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Protecting Local Coconut Oil of Lana Bango: Challenges of Indonesian Competition Law

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Abstract:

The Regional Government of Sangihe Islands Regency, North Sulawesi, has designated Local Coconut Oil in Sangihe Language called "Lana Bango" as a Regional Superior Product. This study is a normative-legal research by using statute, case, and conceptual approaches. Data were analyzed with descriptive qualitative analysis with content analysis. In this study, the authors used the qualitative research method, which (in general) generates words rather than numbers as data for analysis. The approach used is observation and interpretation, which makes these phenomena observable. This paper provides information on the latest trend in research. The results show that the optimization of the Lana Bango production program must be carried out to support more profitable production prices for farmers. Local governments need to pay attention to all existing regulations so that they do not tend to violate regulations. Siding with the people should not be detrimental to other parties. Hence, the solution that can be carried out by the Sangihe Islands Regency Government when there is fluctuation in copra prices by optimizing other potentials of coconut plant. Last but not least, there are not contrary to regulations concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

Keywords: Coconut Oil; Competition Law; Monopoly; Business Competition

1. Introduction

In Indonesia, the falling prices for several local commodities especially in Kepulauan Sangihe district, North Sulawesi has severely hit purchasing power of peoples and it impacted on the economic downturn.¹ One of affected local commodities are Commodity Coconut (Coconut) with the main product is Copra. In order to overcome this situation, the government of Kepulauan Sangihe district encourages the people of Kepulauan Sangihe district to re-activate the production of local coconut oil.

The habituation of local coconut oil consumption or in the local language of Sangihe is called "*Lana Bango*" is part of the program of "*Kembalikan Sangiheku*" which was launched in May 2019 as part of the government' efforts to address public complaints due to lower copra prices. With the initial target that if most of the Sangihe state civil servants used local coconut oil as cooking oil, this program would significantly reduce the impact of the drop in copra prices and help coconut farming communities.

As reported by a National Media, the Regent said that as an effort to support the government' support for coconut farmers, we are obliged to replace factory cooking oil with coconut oil produced by the local community.² The purpose of this support by using the term to promote the consumption of "*Lana Bango*" from public servant by involving all public servant family members in Kepulauan Sangihe district will spread to all levels of society and become a moral movement for Sangihe people to consume local coconut oil (community consumption action for local coconut oil) and reduce or even not buy manufactured coconut oil.

The policy of protection is a government policy ¹⁷ to protect the growing domestic industry (*infant industry*) and to protect new companies from large companies from unfair competition, as well as to protect from competition for imported goods.³ Newly established domestic industries usually have a high cost structure, making it difficult to compete with foreign industries that have a low cost structure (because they already have large economies of scale). This protection provides opportunities for domestic industry to learn more efficiently and gives the workforce the opportunity to acquire skills. Protection policies are usually temporary. If one day the domestic industry is felt to be large enough and able to compete with foreign industries, the protection will be eliminated.⁴

¹ Disemadi, H. S., & Roisah, K. (2019). The Enforcement of Business Competition Law by the Police: An Indonesian Experience'. *Lentera Hukum*, 6(2), 203-212.

² Republika. Source: <https://nasional.republika.co.id/berita/nasional/daerah/psx92n414/bupati-sangihe-ajak-pakai-lanang-bango-sebagai-minyak-goreng>

³ McWilliam, A. Historical reflections on customary land rights in Indonesia. *The Asia Pacific Journal of Anthropology*, 2006; 7 (1), 45-64.

⁴ Fox, Eleanor M. "Quality, discrimination, and competition law: Lessons from and for South Africa and Indonesia." *Harv. Int'l. LJ* 41 (2000): 579.

The program to optimize the consume of local coconut oil as launched by the Regent of Kepulauan Sangihe is an innovative commitments in the field of poverty alleviation for Sangihe coconut farming community who are greatly disadvantaged by the fall in the commodity price of copra, which has resulted in many coconut farmers not harvesting coconut tree fruit because the operational of manufacture copra is much higher than the selling price of copra products in the market, while on the other hand this action is based on Act No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, Article 10 will tend to result in a “boycott” of manufactured coconut oil products because the community (including public servant and their families) as well as businessmen will reduce and even not buy coconut oil because the Regent’ invitation delivered at the official forum will become an unwritten regulation which is obligatory by law to be obeyed by all public servant in Kepulauan Sangihe district because the capacity of the Regent as personnel head and will also be implemented by entrepreneurs because they often need access to the existing Government to accelerates their business.

Due to the people’ purchasing power weakened because the decline in copra prices, the poverty of Sangihe population rose from 11.80% in 2017 to 11.82% in 2018,⁵ therefore the Regent of Kepulauan Sangihe on many occasions at the meeting forum ordered the community, public servant and business actor to optimize local coconut oil consumption and reducing and stopping the supply of manufactured coconut oil from outside Kepulauan Sangihe district.

2. Method

The research is a normative legal research using a statute, case, and conceptual approaches.⁶ Data were analyzed with descriptive qualitative analysis with content analysis. In this study, the authors used the qualitative research method, which (in general) generates words rather than numbers as data for analysis. The approach used is observation and interpretation, which makes these phenomena observable. This paper provides information on the latest trend in research.⁷

3. The Regulation of the Prohibition of Anti-Monopoly and Unfair Business Competition

In business competition, there are business competition actors who can be said to be the subjects and objects of business competition. The subjects in business competition are sellers or producers and in this case produce or distribute

⁵ Barta News. <http://barta1.com/2019/03/15/angka-kemiskinan-sangihe-naik-002-helmud-hont-5g-bps-perlu-uji-validitas-data/>

⁶ Patton, M.Q., & Cochran, M. *A Guide to Using Qualitative Research Methodology*, Medecins Sans Frontieres, UK, 2007; 21

⁷ Roth, W.M. *Rigorous Data Analysis, Beyond “Anything Goes”*, Sense Publishers, Taipei, 2015; 36.

an item, while the object in business competition is the consumer, in this case the person who uses or buys an item, business competition will be created if there are sellers and buyers are almost equal.⁸

In a legal world, many terms are used in the field of competition law, such as antimonopoly law and antitrust law. In Indonesia the term *Business Competition* is officially used as stipulated in Act No.5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. According to Arie Siswanto, what is meant by the competition law is a legal instrument that determines how competition should be done.⁹

Business competition law is a set of legal rules that regulate all aspects related to business competition, which include things that can be done and things that are prohibited from being done by business actors.¹⁰ Whereas, in the Economic Dictionary written by Christopher Pass and Bryan Lowes,¹¹ the competition law is part of the legislation regulating monopolies, mergers and acquisitions, restrictive trade agreements and anti-competitive practices. The domain of business competition law is matters relating to the behavior of business actors in performing their business activities, so that the business being done does not harm the interests of other people or parties (general) and is in line with the objectives to be achieved.

The legal basis of a fund or business actor exercising its activities is an agreement. An agreement is an event where a person promises to another person where the two people promise to do something.¹² In another sense, an agreement is an act of one or more business actors to bind themselves to another business actor under any name, whether written or unwritten. According to the Civil Code in Article 1313 it means that an agreement is an act whereby one or more people bind themselves to one or more people.¹³ In principle, in essence there is no meaningful act, it is just that in the law the definition given explicitly states the business actor as the legal subject, namely any person, individual or business entity, whether in the form of a legal entity or not, which is established and domiciled or exercise activities within the territory of the Republic of Indonesia either individually or collectively by means of an agreement.¹⁴

23

⁸ Arie Siswanto, *Hukum Persaingan Usaha*, Jakarta: Ghalia Indonesia, 2004, p.2

⁹ Bedner, A., & Van Huis, S. The return of the native in Indonesian law: Indigenous communities in Indonesian legislation. *Journal of the Humanities and Social Sciences of South Asia*, 2008; 164 (2), 165-193.

¹⁰ Mansyah, *Pokok-Pokok Persaingan Usaha di Indonesia*, Jakarta: Kencana, 2008, p.2

¹¹ Christopher Pass dan Bryan Lowes, *Kamus Lengkap Ekonomi*, Jakarta, Penerbit Erlangga, 2000, p.76

¹² Syamin, *Hukum Dagang Internasional*, Jakarta, 2006, p.52

¹³ R Nugraheni, N. (2020). Crowdfunding-Based Fiduciary Warrant in Providing Capital Loans for Small and Medium Enterprises. *Hasanuddin Law Review*, 6(3), 224-231. doi: <http://doi.org/10.20956/halrev.v6i3.2201>

¹⁴ Ahmad Yani & Gunawan Widjaja, *Seri Hukum Bisnis, Anti Monopoli*, Jakarta, Raja Grafindo Persada, 1999, p.21

In general, an agreement is defined as an event where two people or two parties promise each other to do something. This general understanding is not much different from the definition of an agreement in the Big Indonesian Dictionary which states that an agreement is an agreement (written or oral) made by two or more parties, each of which agrees to comply with what is stated in the agreement.¹⁵

Explicitly, in article 1338 paragraph (1) of the Civil Code states that in principle all agreements made legally bind the parties that make them and apply as law for them, and as a consequence the agreements agreed upon by both parties cannot be withdrawn by one of the parties to the agreement unless the withdrawal or revocation finds the law applicable to the parties who made the agreement.¹⁶

4. A Perspective of Business Law for Determining a Regional Superior Product of Kepulauan Sangihe District

As the regulation of the Minister of Domestic Affairs No. 9 of 2014 concerning Guidelines for the Development of Regional Superior Products, Article 2 states that Regional Superior Product¹⁵ hereinafter referred to as PUD (*Produk Unggulan Daerah*), are products both in the form of goods and services that produced¹ by cooperatives, small and medium scale businesses that have the potential to developed by utilizing all the resources owned by the region both natural resources, human resources and local culture, as well as generating income for the community and the government which is expected to become an economic strength for the region and the local community as a potential product that has competitiveness, selling power, and the drive to and be able to enter global markets. In addition, the economic potential needs to be optimally developed into regional superior products that are competitive and can improve the welfare of the community according to conditions and peculiarities.

Local coconut oil of Sangihe is a habit of Sangihe communities to utilize the potential of the local coconut plant (coconut) and is made into coconut oil and used as a liquid for frying fish, vegetables and other dishes and has been a culture for a long time. In fact, it is estimated that in the decade of the 60s to 80s, Sangihe communities did not buy manufactured coconut oil because they only knew coconut oil that was cooked by them and/or bought coconut oil made or cooked by their neighbors. Indeed, the main obstacle of the local homemade coconut oil that is made or cooked by the community cannot last long, because it is only a few days old, the coconut oil will smell rancid and unpleasant and if it is used for cooking it will taste bad and mixed with the rancid taste. would be very annoying, and based on the results of the research, the rancid smell comes from high water content that cannot be filtered at that time.

¹⁵ ²⁴ mansyah, *Op. Cit.*, p.24

¹⁶ Suharnoko, *Hukum Perjanjian Teori dan Analisis Kasus*, Prenada Media, Surabaya, 2015, p.15

In addition to hitting the economic capacity and purchasing power of the Sangihe people, the fluctuation in copra prices has a positive impact on those who are creative and full of innovation. Coconut farming communities who felt the direct impact of the fall in prices did not harvest coconuts to be used as copra because the price of copra in the market was much cheaper and it is not comparable to the operational costs of making copra. For this situational, by the initiation of the village government, such as Bumdes (Badan Usaha Milik Desa / Village-Owned Enterprises) began to remake Local Coconut Oil “Lana Bango” because based on calculations at that time, the selling price of “Lana Bango” was more profitable than making copra. If produce 1 Kg of copra, it need 6 coconuts with a selling price of IDR 500 to 700, while if produce “Lana Bango”, it need 9 coconuts to produce 1 liter of coconut oil with a selling price of IDR 12.000, this is more profitable, therefore the village of Kalekube 1, through Bumdes (Badan Usaha Milik Desa/Village-Owned Enterprises), began making “Lana Bango”.

By optimizing the program in the field of agriculture, through the Region Agriculture Office of Keplauan Sangihe district, assistance has been sought from the Ministry of Agriculture of the Republic of Indonesia in the form of a set of equipment for making local coconut oil in Utaurano village, North Tabukan district; it now started produce local coconut oil “Lana Bango.” Utaurano village through Bumdes “Sengkanaung” has made serious communication with several villages around them, including with Kalekube 1 to start producing crude coconut oil and later it will be purchased by Bumdes Utaurano village to be managed and turned into local coconut oil production with higher quality both from coconut oil manufacturers such as Bimoli and Filma.

The efforts of the government of Kepulauan Sangihe to produce Local Coconut Oil “Lana Bango” as a Regional Superior Product (PUD – *Produk Unggulan Daerah*) is a strategic effort to accelerates the economy of communities by involving all State Civil Servants in Kepulauan Sangihe district as consumers or buyers of coconut oil “Lana Bango”, and even the Regent had campaigned during the “Launching of Lana Bango”, so that all public servant in Kepulauan Sangihe district did not have to buy manufactured coconut oil from Manado and appealed to all sellers in stalls and supermarkets throughout Sangihe not to sell manufactured coconut oil such as Bimoli, Filma, etc and maintain the continuity of sales of “Lana Bango” coconut oil so that it can be bought so that the people and Bumdes in the village continue to produce “Lana Bango” because they have a potential market, which in turn will increase the economy and purchasing power of communities.

If related to Act No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, as regulated in Article 4 to 16, the efforts of the government of Kepulauan Sangihe district cannot be categorized as monopolistic actions or conducting unfair business competition, because it was solely carried out to improve the economy of Sangihe communities which was

slumped due to the fall in copra prices, and this was temporary and what Kepulauan Sangihe district (the regent) did through a campaign to public servant and appeals to these business actors was not in the form of good legal products. The local regulations, Regent regulations are only the regent decree to determine Sangihe Local Coconut Oil “*Lana Bango*” as a regional superior product, and this effort is incidental because legally there are no sanctions for all public servant and business actors in Sangihe if they do not buy the product, even if there are only moral sanctions for not attend to the appeal of the government, so that if there are business actors who have objections or sue to court then this will only waste energy in vain.

5. Conclusion

If there is a fluctuation in copra prices, the government of North Sulawesi district has a simple and optimal strategy, by diversifies its derivative products of Sangihe coconut, which were previously only in the form of copra products towards the manufacture of local coconut oil “*Lana Bango*” which has been designated as a Regional Superior Product (PUD – *Produk Unggulan Daerah*). Kepulauan Sangihe district, there are even Bumdes (Badan Usaha Milik Desa - *village-owned enterprises*) received government assistance and have started to develop local coconut oil with good packaging, there are also made business diversification in the form of white copra which is much more competitive. The efforts of the government of Kepulauan Sangihe district to give an appeal to all public servant to buy local coconut oil “*Lana Bango*” and not manufactured coconut oil is not an act contrary to the regulations on the Prohibition of Monopolistic Practices and Unfair Business Competition because this directive is temporary (not permanent in form of regulation or decision), as anticipatory steps to secure the economy of communities.

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