

## The existence of modern stores and legal protection for traders in the people's market in Badung regency, Bali

Ni Luh Made Mahendrawati \*, IB Gede Agustya Mahaputra and IA Cynthia Saisaria Mandasari

*Postgraduate Faculty, Warmadewa University, Denpasar-Bali-Indonesia.*

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### Abstract

The influx of investment in the trade sector has given rise to large-scale economic power that can not only increase and encourage economic growth, but also cause negative impacts such as unhealthy business competition between traditional markets and modern stores. If this competition is left unchecked, it will result in the displacement of the existence of traditional markets as weaker economic actors. Therefore, the arrangement and guidance carried out through policies taken by the government must be seen from a synergistic perspective for both business actors. Based on the background of the problems that have been described above, several problems can be formulated as follows: 1) How is the implementation Badung Regency Regulation, Bali Number 3 of 2017 on business competition between modern shops and traditional markets? 2) How is the role of the Badung Regency government, Bali in providing legal protection for traditional markets from the rampant existence of modern shops? The type of research in writing this scientific paper is an empirical legal research type, which is used because there is a gap between what is regulated in the Law and its practice. The implementation of Badung Regency Regulation, Bali Number 3 of 2017 has not been effective because of the non-compliance of modern shops in fulfilling the completeness of the permits and not heeding the rules that have been set as well as the indecisiveness of law enforcement officers in providing a deterrent effect. Legal protection carried out by the Badung Regency Government, Bali is felt to be less than optimal because it is more directed at preventive legal protection, namely only in the form of prevention before violations occur, by providing guidance and socialization to traditional market and modern shop business actors.

**Keywords:** Legal Protection; Traditional Markets; Modern Stores; Legal; Trader

### 1. Introduction

Investment is an important aspect as one of the drivers of the community's economy. One aspect that is the target of investment is the trade sector. As a result, from year to year the development of modern stores, both small, medium and large, has begun to be uncontrolled. The presence of modern stores, especially supermarkets and mini markets, if left alone without any strict regulations, will cause economic disparities and have negative impacts such as the fading of people's markets and the economic development of the surrounding community.

It must be admitted that in economic activities, there is indeed competition between business actors. And the development of supermarkets cannot be stopped because the increasing demands of needs have caused a shift in people's preferences in meeting their needs. This phenomenon is normal if it is related to developments over time.

The development of modern shops can actually accelerate economic progress, as long as it is not excessive and violates the rules so as not to kill the people's market. Therefore, the Badung Regency Government, Bali as the regulator and

\* Corresponding author: Ni luh made mahendrawati

policy maker has a very important role so that competition between business actors takes place in a healthy manner and is able to synergize well.

The function and role of the Badung Regency Government, Bali is very necessary in terms of commitment and legal policies regarding the community's right to do business, one of which is by providing legal protection for the people's market as a weaker party both in terms of capital and management.

Based on the background of the problems that have been described above, several problems can be formulated as follows: 1) How is the implementation of...Badung Regency Regional Regulation, Bali Number 3 of 2017 on business competition between supermarkets and traditional markets? 2) How are the efforts of the Badung Regency government, Bali in providing legal protection for traditional markets from the proliferation of supermarkets?

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## 2. Method

The type of research in writing this scientific paper is an empirical legal research type, which is used because there is an indication of a gap between what is regulated in the Law (*das sollen*) and the practice that occurs in the field (*das sein*) (Soerjono Soekanto and Sri Mamudji, 2008; 1). The approach used in this study is the Legislation approach by tracing the Legislation that is related to the problem and the conceptual approach that starts from the doctrines in legal science (HS. Salim and Erlies Septiana Nurbawani, 2013; 19). The research location used by the author is in Badung Regency. It has an area of 418.52 km<sup>2</sup> or (7.43%) of the area of Bali Island. Administratively, Badung Regency consists of 6 (six) sub-districts that stretch from north to south, namely Petang District, Abiansemal District, Mengwi District, North Kuta District, Kuta District, and South Kuta District. And the institutions where the research is conducted are the Investment and One-Stop Integrated Service Office of Badung Regency, the Cooperatives, SMEs, Industry and Trade Office of Badung Regency, the Regional Public Company Pasar Mangu Giri Sedana of Badung Regency, and the Civil Service Police Unit Office of Badung Regency. In raising the problem, it uses more qualitative data analysis, namely data that has been collected from the results of the study is then analyzed descriptively by selecting the data obtained according to its quality and truth and then connected to theories and Laws and Regulations so that answers are obtained in this study.

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## 3. Discussion

### 3.1. Implementation badung regency regulation number 3 of 2017 concerning business competition between supermarkets and public markets

The development of convenience stores continues to experience rapid progress from year to year. In the last ten years, convenience stores with supermarket, mini market, hypermarket and department store formats have continued to mushroom. Therefore, the central government issued Presidential Regulation Number 112 of 2007 concerning the Arrangement and Development of Traditional Markets, Shopping Centers and Modern Stores as a regulation aimed at limiting the establishment of convenience stores so as to reduce their impact on people's markets. This must be in accordance with the principle of legal protection for the community including recognition and protection of human dignity and the principle of the rule of law. Historically in the West, the concept of recognition and protection of human rights emerged with the aim of limiting power and establishing obligations for the community and government. (M.Hadjon, 2002;38)

In order to build a balance between traditional markets and supermarkets in order to realize business certainty and orderly business, the Badung Regency Government also issued related regulations, namely Regional Regulation Number 3 of 2017 concerning the Arrangement and Development of Traditional Markets, Shopping Centers and Supermarkets (hereinafter referred to as Regional Regulation 3 of 2017) which regulates the requirements for the establishment, number and distance of supermarkets, and the empowerment of traditional markets. These regulations must not overlap so that when establishing, managing, and organizing traditional markets and supermarkets there are continuous regulations so as to realize the harmonization of Laws and Regulations. (JJH. Bruggink, 1999)

The implementing agencies responsible for implementing Regional Regulation 3 of 2017 are implemented by 4 (four) agencies. The Investment and Integrated One-Stop Service Office through the Economic Licensing Issuance Section has the authority to issue licensing and non-licensing applications. The Cooperatives, SMEs, Industry and Trade Office through the Trade sector has the authority to evaluate the granting of business licenses, monitoring, coaching and supervision.

The Regional Public Company of Mangu Giri Sedana Market through the Planning Section has the authority to carry out management including planning, construction, maintenance, and care of the market area and its infrastructure. And the Badung Regency Civil Service Police Unit (hereinafter referred to as Satpol PP) through the Investigation and Investigation Section is given the authority to enforce and discipline business actors who violate Regional Regulation 3 of 2017.

Related to the implementation of Regional Regulation 3 of 2017, it can be seen from 2 (two) aspects, namely the establishment of supermarkets and the management of traditional markets. Regarding the establishment of supermarkets, it is mandatory to fulfill several provisions applied by the Badung Regency Government.

First, the establishment of a supermarket must complete the document of socio-economic analysis of the community, one of which is a partnership plan with MSMEs. The partnership program can be carried out through marketing cooperation, providing business locations, and providing supplies. Based on an interview with Agus Lantara Jaya, he stated that even though the partnership documents have been completed, in its implementation until now there are still many supermarket business actors who are reluctant to carry out the partnership plan.

Second, regarding the requirements for the sales floor area, namely for minimarkets, less than 400 m<sup>2</sup> (four hundred square meters), and for supermarkets, 400 m<sup>2</sup> (four hundred square meters) to 5,000 m<sup>2</sup> (five thousand square meters). Furthermore, the establishment of convenience stores must follow the goods sales system, namely for minimarkets and supermarkets selling retail consumer goods, food products and other household products, and minimarkets are prohibited from selling fresh products in bulk.

The establishment of a convenience store must consider the location of the establishment that refers to the Regional Spatial Plan, Detailed Spatial Plan and Zoning Regulations. Based on an interview with Mrs. Ari Sugianthi as the Head of the Economic Licensing Issuance Section, she said that in Badung Regency, the establishment of a convenience store only refers to the Regional Spatial Plan.

Fifth, the establishment of supermarkets must consider the number and distance as stated in Attachment I and Attachment II of Badung Regent Regulation Number 62 of 2017. Where the number and distance of supermarkets are differentiated according to the District. Mrs. Ari Sugianthi said that as long as the supermarket quota in Badung Regency is not full, then the distance provisions, even though they are close, are not a problem (Ari Sugianthi, Interview, February 20, 2020).

The last is the regulation of supermarket working hours which is a policy to protect the continuity of traditional market businesses and retailers so that they are expected to maintain their businesses. It has been mandated in Regional Regulation 3 of 2017 for supermarket working hours on Monday-Friday is 10.00-22.00 WITA, and for Saturday-Sunday is 10.00-23.00 WITA. Meanwhile, supermarkets located in tourism areas that operate 24 hours are required to apply for a 24-hour operational permit to the Investment and Integrated One-Stop Service Office. Based on data obtained from the Badung Regency Satpol PP, in 2016 only 20 supermarkets applied for a 24-hour operational permit, in 2017 there were 29 stores, and in 2018 there were 17 supermarkets.

In order to organize supermarkets, the Badung Regency Government has a legal umbrella as stated in the provisions of Article 2 paragraph (1) and (2), Article 3 paragraph (1), and Article 4 paragraph (1). In addition, the Badung Regency Government also continues to improve the management of traditional markets. Based on an interview with Mr. I Wayan Marka as Head of the Planning Section of the Mangu Giri Sedana Market Regional Public Company, he said that the main strategy carried out in managing traditional markets is first, focusing on increasing competitiveness programs. Untidy, dirty and shabby management is a weakness in itself for the sustainability of traditional markets so that internal improvements are needed in the management of traditional markets to encourage the competitiveness of traditional markets in balancing the presence of supermarkets.

Second, implementing a revitalization program that includes physical construction of buildings and repair of marketing facilities including sanitation, aesthetics, and provision of parking lots. However, this program usually does not solve the problem and creates new problems such as increasing but narrower kiosks, building upper floors but traders do not want to sell in the area and not infrequently this revitalization plan is opposed by the traders themselves.

Third, good quality management by means of socialization and training on the importance of quality management to improve service to buyers in terms of behavior, quality, and cleanliness of goods so that they dare to compete with supermarkets. (Firmanzah and Rizal E. Halim, 2012)

Based on the data obtained by the author from the Cooperatives, SMEs, Industry and Trade Service, the number of supermarkets recorded until 2018 was only 679 (six hundred and seventy nine) units. The supermarkets owned by local people only numbered 59 (fifty nine) units and the rest were chain supermarkets such as Alfamart, Indomaret, Circle K, and Mini Mart.

When associated with the parameters of effectiveness, whether the law is effective or not is determined by 5 (five) factors (Soerjono Soekanto, 1985; 7) as follows:

The legal factor itself, in this case Regional Regulation 3 of 2017, is the legal umbrella for the arrangement and development of traditional markets and supermarkets.

Law enforcement factors, namely the parties who form and implement laws carried out by Satpol PP,

Facilities and infrastructure factors, in this case the number of technical teams is not comparable to the number of supermarkets in Badung Regency, so that regular checks cannot be carried out.

Community factors, namely supermarket business owners who are reluctant to take care of the completeness of permits and establishment procedures as stipulated,

Cultural factors, namely the current culture of society which has shifted to preferring to shop at supermarkets.

Based on the author's observations, there are still many supermarkets that do not heed the provisions of Regional Regulation 3 of 2017, many supermarkets that build their buildings without considering the distance, open supermarkets beyond the specified operating hours, only complete the analysis of socio-economic conditions and do not implement partnerships. What also influences the ineffectiveness of the implementation of Regional Regulation 3 of 2017 is the lack of coordination between related agencies that issue permits, supervision and law enforcement. Therefore, it can be said that the implementation of Regional Regulation 3 of 2017 in Badung Regency is not optimal.

### **3.2. Badung regency government's efforts in providing legal protection for the people's market from the rise of supermarket stores**

The existence of the people's market is a forum for the community as business actors in the field of trade and provides broad business opportunities for the community to create jobs. Protection of the people's market must be carried out because, especially in terms of licensing which is a policy of controlling investment entering a region. (Dasril Radjab, 2005)

Traditional market and supermarket business actors who will establish their businesses are required to have a Supermarket Business Permit (IUTS) and a Traditional Market Management Business Permit (IUPPR) as legality from the Regent of Badung. Based on an interview with Mr. I Ketut Gede Suwedharma as the Head of the Trade Division, he said that until now only 85 (eighty-five) supermarkets have complete permits, the remaining 594 (five hundred and ninety-four) units do not have complete permits such as Spatial Planning Information (ITR), Building Construction Permit (IMB), Environmental Permit (UKL/UPL/SPPL), especially the Supermarket Business Permit (IUTS). In 2019, based on data obtained from Satpol PP, it was written that only 12 (twelve) supermarkets had had follow-up licensing.

He said that licensing is one of the efforts of the Badung Regency Government in providing legal protection for traditional markets. Furthermore, supervision of the ownership of the permit is needed, which is carried out by the Cooperatives, SMEs, Industry and Trade Service which is carried out in the form of direct supervision and indirect supervision. This is where the role of the Civil Service Police Unit Service is very much needed.

Law enforcement serves as a protection of human interests, so that the law must be enforced so that the law can become a reality. Law enforcement contains 3 (three) elements, namely legal certainty, benefit and justice. If a violation occurs, law enforcement officers can provide law enforcement in the form of preventive law enforcement by providing advice and solutions and coaching so that business actors understand and are more aware of the rules. (Mahendrawati, ni luh made, Sudarsono, 2019)

Then the form of repressive law enforcement is divided into 2 (two), namely non-judicial repressive law enforcement is carried out by giving administrative sanctions in the form of a warning letter for 3 (three) consecutive times within a period of 7 (seven) days, if it is not followed up, then the business license will be frozen until a maximum time limit of 3 (three) months and if it remains stubborn, the business license will be revoked. As for pro-judicial repressive law

enforcement, if at the time the Civil Service Police Unit goes to the field to conduct an investigation and a violation is found, then it has the right to bring it to court.

The concept of legal protection for traditional markets has actually been attempted through the issuance of Regional Regulation 3 of 2017 which has the philosophy that the existence of supermarkets does not become a threat to the existence of traditional markets as a weaker party so that it is not exploited by a stronger party.

The Badung Regency Government has provided preventive legal protection by controlling traditional markets by tightening the licensing process, providing operational hour restrictions, and regulating the distance and number of supermarkets. Empowerment is carried out for traditional market traders through partnership programs, fundraising, physical improvements and market management, and increasing the professionalism of traditional market traders.

For repressive legal protection, this is done by providing administrative sanctions and criminal provisions for business actors who violate the provisions mandated in Regional Regulation 3 of 2017.

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#### 4. Conclusion

The implementation of Regional Regulation 3 of 2017 in Badung Regency has not been implemented effectively considering that there are still many violations committed by supermarket business actors who operate without fulfilling the establishment procedures and do not have the required legal documents. The ineffectiveness of the implementation of Regional Regulation 3 of 2017 is supported by the indecisiveness of related agencies in implementing applicable regulations, the indecisiveness of law enforcement officers in imposing sanctions and the legal culture of business actors who are reluctant to take care of permits due to complicated procedures. The impact caused by the ineffective implementation of Regional Regulation 3 of 2017 has disrupted the climate of business competition. So that with the legal protection carried out by the Badung Regency Government, both preventively, namely through arrangement and guidance and repressive legal protection by imposing administrative sanctions and criminal provisions, it can provide a deterrent effect on violators in order to realize optimal legal protection for people's markets.

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#### Compliance with ethical standards

##### *Disclosure of conflict of interest*

No conflict of interest to be disclosed.

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