.

IV. CONCLUSION

1. The law is dynamic, constantly evolving in accordance with the development of society. Likewise in contract law. Currently the development of the law is "from contract to status", evident by the number of raw agreement. Raw agreement is an agreement drafted unilaterally by one party that usually has a stronger bargaining position. This standard agreement potentially unequal legal relations of the parties that leads to injustice.
2. The interpretation of the agreement is a legal discovery method that is used to search for the meaning of what is written on an agreement. Urgency of this interpretation is to make an agreement, in this case is the raw deal it becomes clear and complete, in order to provide legal certainty, usefulness and fairness to the parties.

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[2] SudiknoMertokusumo, Mr. A. Pitlo, *Bab-babTentangPenemuanHukum*,(Jakarta: PT Citra AdityaBakti) 3.

[3] Gustav RadbruchdalamSatjiptoRahardjo, *HukumdalamJagadKetertiban*, Cetakan I, (Jakarta: UKI Press, 2006), 135.

[4] Sudikno Mertokusumo, 1990 *Perkembangan Hukum Perjanjian*, Seminar Nasional Asosiasi Pengajar Hukum Perdata/Dagang, Faculty of Law, UGM-Konsorsium Ilmu Hukum, Yogyakarta (12-13 Maret, 1990), 2.

[5] Sir Henry Maine in Carl Joachim Friedrich, *The Philosophy of Law in Historical Perspective*, diterjemahkan oleh Raisul Muttaqien dengan judul *Filsafat Hukum Perspektif Historis*, Cetakan Ketiga (Bandung: Nusa Media, 2010) 177.

[6] Mariam Darus-, *Aneka HukumBisnis*, Alumni, Bandung, *Perjanjian Baku (Standard), Perkembangannya di Indonesia*, (Bandung: Alumni, 1994).

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[9] Pitloin MariamDarusBadrulzaman, 1994, 61

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