
JURIDICAL REVIEW OF CONSTRUCTION SERVICE PROVIDERS' RESPONSIBILITIES FOR FAILURE TO CONSTRUCTION OF VILLAGE ROADS ACCORDING TO LAW NUMBER 2 OF 2017 CONCERNING CONSTRUCTION SERVICES (STUDY ON CV. MABRUR)

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ABSTRACT

Construction Services is a field that encourages increase in national development. But problems can arise in development failures. So from these problems the question arises, who is responsible for the consequences of the development failure, related to Law Number 2 of 2017 concerning Construction Services. The research conducted discussed the responsibility of construction service providers CV. Mabrur for the failure of the construction of the cast road belonging to Kebonsari Village as a user of construction services. This research method uses empirical juridical research methods, by conducting interviews with sources involved in this problem. So the results of what has been researched are proven to be errors or defaults that cause failure, namely the cracking of the cast road caused by a lack of solidity in the installation of the foundation on the cast road which ultimately causes losses to service users, therefore efforts are made to resolve it through negotiation channels to reach agreement or peace by both parties, CV. Mabrur as the construction service provider will be responsible for rebuilding the cracked part of the road.

Keywords: Development Failure, Accountability, Settlement Efforts

INTRODUCTION

The development of Indonesia's infrastructure, especially roads for public motorists, has begun to develop rapidly, especially developments in the construction services sector in Indonesia. This development certainly has a real impact on the progress or development of current national development.

Infrastructure development is growing day by day, rapid developments are occurring in the field of construction services. (Fredy Kurniawan et al., 2018). Construction is used technically to describe the results of activities whose end result is construction that is attached to the place it occupies and is intended to be used for other appropriate activities. These activities produce developments that are useful and can be used by the public. (Karolus E. Lature., 2018)

Based on Pancasila and the 1945 Constitution of the Republic of Indonesia, this aims to build a just and prosperous society and in accordance with its development goals, both material and non-material play an important role in the welfare of society. So regarding the development of construction services, the new Construction Services Law currently is Law Number 2 of 2017 concerning Construction Services.

Law Number. 2 of 2017 concerning Construction Services is a law that has been updated from the previous law, namely the Construction Services Law no. 18 of 1999, which is a legal action carried out on the basis of a contract that will be implemented at a certain time for a development project. Organizing activities to complete physical construction or procurement of certain goods and services required by users/consumers of goods or services. (Tamatompol Marviel Richard., 2017)

Construction failure as regulated in Article 1 paragraph 10 of Law Number 2 of 2017 concerning Construction Services states that building failure is a situation of building collapse or non-functioning of the building after delivery of the final results of construction services. Construction Services is the main

service that coordinates and communicates the entire construction process, from the pre-construction stage to the design and planning stages, and emphasizes independence from other professionals involved in construction. Ensuring smooth work in the construction industry requires a capable supply chain system to support this. (Iskandar Tjipto., 2014)

One of the problems that arise in the construction services sector is the occurrence of irregularities in the construction contract. This problem of course gives rise to legal consequences, both administrative and civil sanctions in the form of compensation or damages. (Peter Miquel Samuel., 2016)

This problem is a construction failure which is classified as quite minor due to damage or cracks in the construction project on the cast road in Sragen, precisely in Kebonsari Village, Kacangan Village, Sumberlawang District. This is thought to have occurred due to a lack of solid foundation installation on the road, causing the roadside to crack. This case has caused material losses for the Kebonsari Village due to the failure of the development, because of this the village has submitted a request to the service provider to take responsibility for the mistakes made by CV. Mabrur. The material losses that occurred were the materials that were used up because they were intended for making repairs to the cast road.

The road project was carried out by a construction service provider, namely CV. Mabrur acted as the organizer of the construction work based on an agreement between Kebonsari Village and CV. Mabrur as written in the construction contract. The final step in the construction of this cast road project was an error in making the road foundation incorrectly or it could be said that it was not sturdy enough, which ultimately resulted in construction failure which caused cracks in the cast road belonging to Kebonsari Village. This problem raises the question of how responsibility is delegated to the service provider due to failure in the construction which is already at the final stage of construction and this failure occurred before the handover between the two parties.

This research is important for the community because it aims to find out what the form of accountability is and how to resolve it if a construction service provider experiences construction failure due to damage to the cast road project belonging to Kebonsari Village.

RESEARCH METHODS

This research uses empirical juridical research methods, namely through interviews to obtain information from research that occurs in the field. Then this research uses a type of descriptive research which describes in detail what has happened, then explains it in detail and clearly so that a conclusion can be drawn on each problem from the research. The primary data source used is the results of interviews with the parties involved, while the secondary data source is Law Number 2 of 2017 concerning Construction Services, books, journals and other literature. The data collection method used is literature study and interview results using qualitative data analysis methods which go beyond grouping data obtained from an interview and combining it with library data. (Dimiyati., 2004)

RESULTS AND DISCUSSION

1. Forms of Responsibility of Construction Service Providers for Failures in the Kebonsari Village Road Construction Project

The legal consequences of structural damage justify responsibility for the damage suffered and are punishable by sanctions. A form of responsibility of the contractor or construction contractor to compensate for losses caused by cracks in cast roads due to improper foundations during road construction. (Yuliawati Harahap., 2020)

The contractor's responsibility in this case is to carry out its rights and obligations as stated in the construction contract. Everything that has been regulated in the construction work contract is the responsibility of the construction service provider, namely carrying out all rights and obligations in accordance with the agreement between the two parties. This arises because of liability as a result of

default due to failure to perform the services promised in the construction work contract. If there is an agreement between the parties and there is a breach of contract, then a breach of contract lawsuit can be filed because it is related to the contractual relationship between the party who has suffered the loss and the party who has suffered the loss. (Suhamoko., 2004)

Mr Joko, as Director of CV. Mabur, stated that the construction failures that occurred during the implementation of this project had not occurred on a large scale. However, there were construction failures on a small scale, namely cracks in the cast road which occurred during the cast road construction project between CV. Mabur with the Kebonsari Village. In this case, the selection of service providers was carried out through direct negotiations where the Kebonsari Village negotiated directly with CV. Mabur is carried out through applicable information and terms and conditions. The small scale referred to is in the form of cracks in the cast road which is the final stage of construction.

The responsibility of the construction service provider, the most important and main thing in carrying out construction work, is to carry out all the provisions according to the contract which are documented by signing the construction contract, including responsibility for working hours, maintenance time and storage period, responsibility for material requirements, responsibility for construction activities and responsibilities. responsible for development failures. Accountability for implementation time between Kebonsari Village and CV. Mabur within an implementation period of 30 days. If the specified and agreed work period has passed, then the contractor has been negligent or violated his commitment by not carrying out the construction project that was agreed upon (default).

Mr. Joko Purwanto as head of CV. Mabur said he experienced development failure on a mild scale. CV. Mabur will ensure that the accountability process is carried out immediately during construction. However, how long it takes to determine and assign responsibility depends on the agreement between the parties. The parties determine the time period for carrying out their responsibilities later. Given a type of responsibility in the form of providing compensation or reimbursement of construction costs due to building failures and renovations for construction failures that have occurred, reports of construction failures that have occurred are informed by the Kebonsari Village to CV. Mabur.

Responsibility for the maintenance period between CV. Mabur and Kebonsari Village officials coincided with the work period for constructing the cast road within 30 (thirty) days. If damage to the building occurs during the maintenance period, the contractor or contractor is obliged to pay compensation for the failure. Responsibility for the material requirements considered lies in the fact that the party carrying out the construction work uses the materials specified and agreed upon by both parties.

If these obligations are not fulfilled properly and result in a decrease in construction quality, the construction service provider is obliged to provide compensation or repair the damage that arises. Liability for construction failure means that the development is obliged to replace and repair damaged buildings, either due to material requirements or errors in the construction process that cause the construction to fail.

Liability for construction failures results in several losses, including cost losses for construction work failures, so that if the building is destroyed, the contractor is obliged to provide compensation to repair it again in the form of compensation for construction materials that will be used, as well as responsibility for repairing or restoring damaged roads. . Problems related to the implementation of construction work contracts in the form of cast road construction contracts between CV. Mabur and the Kebonsari Village are mainly related to the contractor's responsibility for cracks in the cast road due to a less than sturdy foundation, thereby reducing the foundation's ability to withstand the load of the cast road.

The problem of cracked cast roads is the failure of small-scale construction, but construction service users also experience losses. For this reason, it is necessary to study the crack problem on the

cast road. It can be analyzed that cracks in cast roads are caused by problems with the use of materials or building materials and equipment in the construction of a building. Cracks in concrete roads must be analyzed properly so that if it is proven that the contractor has not carried out the work as required, there will be a deviation from the construction quality guarantee both in terms of materials and production methods used in cast road construction, therefore the contractor is obliged to responsible for the failure of the development. Based on the contractor's analysis, cracks in the cast road under construction were caused by errors in the foundation installation process which resulted in the formation of cracks in the cast road. So in this case it is not due to a non-compliance with the level of use of materials or building materials that have been determined.

So from this problem the construction service provider or contractor has clearly violated the construction failure regulations regulated in Article 63 of Law Number 2 of 2017 concerning Construction Services "Service Providers are obliged to replace or repair building failures as stated in Article 60 paragraph (1) which are caused Service Provider error". And in this case the construction service provider must comply with "Article 65 Paragraph (1) which states "Service Providers must be responsible for building failure within the time period determined in accordance with the construction life plan". Further regulations in "Article 60 of Law no. 2 of 2017 concerning Construction Services also regulates what further action should be taken if contractors fail to meet safety, health and sustainability standards."

Articles 1365 to 1380 of the third book of the Civil Code concerning Engagements regulate unlawful acts. Article 1365 of the Civil Code has several elements relating to unlawful acts. That there was an act, that the act violated the law, that there was negligence, and that the act gave rise to loss, and that there was a clause relationship between the loss and the act.. (Nuswardhani and Nada Ferika Trihandayani., 2022)

Thus, in this case the construction service provider also violated the provisions of the Civil Code, namely breach of contract as regulated in "Article 1243 of the Civil Code (Civil Code) which states that the service provider is negligent or does not fulfill the agreement agreed to by both parties". The element of default in the case of cracked cast roads is an agreement between CV. Mabur and Kebonsari Village have parties who do not carry out the agreement contained in the construction contract and carry out the construction of the cast road according to the agreement, but what has been agreed upon by both parties is not in accordance with the results. According to "Article 1243 of the Civil Code, construction service providers are required or obliged to pay a certain amount of damages for negligence in carrying out work that does not comply with what has been agreed in the construction contract."

In accordance with "Article 1338 of the Civil Code, everything agreed upon by both parties becomes law for the interested parties", namely CV. Mabur with the Kebonsari Village. The form of responsibility is to provide construction services in the form of reimbursement for building materials and repairs to cracked cast roads. The road repairs are carried out by construction service providers (contractors).

Once building damage such as a cracked road is discovered, the service user will immediately contact the construction service provider and will be held responsible for the building damage that has occurred. This is regulated in "Article 1609 of the Civil Code, which regulates that if an agreement to work on a promised object has been made and then a loss occurs", then the service provider or implementer must be responsible. Damage in the form of cracks in cast roads, partial or complete damage, either due to technical reasons and the nature of the construction work or if caused by poor quality materials or the nature of the land where construction is being carried out, then the construction service provider will be fully responsible for the losses experienced by the party. Kebonsari village.

Mr Joko Purwanto as director of CV. Mabur said, this form of responsibility is in the form of compensation or reimbursement of costs used to rebuild the cracked part of the road. If a construction

failure occurs, then information on the construction failure is shared with the supervisor from Kebonsari village and given to CV. Mabur.

Mr Joko Purwanto as director of CV. Mabur said that the sanctions that would be imposed on the service provider himself for this mistake were repairing the cracked part of the cast road and providing compensation in the form of administrative compensation which was used to purchase materials for repairing the cracked cast road. The problem of construction failure (partial or total damage, whether large or small), this is stated in the construction contract between the construction service provider and the service user, which has been agreed to by the parties concerned.

2. Efforts to resolve service users regarding construction failures on the cast road project owned by the Kebonsari Village

The problem raised in the problem of failed small-scale development is the cracking of the cast road belonging to the village of Kebonsari. This problem is a type of dispute that arises when one party fails to fulfill its obligations based on the agreement agreed upon by the parties concerned. A dispute is a breach of contract where one party feels disadvantaged as a result of a party's mistake or failure to comply with the provisions contained in the construction contract. The construction of the cast road carried out by the construction service provider does not comply with the agreed requirements. (i.e. an error in making the cast road foundation) in a contract or construction agreement by both parties.

Construction disputes often arise, especially in connection with the implementation of construction work with different risks and interests. The construction of a cast construction road project begins with the creation of a contract that regulates the conditions for construction disputes and procedures for resolving them. Construction disputes usually arise when one party believes that the other party has violated the rules regarding their duties and responsibilities. According to Halerad, construction disputes are divided into four things: (Seng Hansen., 2015)

1. Time related disputes.
2. Financial disputes.
3. Disputes about work standards.
4. Conflicting relationships with people in the construction industry.

From this, the contractor bears the legal consequences for minor structural failures in the form of cracks in the construction of cast roads in the form of reimbursement for material costs and repairs to cast road foundations. To resolve construction disputes, actors in the construction industry have tried various dispute resolution approaches. Dispute resolution can generally be done in two ways: (Seng Hansen., 2015)

1. Litigation or in court.
2. Alternative Dispute Resolution.

Mr Joko Purwanto as director of CV. Mabur said, if there is a dispute or problem during the implementation of construction work, the two parties connected to the contract will resolve it through negotiation and deliberation to reach a resolution of the problem. If a dispute occurs in the implementation of the contract for the provision of construction work, the leadership of CV. Mabur will be responsible for the construction failure because Mr Joko Purwanto is the director and contractor in the construction of the cast road. Actions for resolving disputes (disputes) arising from the implementation of construction work usually do not provide any other way than deliberation to resolve the dispute.

If the method of resolving a dispute using deliberation does not produce results between the parties in dispute, an arbitration committee consisting of 3 parties is formed. Of the three parties, party 1, party 2, and other parties who are professionals in their respective fields are selected and will be appointed and approved by the parties concerned. If an agreement is not reached, then legal action will be taken in court. "Article 88 of Law Number 2 of 2017 concerning Construction Services states that the process of determining the principal settlement is based on deliberative considerations in order to reach consensus." If deliberation does not produce an agreement, then the parties can resolve

this matter as stated in the construction work contract.

If the contract for carrying out settlement efforts is not written down, then in this case the parties concerned can agree on procedures regarding settlement efforts determined by mutual agreement between the parties to the dispute. Efforts to resolve construction work can be carried out through negotiation or deliberation. If settlement efforts through negotiation or deliberation cannot be resolved, then this can be ended in court or outside court. What is called out-of-court settlement or alternative dispute resolution, is a series of processes and methods for ending disputes that arise and designing decisions that are binding on both parties to the dispute. (Nyoman Satyayudha Dananjaya. et al., 2017)

Efforts to resolve disputes through alternative methods can be carried out with a third party or without the help of a third party. Quite a lot of standard construction work contracts contain clauses that require the use of alternative methods if the problems that occur are related to construction. In addition, the court system offers alternative dispute resolution before the dispute is brought to court. The resolution of cases of construction failure in the form of damage/cracks on cast roads belonging to Kebonsari village is carried out through internal negotiations between Kebonsari Village as the user of construction services and CV. Mabur as a construction service provider.

From this problem, efforts to finally resolve the case of construction failure in the form of damage/cracks on the cast road belonging to Kebonsari village were carried out through negotiations between the Kebonsari Village as the user of the construction services and CV. Mabur as a construction service provider. This negotiation was held to discuss how to resolve this problem if a construction failure occurs, namely a crack in the cast road belonging to Kebonsari Village. These negotiations will be carried out directly between construction service users and construction service providers until the two parties to the dispute reach an agreement. After learning of the construction failure in the form of cracks in the cast road, negotiations began between the construction service provider or contractor and the Kebonsari Village. Therefore, service users who specifically pointed out that there were cracks in the cast road, the Kebonsari Village quickly contacted Mr. Joko Purwanto as the construction service provider and contractor for the construction to arrange a meeting to discuss this problem and at the same time hold negotiations.

Construction service providers immediately responded to information regarding the cracking of the cast road. This can be seen after receiving complaints from service users regarding cracks in the cast road caused by errors in installation of the cast road foundation. The contractor then immediately followed up to repair the foundation on the cracked part of the road. Then the negotiation process between the construction service provider and the service user at that time did not encounter any obstacles, that is, neither the construction service provider itself resisted nor asked questions regarding the responsibility for building the cast road, in fact the construction service provider immediately realized this responsibility. to provide compensation or compensation for the failure to construct the cracked cast road.

Finally, in this case there is no longer a need to go to court because dispute resolution has been achieved through negotiation or deliberation by the construction service provider (CV. Mabur) with the service user (Kebonsari Village). Because in this case the obligation of the service provider is to carry out its responsibilities by providing compensation for construction failures by repairing cracks in the cast road which were caused by improper or less sturdy foundation installation.

CONCLUSION

responsibility for the failure of project construction in Kebonsari village from the party who made the mistake, namely from the construction service provider CV. Mabur is obliged to comply with what has been agreed with the Kebonsari Village, namely providing compensation in the form of material costs as well as compensation in the form of re-repairing the cracked cast road belonging to Kebonsari Village.

Then what was carried out was regarding efforts to resolve the problem of failure in the construction of cracked cast roads caused by incorrect installation of inappropriate foundations experienced by the CV construction service provider. Mabur and the disadvantaged, namely the users of construction services from Kebonsari Village, which ended this problem by making efforts to resolve it through negotiation or deliberation with both parties concerned to reach a consensus and end in peace without going to court.

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