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Implementation Law Issues Of Supreme Court Regulation No. 4 Of 2019 About Perma Revision No. 2 Of 2015 About Small Calim Court Resolution Procedures And Its Settlement Efforts

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ABSTRACT

The non-litigation resolution such as negotiation, mediation and arbitration, is increasingly used by the business world, because it offers various advantages compared litigation. Litigation still as the main dispute resolution so the consequence that there is a buildup of cases in courts. To anticipate this, the Supreme Court issued Perma 4/2019 concerning Amendment of Perma 2/2015 concerning Procedures for Settlement of Small Claim Courts. The Supreme Court's hope its can reduce the buildup of cases and can provide a sense of justice for the small community who demand justice, but in its implementation, there are still several legal problems that can cause the Small Claim Court not optimally. This study uses a normative juridical method supported by interviews with Supreme Court and several District Court. Secondary data were obtained from a literature study of laws and regulations governing the Small Claim Court procedure. The research proved that there problems related to the implementation of Perma 4/2019 such as the binding power of the use of the Small Claim Court, the use of a single judge in deciding, the problem of domicile differences. Its can be minimized with several efforts to resolve them properly and effectively so that the implementation of the principles of justice can be realized.

1. Background Issues

In Article 27 paragraph (1) of the Constitution 1945 it is affirmed that "All citizens are at the same time in law and government and shall uphold the law and government with nothing but it". This shows Indonesia since its inception was founded by The Founding Father guaranteeing the equal rights and obligations of every citizen in the eyes of the legal without exception so that there are no more differences (non-discrimination). However, the noble intention has not been fully implemented by the government as the holder of power because for more than 73 years Indonesia felt independence, various inequalities and legal issues surrounding the legal enforcement is still

something that is very concerning and makes the community become apathetic to law enforcement in Indonesia.[1]

Indicative of the apathy of society in law is the absence of legal tools, both legislative and executive products that are considered not to reflect social justice; un independent and impartial judicial institutions; inconsistency and discriminatory enforcement; protection of the law in communities that have not reached the satisfactory point.[2] The consequences of society's apathy about law enforcement make the president and public view of the law negative, so that society sometimes uses its own means such as persecution and so on rather than using legal lines officially.

Problems in law enforcement include: 1). Problems of making laws and regulations. 2). The victory-seeking community is not justice. 3). Money coloring law enforcement. 4). Law enforcement as a political commodity, discriminatory law enforcement and harassment. 5). Weak human resources. 6). Advocates know the law versus advocates know the connection. 7). Budget constraints. 8). Law enforcement triggered by the social media[3]

On the other side, the principle of justice for all Indonesians is one of the legal orientations in the context of Indonesian democracies. Therefore, law enforcement should be done wisely, professionally, fairly and proportionately based on kindness, benefit and equality in the law itself. The facts in the field show that often law enforcement in Indonesia only prioritizes legal certainty (*rechtssicherheit*) even though it has to sacrifice the terms of legal benefit (*zweckmassigheit)* and the facet of justice (*gerechtigkeit*) for the community.

One of the indication of the public's apathy is that the judiciary is not yet independent and impartial. The judiciary as a formal settlement institution is most highlighted by various circles of society because the court is actually the last place the community seeks and obtains justice in fact. The fact on the ground shows that many things that cause the court not to function to the fullest extent as it should.

According to Article 24 paragraph (2) of the Constitution 1945, it is affirmed that the power of the Judiciary is exercised by a Supreme Court and the Judicial Body under it in the General Judiciary, State Administrative Court, Religious Judiciary, Military Judiciary and Constitutional Court. Of the four judicial environments, which are central points and always in contact with the interests of many parties and attract the attention of the citizens of the wider community, both justice seekers and experts, and lovers of justice, none other

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1 M. Natsir Asnawi, 2016, *Civil Procedure Law: Theory, Practice and Problems in the General Court and Religious Court, first printing*, , UII Press Yogyakarta (Anggota IKAPI), Yogyakarta, (pp. 5)

2 Sultan Hamengku Buwono X. (2007), *Knitting Back To Our Indonesia* Jakarta : PT Gramedia Pustaka Utama. (pp. 275),

3 Hikmahanto Juwono. (2006). *Law enforcement in Law and Development* : *Problem dan fundamen for Solutions in Indonesia*, Jakarta. Varia Peradilan No.244. (pp. 13),

than in the General Judicial environment who examine, prosecute and decide criminal and civil cases.[4]

In practice, legal dispute resolution can be done through non-litigation pathways as well as litigation paths. The non-litigation path as an Alternative Dispute Resolution (APS) is off the court's path through its main mechanism, which is negotiation, mediation and arbitration increasingly disputed by the public, especially the business world, because it offers a wide range of advantages over using litigation pathways. But for some the public still sees dispute resolution through litigation lines as a major dispute resolution so the consequences are stacked in court at both the first level, let alone at the Supreme Court level.[5]

The buildup of cases in the Supreme Court and examined by the ± of 49 Supreme Court Judges resulted in many Supreme Court Rulings that seemed "rough" without being supported by comprehensive legal considerations. This is due to the high work load of our Supreme Court Judges so that the Supreme Court justices are less focused on examining each case. Logically, it would certainly affect the quality of the ruling from the Supreme Court itself.
In practice, the time of the trial to examine the lawsuit in the First Tier Court can take ± 6 months. Prior to the release letter (SEMA) No. 6 of 1992, which confirmed that the examination of the case (*civil*) at all levels of the judiciary was "mandatory" completed within a minimum of 6 months, the examination of the lawsuit in the first level sometimes took a long time even to months and there was no certainty of the time it took to decide the civil case. This becomes one of the "*ammunition*" of the party that is in a weak position to deliberately stall. This time does not include appeal examination (± 1 year) and Cassation (± 2-3 years). This has not also been calculated by the length of the convoluted execution process. The application of the principle of the judiciary is fast, simple and low cost "just" a mere slogan in the absence of any realization.[6] This is what the justice-seeking community must face.

Facing the above problems, then there is a breakthrough made by the Supreme Court for the community seeking justice in the form of a small claim court which strengthened through Supreme Court Regulation (PERMA) No. 2 of 2015 on Small Claim Court Settlement Procedure (hereby called Perma No. 2 of 2015) which was later revised to PERMA No. 4 of 2019 on PERMA Change No. 2 of 2015 on Small Claim Court Settlement Procedure.

The Small Claim Court filed in Indonesia through Perma No. 2 of 2016 can be said to be inspired by the first Small Claim Court in the United States developed in the early twentieth century due to the formal process of civil

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4 Henry P. Panggabean, 2001, *Function of the Supreme Court in Daily Practice: Efforts to overcome delinquent cases and empowerment of the supervisory function of the Supreme Court*, Jakarta, Pustaka Sinar Harapan, (pp. 15)

5 Nevey VaridaAriani, *Small Claim Lawsuit in Indonesian Justice System,* Jurnal Penelitian Hukum De Jure, (pp. 382)

6 Efa Laela Fakhriah, '*Small Claim Court Mechanism In Achieving Simple, Fast and Low Cost Judiciary* ' 2013, Mimbar Hukum.

justice that is so complex, complicated, and expensive that most people with small incomes cannot use. Small Claim Court is a dispute resolution mechanism through litigation with a separate procedure (*different*) from the usual court procedure, hence it is also said as an informal court to settle a civil lawsuit with a small (*relative*) value of the lawsuit. This model was originally adopted in the United States which included five main components: a). reduction of court costs b). simplification of application process c). The probation procedure is largely left to the discretion of the trial judge, and the formal rules of the evidence have been selected. d). Judges and court clerks are expected to assist in litigation both in the preparation of probation and in court so that representation by lawyers will be largely not required. e). Judges are given the power to decide on installment payments directly.[7]

When viewed technically, Small Claim Court is an inovativ breakthrough in realizing the principle of fast, cheap and simple judiciary. But on the other side, The Small Claim Court with all its advantages and disadvantages has not become a primadonna for the justice-seeking community, especially the incapable community. This is evident from the lack of use of Small Claims in some District Courts.[8] This is something worth researching.

There are some things raised in Perma No. 4 of 2019, but the application of Perma also raises some legal problems that have been appropriately sought solutions so that the application of Small Claim Court can run optimally.

2. Identify of Issues

Based on the background above, the author can identify the problem as follows:

1. What Is the Problem of Small Claim Court Implementation Law With The Publication of Perma No.4 of 2019?
2. How is settlement efforts The Legal Problems of Perma Implementation No.4 of 2019?

3. Types of Research

In this study, the type of research or method of approach carried out is a method of normative legal research or also called literature law research, namely legal research conducted by researching library materials or secondary data[9]. The types of approaches in this thesis are the statute approach and the conceptual approach. The statutory approach is done by examining all legislation and regulations that are related to the legal issues that are being

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7 Steven Weller, John C Ruhnka, and John A Martin, "*American Small Claim Courts,*" *in Small Claim Courts*: A Comparative Study edited by Chiristopher J Whelan, Oxford, Clarendom Press, 1990, (pp. 5)

8 Ridwan Mansur & D.Y. Witanto, (2017), *theory, practice and problems,* Pustaka Dunia, (pp 21)

9 Soerjono Soekanto. (2001). Introduction to Legal Research. Jakarta. Rajawali. (pp.13).

addressed. The statutory approach opens up opportunities for researchers to study whether consistency and conformity between a law and other laws or between legislation and the Constitution or with regulation with legislation.[10] In writing this thesis researchers will study Perma No. 2 of 2015 On Small Claim Court Settlement Procedures related to Law No. 3 of 2009 on the Supreme Court and Law No. 48 of 2009 on Judicial Power.

Conceptual Approach this approach goes from the views and doctrines that develop in law. By studying the views and doctrines in legal science, researchers will find ideas that give rise to legal understandings, legal concepts, and legal principles relevant to the issue[11].

4. Discussion

4.1. Fundamental Change of Small Claim Court With The Publication of Perma No. 4 of 2019

If we pay close attention, then in Perma No. 4 of 2019 about the change of Perma No. 2 of 2015, then the most striking thing in the change is the maximum value of a small claim court that was originally a maximum of Rp. 200,000,000 (two hundred million rupiah) to Rp. 500,000,000 (five hundred million rupiah).

The limit of material lawsuit value in small calim court as specified in the previous Perma is determined at a maximum of Rp. 200.000.000,- (two hundred million). This has caused a lot of problems in the field, especially regarding complaints at the time of the execution of the small claim court verdict. Often, claims for damages below Rp. 200,000,000,- (two hundred million) are constrained because at the time of foreclosure and execution by court officers, the costs incurred are still too great. This is because the court cannot reject the lawsuit filed even though the value of the claim is very small. On the other hand, until now, the execution mechanism of small claim court still refers to the usual lawsuit execution system which is already a public secret that in the execution of Ordinary Lawsuits there is a slogan that in prosecuting goats, but at the expense of cows, means the costs incurred are very large even sometimes exceeding the value of the claims filed. MA through Perma has only increased the maximum value of a small claim court to Rp. 500,000,000 (five hundred million rupiah) so that it is expected that with the increase in the maximum value of this issue related to the value of the lawsuit and the execution of small claim court can run to the maximum.

The issues related to the domicile of the parties also gained attention in Perma No. 4 of 2019 proven this new Perma regulates about expanding the filing of lawsuits when the plaintiff is outside the jurisdiction of the defendant's domicile. This means a lawsuit can be filed in the defendant's domicile territory even if it differs by appointing a power of attorney, incidental power, or representative addressed in the jurisdiction or domicile of the defendant

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10 Peter Mahmud Marzuki. (2005).*Legal Research*. Jakarta. Prenada Media. (pp.133)..

11 *Ibid,* (pp. 135)

with a letter of duty from the plaintiff's institution in accordance with article 4 paragraph (3a) Perma No. 4 of 2019. This is a significant breakthrough. It is conceivable that only because plaintiffs are domiciled in different cities the dispute cannot be resolved through the small claim court procedure, even though the value of the lawsuit is small.

Other things set out in Perma 4 of 2019 are related to bail confiscated where in Perma 2 of 2015 there is no known bail confiscated. The Chief of Court may issue a warning/aanmaning no later than 7 days after receiving the execution request and the Chief of Court also determines the implementation of a warning/aanmaning no later than 7 days after the determination of the warning /strike (aanmaning). This exemption can be made when certain geographic conditions under which the Chief of Court may deviate from the specified time limit. This is confirmed in Perma 4 of 2019.

In Perma No. 4 of 2019, another new matter is the use of electronic litigation administration (e-court). In addition, another breakthrough ma related to the implementation of small claim court is the implementation of electronic hearings (e-litigation) in the hope that the settlement of the case through small claim court can be implemented more quickly and cheaply so that small claim court can be a favorite procedure for the lower class who will claim his rights in court.

4.2. Small Claim Court Implementation Legal Issues

Based on the search of researchers both by using literature studies and with the results of interviews to several sources related to the study, then researchers can qualify some legal problems related to the implementation of small claim court, namely:

a. About the Binding Power of Small Claim Court Use

When viewed carefully in Perma's consideration of Small Claims, then one of the reasons philosophically applied small claim court is to create an uncomplicated dispute resolution mechanism based on simple, fast and light costs to be easily accessible to all walks of life, especially marginalized communities. As for one of the ultimate goals of this small claim court is to be able to reduce the buildup of cases in court.

If an ordinary lawsuit takes about ± 2 years to reach a decision of a fixed magnitude, then by using the small claim court mechanism, then it will take at least ± 2-3 months to reach a fixed-strength verdict. This is one of the advantages of using small claim court in addition to a simple evidentiary system and so on.

When viewed from the contents and provisions in Perma small claim court in Perma No. 2 of 2015 which has been changed through Perma No. 4 year 2019, there is no obligation to the seeker of justice to use the small claim court mechanism if the maximum required loss is Rp. 500,000,000,- (five hundred million rupiah). This gives the community the option of claiming damages

intended to use a small claim court or use an Ordinary Lawsuit. This is evident in the researcher's search to the Bandung Class IA District Court and Bale Bandung Class IA District Court, there are several cases that should be resolved using the small claim court mechanism, but instead settled using the Usual Lawsuit mechanism. This should certainly be a concern because if this is left without a proper solution, then the implementation of a small claim court mechanism aimed at reducing the buildup of cases in court cannot run optimally.

Keep in mind, however, that the requirements of a case can be checked by the small claim court procedure not only limited to the terms specified in Articles 3 and 4 perma of asmall claim court, but must also have a simple evidentiary nature as stipulated in Article 11 paragraph (2), so that it could be a qualified case stipulated in Articles 3 and 4 but in the preliminary examination process stated by the district judge not as a simple claim of its unsanminary nature. This indicates that small claim court contains elements of dismissal process.

As the above opinion that Simple Claims is the forum of choice for certain disputes with some requirements, so Plaintiff may choose whether to file in the form of a small claim court or through a regular lawsuit. If plaintiff uses the small claim court path, then the settlement process will be quick and sufficient to be resolved in the first-tier court, but if plaintiff still wants his dispute in the process through the usual lawsuit, then the court must also not declare him un authorised.

b. Domicile of the parties related to the calling/remission system

Article 4 paragraph (3) of Perma No. 2 of 2015 expressly states that plaintiffs and defendants in small claim court are domiciled in the same court's legal area. That is, if there is a legal domicile inequality, then the parties cannot use this small claim court container. This is unfortunate because only because the issue of domicile becomes a stone against the parties to pursue this mechanism.

One of the breakthroughs in Perma No. 4 of 2019 is to regulate about expanding the filing of lawsuits when the plaintiff is outside the jurisdiction of the defendant's domicile. This means a lawsuit can be filed in the defendant's domicile territory even if it differs by appointing a power of attorney, incidental power, or representative addressed in the jurisdiction or domicile of the defendant with a letter of duty from the plaintiff's institution in accordance with article 4 paragraph (3a) No. 4 of 2019.

If we look closely, then the expansion of the filing of a lawsuit when the plaintiff is in the jurisdiction of the defendant's domicile by appointing a power of attorney, incidental power, or representative addressed in the jurisdiction or domicile of the defendant with a letter of duty from the plaintiff's institution is very good. But there is a problem if a person with economic conditions or for other reasons cannot appoint a power of attorney, incidental power, or representative addressed in the jurisdiction or domicile

of the defendant, then that person cannot file a Small Claim Court. Is there justice in this?

Many cases should be able to be settled using the small claim court mechanism, but due to domicile differences between the parties and the need to appoint a power of attorney, incidental power, or representative addressed in the jurisdiction or domicile of the defendant then the small claim court mechanism cannot be implemented. This is unfortunate considering that the small claim court mechanism can actually address issues related to legal domicile differences.

c. The Single Judge Who Decides in the Level of Examination

Based on Herziene Inlandsch Reglement (HIR) and Rechtsreglement voor de Buitengewesten (Rbg) which is the main basis of civil procedural law in Indonesia, it is affirmed that the judge who examines and dismisses the case must be in the form of an assembly or usually number 3 (three) people. The use of a single judge can be done in a case of application for which there is no dispute. In a small claim court, this is kept because the small claim court vetting mechanism uses a single judge. The use of the Panel of Judges is carried out when there is an objection by a party dissatisfied with the small claim court verdict. When reviewed in depth, there are actually some "irregularities" that exist related to the contents of Perma small claim court compared to HIR/RBG both related to time, procedure and so on.

The stark difference between HIR and Perma's Small Claim Court is that it is not permissible for it to make provisional claims, exceptions, reconventions, interventions, repliks, duplicating or conclusions in small claim court. The range of Small Claim Court hearings is also set as soon as 25 days from the first day of the trial.

However, according to the Researchers, the above can be understood because given that it takes a breakthrough so that cases whose claim value is relatively small can be solved with a capat, simple and light cost in accordance with the judicial azas embraced so far. But this does not mean that it sided with the role and meaning of the assembly in dismissing the case. Naturally, the use of the tribunal is considered to reflect a "fairness" given the verdicts taken based on the consideration of 3 (three) judges in which each judge can complement each other and correct each other's decisions taken so that it is much more "fair" for the parties than the use of a single judge.

It becomes a question, can a single judge who is trusted to break and make decisions in the small claim court mechanism be able to provide a sense of justice for the parties?

4.3. Settlement Efforts The Legal Problems of Perma Implementation No. 4 of 2019

Based on some of the problems formulated by the above authors, there are several resolution efforts around the problem. This is important so that the implementation of Small Claim Court can run optimally.

a. About the Binding Power of Small Claim Court

Another problem that the author thinks should be considered immediately is the use of Small Claim Court which is not yet a necessity but is still an option for the community. This makes the application of Small Claim Court not maximal because the justice seeking community is not required to use Small Claim Court. Some cases in the field show that some community groups prefer to use the Ordinary Lawsuit path over using Simple Claims even though the terms and conditions are already qualified to use Simple Claims. This is because the public is more "comfortable" using the Ordinary Lawsuit line than Simple Claims. If this is allowed continuously without any new breakthrough that requires the public to use a Small Claim Court mechanism in accordance with the existing terms and procedures, then it could be that the purpose of applying a Small Claim Court will not materialize.

Perma Small Claim Court does not explain the problem of Small Claim Court procedure is a form of competency examination that is coercive or is only limited to forum options with some requirements. When viewed from some of the rules contained in perma among others in Article 1 number 1, Article 3, Article 4 and Article 11 perma Small Claim Court, then Small Claim Court is not a coercive competency, but to the extent the choice of forum containing several requirements, means that when plaintiff submits his dispute as a common claim, even though it has qualified as stipulated in Articles 3 and 4 , then the judge may not declare it not authorized to examine the matter. In addition, competence should only be determined by law, Perma based on Article 79 of the Supreme Court Act is only limited to filling and regulating the procedural law necessary for the implementation of the judiciary.

Based on the Author's search, if a Small Claim Court Procedure is a form of coercive competence, then when a lawsuit that complies with the provisions of Articles 3 and 4 is filed as an ordinary lawsuit, the judge may declare himself not authorized to prosecute and the lawsuit is unacceptable because it is included in the competency of the Small Claim Court examination.

Another way according to the Author to answer the problem is an improvement in the registration system of the lawsuit. If in the registration of a lawsuit, especially the registration of a lawsuit manually (not using the e-court system), then when the registration officer (Civil section) examines that the value of the lawsuit is included in the scope of the Small Claim Court, then the officer directs the lawsuit directly into the Small Claim Court mechanism so that plaintiff is no longer "free to choose" whether to use the mechanism of Ordinary Lawsuit or Small Claim Court. Of course, this must be strengthened by the regulation of MA as the holder of the court authority in Indonesia in order to create a legal certainty.

For now, by looking at the maximum value of Small Claim Court, there are actually many matters related to the financial services sector. But many do not yet understand well about the application of Small Claim Court. This is a challenge especially for the Financial Services Authority (OJK) to be able to maximize the application of Small Claim Court for financial services sector institutions in resolving various disputes in the financial services sector.

b. Domicile of the parties related to the calling/remission system

Article 4 paragraph (3) of Perma 2 of 2015 states that "Plaintiffs and Defendants in Small Claim Courts are domiciled in the jurisdiction of the same court". This provision is expanded in Article 3 perma No. 4 of 2019, namely:

"In the case that plaintiff is outside the jurisdiction of the defendant's residence or domicile, plaintiff in filing a claim appoints a power of attorney, incidental power of attorney, or representative addressed in the jurisdiction or domicile of the defendant with a letter of duty from the plaintiff's institution"

According to the Great Dictionary of Indonesian Language "*domicile*" is the permanent and official residence of a person in which he is recorded as a resident. Contrary to the definition according to the Great Dictionary of Bahasa Indonesia, domicile is where a person concentrates his residence and is recorded as a resident because a fixed and official understanding must certainly be interpreted as a form of legal legality.

Perhaps the problem is the same as when it comes to housing and residence. Article 4 paragraph 3 does not follow the use of the term place of call as in Article 118 HIR and seems inconsistent, on one condition of using the term residence whereas in the other provisions use the term domicile, although it may mean the same, but it is best not to give rise to multiple interpretations, the same meaning should be expressed with the same term.

HIR itself does not provide a definition of what is meant by residence and residence, but in the prevailing practice that a residence is a place where a person is de facto located while the residence is a place where a person de jure concentrates his or her residence legally in the sense of a place where a person is recorded as a resident.

To be more easily explained that the residence is seen from the address of a person on the residence card while the residence is seen from the person is actually located where although sometimes the residence and residence are in the same location.

Domicile is broadly distinguished into two understandings, among others:
a. The real place of residence, which is where a person exercises rights and fulfills civil obligations in general. The real place of residence can also be distinguished by two kinds:

1). A free or stand-alone residence is not bound/ dependent on its relationship with the iain party;
2). A non-free residence means that vang's residence is bound depending on the other party e.g. the residence of an immature child in the home of the parent / guardian of the residence of the person who is under the amputation or in the home of the laborer has a place to live in his employer's house if the laborer lives with his employer.

b. If a dispute is selected in court, both parties to the litigation or one of them may choose another place of residence from their actual residence. The selection of this residence is done by a deed.

If reviewed, the reason for the domicile of plaintiffs and defendants must be domiciled in the same court law area in accordance with Article 4 Perma No. 2 of 2015 and Article 3 Perma No. 4 of 2019 can be understood so that the implementation of this Small Claim Court can run quickly in accordance with one of the principles of the court that is fast, simple and cheap. But when viewed from the side of justice, then this has not provided a sense of justice for the community, especially for people who cannot appoint power, incidental powers or representatives addressed in the jurisdiction or domicile of the defendant. This domicile issue should have been anticipated with a real buzz where the administrative issue of this Small Claim Court was granted a privilege and preceded by a regular lawsuit so that the issue of out-of-town calls/relas that were the constraints of the Small Claim Court process could be anticipated. If the summons/relas to another court using a mailing line that takes a long time (± 3 weeks to relax out of town) through the Indonesian Post Office, then in the call of a Small Claim Court from the District Court where a Small Claim Court is filed to the District Court where the Defendant's domicile can use e-mail (e-mail) so that it does not take a long time. But this should certainly be supported by court officials (Bailiffs) who specifically handle Small Claim Court filings so that the issue of the domicile can be anticipated so that the Small Claim Court can reach the different parties of the domicile.

Thus, the path of submission is a relaxing email sent from the court where the plaintiff registered a Small Claim Court. The email was received by the bailiff in the court where the defendant was located. The process is forwarded to the defendant by the bailiff by attaching a phone number, e-mail or WA from the Defendant. Relas who has been signed by the defendant is then sent back to the original court via e-mail where the defendant's original relapse is stored in the file in court. This method according to the author is very effective to answer the problem of domicile differences between Plaintiffs and Defendants.

c. The Single Judge Who Decides in the Level of Examination

In general, based on the provisions of the Judicial Law, it is affirmed that the settlement of the case in court is carried out by a panel judge unless otherwise specified by law. This means that each settlement of the case in the court of justice, will be examined and decided by a panel of judges of at least 3 judges.

When viewed by the Small Claim Court procedure, there is a "misappropriation" of the above provisions where in the Small Claim Court procedure, the judge who examines and dismisses the Small Claim Court case is the sole judge who is governed only through a Perma. Unlike the Children's Justice System and trials in light criminal cases (Tipiring) and traffic, the use of a single judge is expressly regulated through the Children's Justice Act and through KUHAP.

The concept of a single judge in a civil usually occurs in cases of a voluntary nature where the case does not contain any element of dispute but only to affirm the status of a legal particular so that the verdict contains a statement that is declaratory both declaratory and constitutive such as the determination of guardianship, mpuan, heir and so on.

On the other side, the examination of a Small Claim Court that uses the services of a Single Judge in dismissing a Small Claim Court case is also a matter of its own considering that this can be viewed as un objective. The intent of the perma constituents is good that by being examined by the Single Judge, then the examination of Small Claim Court can run quickly given the less complicated problems and the maximum face value of Rp. 500,000,000 (five hundred million rupiah). But there is something that may be forgotten by perma constituents that a Small Claim Court is an examination of a dispute between one party and the other, so that in accordance with the rules of the Civil Procedural Law, that the examination of the Lawsuit must still be conducted by the Panel of Judges.

If we compare it to a mediation lawsuit, namely a lawsuit filed by one of the parties who has reached an agreement through the mediation process whose only purpose is to strengthen the peace agreement into a deed of peace remains examined and confirmed by the Panel of Judges even though the lawsuit does not contain any element of dispute because it has been resolved through the previous mediation process. This becomes a contradiction that must be corrected immediately given that this can make the application of Small Claim Court not optimal.

5. Conclusion

Based on the above exposure, there are several things that can be concluded related to the implementation of Small Claim Court with the publication of Perma No. 4 of 2019, namely:

1. With the publication of Perma No. 4 of 2019 on Changes to the Regulation of the Supreme Court No. 2 Year 2015 On Small Claim Court Resolution Procedure, there are several principles that appear in Perma No. 4 of 2019, among others the issue of the maximum value limit of Small Claim Court which originally Rp. 200,000,000 (two hundred million rupiah) to Rp. 500,000,000 (five hundred million rupiah), the expansion of the lawsuit when the plaintiff is outside the jurisdiction of the defendant's domicile ,

recognition of bail and aanmaning procedures as well as the use of e-courts and e-litigation in Simple Claims.

2. Based on the author's search through literature studies and interviews, then within 5 years of implementation of Small Claim Court through Perma No. 2 of 2015 on Small Claim Court Resolution Procedure which was later updated to Perma No. 4 of 2019, then there are several legal problems that are of concern to the author, namely (1). binding force of the Small Claim Court. This is because Small Claim Court is simply a forum of choice rather than a forum of necessity so it is up to the parties, especially the plaintiffs, to choose whether the matter will be resolved through Small Claim Court procedures or ordinary lawsuits. (2). In relation to the domicile of the parties related to the calling/relas system where the Small Claim Court procedure cannot solve the legal problem which the parties are not in a legal single domicile. This is one of the reasons Small Claim Court cannot be maximized for use. Although many hokum problems can be solved through Small Claim Court procedure but because of domicile problems then the problem is eventually down to the usual lawsuit procedure. Perma No. 4 Of 2019 expands on defendant's domicile by allowing Plaintiff to use power, incidental power, representative and so on, so that problems arise if plaintiff cannot appoint his/her power, incidental power, or representative, can plaintiff not obtain justice?? (3). Regarding a single judge who decides in a Small Claim Court examination level. This leads to a level of public confidence in the Small Claim Court verdict not maximal. In theory, in dismissing a dispute, it is appropriate for the Panel of judges to decide, not a single judge.
3. Based on the legal problems of Small Claim Court imlementation formulated earlier, there are several settlement efforts so that the implementation of Small Claim Court can run optimally, namely (1). The MA immediately stipulates that a Small Claim Court is a mandatory procedural for a case that meets the requirements to be settled through a Small Claim Court. If this is done by ma, then Small Claim Court will be one of the breakthroughs of MA in reducing the buildup of cases in court. The public will inevitably follow the Small Claim Court procedure if the case meets the requirements. The determination of Small Claim Court becomes a binding forum as it is established as it stipulates that Mediation is a mandatory procedure that must be carried out before the examination of the subject matter as stipulated in Perma No. 1 of 2016 on Mediation Procedures in the Court. (2). In relation to the domicile of different parties, ma should make a procedure that is different from the existing procedure, namely through the delegation system through the intermediary of the Indonesian Post Office. MA should have utilized technology in the form of e-mail, WA and other communication tools and assigned a bailiff who specialized in handling Small Claim Courts. If this can be done by MA, then the issue of differences in domicile is not an obstacle in implementing the Small Claim Court procedure. (3). Regarding the issue of the use of a Single Judge in the Small Claim Court Procedure, the MA shall immediately review that in a Small Claim Court it is best to use the panel

of judges in disconnecting as this may increase the public's confidence in the Small Claim Court award.

6. Recommendation

Based on the results of the above research, there are several important recommendations related to the implementation of Small Claim Court, namely:

1. In order for the implementation of Small Claim Court to run to the maximum, it is expected that the active role of MA as the highest authority of the court in Indonesia to solve the legal problems related to the implementation of Small Claim Court. MA and its ranks must actively communicate with the courts in the region as the vanguard in the implementation of The Small Claim Court so that the legal issues in question can be resolved properly and carefully.
2. Other agencies and institutions that are closely related to the implementation of Small Claim Court such as OJK and other institutions should be active in implementing Small Claim Court so that this mechanism is not only "superior" in the policy state but can also provide as much benefit in terms of resolving various legal cases that enter the realm of Small Claim Court.
3. The active role of the community as a seeker of justice by utilizing the mechanism of Small Claim Court regardless of all its legal problems to resolve lawsuits that enter the realm of Small Claim Court so that the purpose of MA to minimize the buildup of cases and uphold the principle of the judiciary quickly, simply and lightly costs can run optimally.

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