



# Sale Purchase Agreement Through Instagram: How Is The View Of The Civil Law?

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## Abstract

**Introduction:** Technological developments have an impact on today's business world, which is buying and selling activities carried out through Instagram.

**Purposes of the Research:** The purpose of this study is to examine the perspective of civil law books regarding the phenomenon of buying and selling via Instagram and analyzing the best solution so that buying and selling activities via Instagram do not violate the law.

**Methods of the Research:** The method in this study is normative juridical which uses a library approach. In answering the formulation of the problem, the juridical basis is used, namely the civil law code book and the theoretical basis, namely modern contract law theory.

**Results of the Research:** Based on research results, buying and selling activities via Instagram are very difficult to fulfill the legal requirements of an agreement as stipulated in the civil law code. This has also led to many cases of law violations through Instagram. Therefore, it is necessary to apply the principle of good faith in the buying and selling process on Instagram.

## 1. INTRODUCTION

Technological progress is something that cannot be avoided in this life, because technological progress will run according to scientific progress. Every innovation is created to provide positive benefits for human life. Technology also provides many conveniences, as well as a new way of carrying out human activities. Humans have also enjoyed the many benefits brought about by the technological innovations that have been produced in the last decade.

Technology literally comes from the Greek word "tecnologia" which means a systematic discussion of the whole arts and crafts. The term has the root word "techne" in ancient Greek means art (art), or craft (craft). Sociologically, technology has a deeper meaning than equipment. Technology establishes a framework for the non-material culture of a group. If the technology of a group changes, then the way people think will also change.<sup>1</sup> One of the technologies currently being developed is internet technology. The development of internet technology is so rapid nowadays, many types of social media have been born. This is also supported by the development of mobile phone technology that provides

<sup>1</sup> Muhamad Ngafifi, "Kemajuan Teknologi dan Pola Hidup Manusia Dalam Perspektif Sosial Budaya", *Jurnal Pembangunan Pendidikan Fondasi dan Aplikasi* 2, No. 1, (2014): 35. 10.21831/jppfa.v2i1.2616

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facilities for social media users. This social media become very popular because it provides conveniences in conducting communication. The most popular social media used by both children and adults, among others, Facebook, Twitter, Instagram, WhatsApp, YouTube and many more.<sup>2</sup>

Social media is an online media, with its users can easily participate, share and create content including blogs, social networks, wikis, forums and virtual worlds. Blogs, social networks and wikis are the most common forms of social media used by people around the world. Another opinion says that social media is online media that supports social interaction and social media uses web-based technology that turns communication into interactive dialogue.<sup>3</sup> Instagram comes from the understanding of the overall function of this application. The word "insta" comes from the word "instant", like a Polaroid camera, which at that time was better known as "instant photo". Instagram can also display photos instantly, like polaroids in appearance. As for the word "gram" comes from the word "telegram" which works to send information to other people quickly. It's the same as Instagram which can upload photos using the Internet network, so that the information you want to convey can be received quickly.

Therefore Instagram is a combination of the words instant and telegram. The friend system on Instagram uses the terms Following and followers. Which means following means following users, and followers means other users who follow accounts. Each user can interact by commenting and responding (feedback) with likes (likes) to the photos that are shared.<sup>4</sup> Given the rapid advancement of technology, social media and communication tools continue to grow exponentially, therefore, social media has become the main method of communication in public. As a mobile application, Instagram has been widely used for both personal and business reasons. The above has given rise to new ways of doing business, where buying and selling is not only for sellers and buyers to meet in the market but also buying and selling transactions can also be carried out through social media, meaning that the process during buying and selling transactions can be communicated with the internet through social media. One of the social media can be used for buying and selling, namely Instagram.<sup>5</sup>

Instagram is the social media that is most widely used and most often used by business people, this starts from the simplest things to the most complex things, such as service and goods businesses.<sup>6</sup> The process of buying and selling goods and or services also occurs through social media, namely Instagram. Buying and selling transactions with Instagram media are currently popular, both from seller and buyer. Instagram can make it easier for sellers to sell or show off their goods, because on Instagram they can upload photos and

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<sup>2</sup> Lady Diana Warpindyastuti, Meiva Eka Sri Sulistyawati, "Pemanfaatan Teknologi Internet Menggunakan Media Sosial Sebagai Sarana Penyebaran Informasi dan Promosi Pada MIN 18 Jakarta", *Jurnal Widya Cipta* 2, No. 1, (2018): 91. file:///C:/Users/user/Downloads/2971-8660-1-PB.pdf

<sup>3</sup> Anang Sugeng Cahyono, "Pengaruh Media Sosial Terhadap Perubahan Sosial Masyarakat di Indonesia", *Jurnal Publiciana* 9, No. 1, (2016): 142. <https://doi.org/10.36563/publiciana.v9i1.79>.

<sup>4</sup> Meutia Puspita Sari, "Fenomena Penggunaan Media Sosial Instagram Sebagai Komunikasi Pembelajaran Agama Islam Oleh Mahasiswa FISIP Universitas Riau", *Jurnal JOM FISIP* 4, No. 2, (2017): 6.

<sup>5</sup> Risanda Lilho Pangestu, Tuhana, "Transaksi Jual Beli Melalui Instagram Ditinjau Menurut Kitab Undang-Undang Hukum Perdata", *Jurnal Privat Law* 7, No. 2, (2019): 276. file:///C:/Users/user/Downloads/39336-97403-1-SM-1.pdf.

<sup>6</sup> Putri Prameswari Sudin, Roria Magdalena, Enni Soerjati Priowirjanto, Deasy Soeikromo, "Penyalahgunaan Akun Instagram Perihal Penipuan Jual Beli Secara Online Ditinjau dari UU ITE dan Pasal 378 KUHP tentang Penipuan", *Journal of Education, Humaniora and Social Sciences* 5, No. 1, (2022): 22. 10.34007/jehss.v5i1.842.

include a description of the goods or services to be offered and this can make it easier for buyers to choose and make their choices according to the photos and information provided by the seller. What lies behind many buyers making transactions with Instagram media is easy access for buyers to find the goods they want, easier to compare prices, payments can be made via transfer and waiting for the goods to arrive without having to leave the house. These things are what make buyers interested and more time efficient because everything can be done from home.

Buying and selling transactions are generally regulated in the Civil Code in book III Concerning Engagements and in Chapter 1 with Chapter V and several relating to general law, but specifically electronic buying and selling transactions are regulated in Law No. 11 of 2008 concerning information and electronic transactions (hereinafter referred to as Law No. 11 of 2008 concerning ITE). Law No. 11 of 2008 concerning ITE is part of the development of the Civil Code and aims to coordinate the needs of a society that is full of technology, because buying and selling transactions also use the internet, so agreements between buyers in the form of goods and types Payments are determined on the internet.<sup>7</sup> However, based on data from the Bareskrim Cyber Crime Directorate in 2019, 1,617 cases of online fraud were recorded. In detail, 534 cases occurred on Instagram, 413 on Whatsapp, and the remaining 304 cases occurred on Facebook. Based on these data, it can be seen that the most cases of fraud buying and selling online occur through Instagram.<sup>8</sup> The novelty in this research is that in this research the right solution will be found so that the implementation of the sale and purchase agreement through Instagram does not violate the civil law code. Based on this background, there are 2 (two) problem formulations discussed in this study, namely first, what are the arrangements in the civil law code regarding sales and purchase agreements made through Instagram social media? Second, what is the right solution so that the sale and purchase agreement through Instagram can run well and effectively?

## 2. METHOD

The method in this research is normative juridical. In this research method using literature study.<sup>9</sup> In analyzing this research, the juridical basis and the theoretical basis are used. The legal basis used is Civil Law, Law Number 11 of 2008 concerning Information and Electronic Transactions. Then the theoretical of law basis used is modern contract law theory.

## 3. RESULTS AND DISCUSSION

### 3.1 Sale Purchase Agreement Through Instagram Based on Civil Law Perspective

Advances in technology, computers, and telecommunications support the development of internet technology. With the internet, business people no longer

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<sup>7</sup> I Made Satria Wibawa Tangkeban, I Nyoman Putu Budiarta, Ni Made Sukaryati Karma, "Transaksi Jual Beli Melalui Media Instagram Menurut Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik", *Jurnal Interpretasi Hukum* 2, No. 2, (2021): 417. <https://doi.org/10.22225/juinhum.2.2.3451.416-421>

<sup>8</sup> Liputan 6, "Bareskrim Catat Ada 1.617 Kasus Penipuan Online pada 2019, Paling Banyak di Instagram", <https://www.liputan6.com/bisnis/read/4369038/bareskrim-catat-ada-1617-kasus-penipuan-online-pada-2019-paling-banyak-di-instagram>.

<sup>9</sup> David Tan, "Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum", *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8 (8), (2021): 2463. [10.31604/jips.v8i8.2021.2463-2478](https://doi.org/10.31604/jips.v8i8.2021.2463-2478)

experience difficulties in obtaining any information to support their business activities. Even now, various kinds of information tend to be obtained, so information must be filtered to obtain appropriate and relevant information. This has changed the information age to become the internet age. The use of the internet in business has changed from its function as a tool for exchanging information electronically to become a tool for strategic business applications, such as: marketing, sales, and customer service. Marketing on the Internet tends to penetrate various barriers, national borders, and without standard rules.

Whereas in conventional marketing, goods flow in large batches, through seaports, using containers, distributors, guarantee agencies, importers, and bank institutions. Conventional marketing is more involved than marketing via the internet. Marketing on the internet is the same as direct marketing, where consumers deal directly with sellers, even though the sellers are abroad.<sup>10</sup> Sales made via the internet use a lot of social media. One of the social media used for buying and selling activities is Instagram. Social media Instagram is known to have a lot around us. All walks of life can easily use this application. The difference is with word-of-mouth sellers who do not use the application to find buyers only with bid capital. This is one of the reasons why Instagram has various benefits for business people to build and develop a business brand. Judging from the sales results of the first period, it can be considered quite good, although it is still far from what was expected.<sup>11</sup>

The development of Instagram, which was originally only used to upload photos and videos, is now a place for promoting a business. According to data released by Napoleon Cat, in the period January - May 2020, Instagram users in Indonesia reached 69,270,000 million users. This makes Instagram the right and effective marketing medium. It is not only a place of marketing but also a place for the implementation of sale and purchase agreements. Through Instagram, sellers and buyers can communicate and agree on a buying and selling activity in accordance with the agreement that has been communicated through Instagram.

Buying and selling (business) in the community is a routine activity that is carried out at any time by all humans.<sup>12</sup> Buying and selling activities are often carried out by humans in everyday life, but in general many do not really realize that buying and selling activities are legal actions that can cause legal consequences if fraud occurs or one of the parties denies the existence of the agreement.<sup>13</sup>

The word buying and selling shows that from a party the act is called selling, while from the other party called buying. A term that includes two acts that are reciprocity is in accordance with the Dutch term '*Koop en Verkoop*' which also implies that one party *verkoopt* (sell) while others *koop* (buy). In Language English buying and selling is called by just interrupting which means selling (only seen from the seller's angle). Likewise in language francis is called simply *vente* which also means sales. Whereas in German the word '*kauf*' is used means purchase.<sup>14</sup>

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<sup>10</sup> Oviliani Yenty Yuliana, "Penggunaan Teknologi Internet Dalam Bisnis", *Jurnal Akuntansi dan Keuangan* 2, No. 1, (2000): 37.

<sup>11</sup> Dewi Untari, Dewi Endah Fajariana, "Strategi Pemasaran Melalui Media Sosial Instagram (Studi Deskriptif Pada Akun @Subur\_Batik)", *Jurnal Widya Cipta* 2, No. 2, (2018): 271. <https://doi.org/10.31294/widyacipta.v2i2.4387>

<sup>12</sup> Lendrawati, Rina Kusniati, "Pelaksanaan Jual Beli Tanah Melalui Jasa Perantara (PT. Lobi Utama) di Kota Batam", *Journal of Judicial Review* 19(1), (2017): 151.

<sup>13</sup> Triyana Syahfitri, Wandu, "Tinjauan Yuridis Jual Beli Menurut Hukum Perdata", <https://ejournal.unisi.ac.id/index.php/das-sollen/article/view/971/648>.

<sup>14</sup> Subekti. *Aneka perjanjian*. Bandung. PT. Citra Aditya Bakti, 1995.

This buying and selling process should be set forth in a form of agreement. According to Salim HS, the Agreement is "a legal relationship between one subject and another in the field of assets, where one legal subject is entitled to achievement and so is another legal subject obliged to carry out his achievements in accordance with what has been agreed upon." Buying and selling is a common form of transaction that often occurs done by society. Usually, a sale and purchase agreement is executed verbally or in writing based on the agreement of the parties (seller and buyers).

There are various provisions governing the sale and purchase agreement in the Civil Code. The Civil Code (which will hereinafter be referred to as the Civil Code) or Burgerlijk Wetboek is a set of rules from the civil law system created by the Dutch government and then enforced in Indonesia. The Colonial Law of the Dutch East Indies government applies as national law based on the principle of concordance through Article II of the Transitional Rules which has been amended to become Article I of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia. However, these regulations are adjusted to the development of situations, conditions and real needs in life patriotic.

The sale and purchase agreement is a reciprocal agreement where one party (the seller) promises to deliver something goods and other parties (buyers) will pay the price that has been promised (article 1457 Criminal Code)." The sale and purchase agreement alone does not necessarily result in the transfer of property rights over the goods from the hands of the seller to the hands of the buyer before the delivery (leveraging) is carried out. In essence, the sale and purchase agreement is carried out in two stages, namely the stage of agreement between the two parties regarding the goods and prices which are marked with the word agreement (sale and purchase) and the second, the stage of handing over (leveraging) the objects that are the object of the agreement, with the aim of transferring property rights of the thing.<sup>15</sup>

However, if traced from a concept of agreement according to the civil law code, it is regulated in detail in the civil law regarding the meaning of an agreement. According to experts, namely Subekti, the agreement is a concrete form of engagement while the engagement is an abstract form of the agreement, this can be interpreted as a legal relationship between two parties whose contents are rights and obligations, a right to demand something and vice versa an obligation to fulfill these demands.<sup>16</sup>

Then if traced in Article 1313 Chapter II Book III The Civil Code provides an understanding of the agreement: "An act by which one person or more binds himself to one or more other people". Then in Article 1320 UHPerdara determines that there are 4 (four) conditions for the validity of an agreement, namely: (1). There is an agreement for those who bind himself; (2) the ability of the parties to make an agreement; (3) there must be a certain thing; and (4) there must be a cause (causa) that is lawful.

The above requirements pertain both to the subject and object of the agreement. The first and second requirements relate to the subject of the agreement. The third and fourth requirements relate to the object of the agreement. Distinction these two requirements are

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<sup>15</sup> Aan Handriani, "Keabsahan Perjanjian Jual Beli Secara Tidak Tertulis Berdasarkan Hukum Perdata", *Rechtsregel Jurnal Ilmu Hukum* 1, No. 2, (2018): 288. <http://dx.doi.org/10.32493/rjih.v1i2.2218>

<sup>16</sup> Hartana, "Hukum Perjanjian (Dalam Perspektif Perjanjian Karya Pengusahaan Pertambangan Batubara)", *Jurnal Komunikasi Hukum* 2, No. 2, (2016): 149

also related to the issue of being null and void (*nieteg*, null and void, *void ab initio*) and can be canceled (*vernietigbaar*, voidable) of an agreement.<sup>17</sup>

The first condition is the existence of an agreement or consensus of the parties. This agreement is regulated in Article 1320 paragraph (1) of the Civil Code. What is meant by agreement is conformity a statement of will between one or more people and another party. What is appropriate is his statement, because of that will cannot be seen/know by others. Basically, the way that is mostly done by the parties, namely with language perfect orally and in writing.<sup>18</sup>

The ability to make an agreement. The ability to act is the ability or ability to carry out legal actions. Legal actions are actions that will cause legal consequences. The people who enter into agreements must be people who are capable and have the authority to carry out legal actions, as determined by law.

People who are capable and authorized to carry out legal actions are adults. The size of maturity is 21 years old or already married. In various literatures it is stated that the object of the agreement is the achievement or subject matter of the agreement. Performance is what has become the obligation of the debtor and what has become creditor rights. This achievement consists of positive and negative deeds. Achievements consist of: a) Give something; b) Do something; c) Not doing anything (article 1234 of the Civil Code) in article 1337 of the Civil Code it is stated that the cause is prohibited. For a reason is prohibited if it is stipulated by law, decency and public order. So the agreement made is what is permissible according to law.

Based on the legal terms of the agreement, the practice of buying and selling through Instagram is quite difficult in identifying the fulfillment of the legal terms of an agreement. In buying and selling via Instagram, what is difficult to fulfill from the legal terms of the agreement contained in the Civil Code is that when viewed from a civil perspective, buying and selling via the internet has not been said to be legal because the business actors and consumers do not meet face to face so it is difficult to determine when an agreement will occur.<sup>19</sup>

Many unexpected things happened to the parties who entered into the contract. One of them is the breach of contract by business actors. In practice, it is often found that there are no efforts made by business actors to overcome these problems.<sup>20</sup> For example, if a consumer has selected an item in the image content and photo description that has been promised by a business actor on Instagram, but the goods that have arrived do not match the quality promised, then the business actor considers that the item cannot be returned.<sup>21</sup>

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<sup>17</sup> R.M. Panggabean, "Keabsahan Perjanjian dengan Kalasul Baku", *Jurnal Hukum* 4, No. 17, (2010): 654.

<sup>18</sup> Endi Suhadi, Ahmad Arif Fadilah, "Penyelesaian Ganti Rugi Akibat Wanprestasi Perjanjian Jual Beli Online Dikaitkan Dengan Pasal 19 Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen", *Jurnal Inovasi Penelitian* 2, No. 7, (2021):1969.

<sup>19</sup> Aulia Fajriani Kamaruddin, Istiqamah, "Menilik Keabsahan Transaksi e-commerce yang dilakukan Oleh Anak di Bawah Umur", *Alauddin Law Development Journal (ALDEV): Fakultas Syariah dan Hukum* 02, No. 03, (2020): 403

<sup>20</sup> Nurul Afiqah Mutmainnah, Hadi Daeng Mapuna, "Peranan Restrukturisasi dalam akad murabahah (Studi kasus Putusan nomor:0293/Pdt.G/2017/PA.Gtlo)", *Jurnal Qadauna : Fakultas Syariah dan Hukum* 1, no.02, (2020): 91

<sup>21</sup> Andi Rezty Amalia, Erlina, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Elektronik Melalui Sosial Media Instagram", *Alauddin Law Development Journal* 4, No. 2, (2022): 449.

### 3.2 The right solution so that the implementation of the sale and purchase agreement through Instagram can run well and effectively

With the development of society and technology, there has been a change in the lifestyle and behavior of the world community, which was originally a sale and purchase agreement in the form of a conventional (written and oral) has now experienced development with the emergence of agreements or electronic contract. However, with the emergence of the development of electronic agreements or contracts, which were originally face-to-face (conventional) sale and purchase agreements have now switched to online sale and purchase agreements, online sale and purchase agreements in this case are without carried out directly but through online media without direct meetings, then by switching the sale and purchase transaction process the risk of legal problems is increasing, for example prone to fraud, default, oversight or misguidance in online buying and selling transactions.<sup>22</sup>

The practice of buying and selling agreements very often occurs through social media, especially through Instagram. The existence of civil law books has regulated the legal terms of an agreement, but violations of sales and purchase agreements made via Instagram are very common. In this case, it is necessary to strengthen the application of the good faith principle of an agreement. This is very important because with the good faith of each party, the implementation of an agreement can be implemented properly. Good faith is one of the principles of an agreement.

According to Oeripan Notohamidjoyo, the understanding of fundamental legal principles varies depending on the understanding adopted by the author concerned.<sup>23</sup> Paul Scholten, defines legal principles as "tendencies required by law by our understanding of decency". The legal principles are understood as the basic thoughts contained within and behind the system law, each of which is formulated in statutory rules and judges' decisions, with respect to which individual provisions and decisions can be seen as a description. P. Belefroid in his book "Beschouwingen over Rechtsbeginselen", argues that the principles of general law are the basic rules that are translated from positive law and which the science of law is not derived from the rules that more general".<sup>24</sup>

According to Logemann, every legal regulation is essentially influenced by 2 (two) important elements, namely: first: elements real, because of its concrete nature, originates from the environment in which humans live, secondly: the ideal element, because of its abstract nature, originates from the human being himself in the form of reason/thoughts and feelings. The elements that influence these laws and regulations are actually more accurately called principles.

Therefore, Buildings that are based on human feelings are called principles (beginselen), while those that are based on human reason are called understandings (begrippen).<sup>25</sup> According to Satjipto Rahardjo, the principle of law is called its heart rule of law for two reasons. First, because the legal principle is the broadest basis for the birth of a

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<sup>22</sup> Muhammad Kamran, Maskun, "Penipuan Dalam Jual Beli Online: Perspektif Hukum Telematika", *Balobe Law Journal* 1, No. 1, (2021): 48.

<sup>23</sup> Valerine J.L. Kriek hoff, Genta Publishing, Yogyakarta, 2014.

<sup>24</sup> Dewa Gede Atmadja, "Asas-Asas Hukum Dalam Sistem Hukum", *Jurnal Kertha Wicaksana* 12, No. 2, Hlm 146. <https://doi.org/10.22225/kw.12.2.2018.145-155>

<sup>25</sup> Rokilah, Sulasno, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan", *Ajudikasi Jurnal Ilmu Hukum* 5, No. 2, (2021): 180.

legal regulation. This means that the legal regulations can eventually be returned to this principle.

Second, the legal principle is also a *ratio legis* (reason) for the birth of legal regulations. This legal principle will never run out of power and will continue to exist in giving birth to various legal regulations. From the legal principle, legal regulations can be derived. Meanwhile Soedikno Mertokusumo, said that the legal principle is not a concrete law, but rather an abstract basic thought, or is the background of concrete regulations that exist and are behind every legal system. Which is embodied in statutory regulations and judges' decisions which are positive law and can be found by looking for the general characteristics or characteristics in these concrete regulations.<sup>26</sup>

Good faith is one of the classic principles in contract law which is also contained in the Civil Code. This principle originates from the concept of *bona fides* in Roman contract law. Modern contract law theory that puts forward the principle of good faith that the implementation of the principle of good faith does not just begin to be implemented after the agreement is signed and the agreement is implemented, but must have been implemented (existing) since the negotiation stage (pre-agreement/contract). This modern theory of contract law has been enforced in countries that adhere to a "civil law" legal system such as France, the Netherlands and also Germany. The Dutch *Burgelijk Wetboek* was adopted in the Indonesian Civil Code (KUHPerdata).

In the process of making an agreement, include online sale and purchase agreement or electronic transaction must be based on the good faith of each party inside the agreement, both from the online business actor as well as the consumer. According to Subekti, the principle of good faith is one of the most important joints in law agreement.<sup>27</sup> The principle of good faith is important in making an online sale and purchase agreement, because basically parties Consumers must get information as clear as possible related to the goods offered by the online shop and the online shop must be in good faith. Describe in detail the items to be purchased consumer side. It aims to avoid misunderstandings between the parties involved goods to be traded. So that can be said The principle of good faith has a very important role (fundamental) in making an agreement, include in the online sale and purchase agreement.<sup>28</sup>

In Indonesia, the principle of good faith has not experienced a development of understanding that is much different from the previous decades. Economic globalization has encouraged the development of business transactions and spawned many new agreements, but apparently not on the principles of the agreement. In Indonesia the development of the application of the principle of good faith in contract law focuses on the application of Article 1338 paragraph (3) of the Civil Code where the scope is still laid only on the implementation of the agreement, and as if the Civil Code had not recognized the existence of good faith at the pre-contractual stage. In comparison, according to modern agreement theory that parties who suffer losses in the pre-agreement/contract stage or in the negotiation stage, their rights also deserve to be protected, so that pre-agreement/contract promises will have

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<sup>26</sup> Putera Astomo. *Ilmu Perundang-undangan: Teori dan Praktik di Indonesia*. Depok, Rajawali Pers. 2018.

<sup>27</sup> Subekti. *Pokok-Pokok Hukum Perdata*. Jakarta, PT. Intermedia, 1996.

<sup>28</sup> I Gede Krisna Wahyu Wijaya, Nyoman Satyayudha Dananjaya, "Peneraoan Asas Itikad Baik Dalam Perjanjian Jual Beli Online", file:///C:/Users/user/Downloads/37212-1033-73964-1-10-20180130.pdf, Hlm 13.



legal implications for those who violate them.<sup>29</sup> Therefore, the application of the principle of good faith should have been carried out from the beginning of negotiations to the implementation of an agreement. So with the hope that the implementation of a sale and purchase agreement through Instagram can also run well without any violation of the agreement that has been made.

Consequences of having faith what is not good in online buying and selling agreements is getting result in being prosecuted by the party with bad intentions not only civilly but can also be brought to court criminal law, associated with fraud cases. Dispute resolution process related to violations of the principle of good faith can be through public court environment (litigation) as well as through non-litigation or out-of-court channels. If the perpetrator online business does not have good faith in the agreement online, then it can be punished based on provisions of Article 62 UUPK and aggravated by provisions of article 45 paragraph (2) UU ITE.

#### 4. CONCLUSION

Buying and selling activities via the internet is something that is currently happening. Humans take advantage of technological sophistication in business activities, one of which is through internet social media. However, there are also many cases of law violations committed through buying and selling activities via Instagram, one of which is fraud and default. When viewed from the civil law code, it is actually very difficult for sale and purchase agreement activities through Instagram to fulfill the legal requirements of an agreement as stipulated in article 1320 of the civil law code. This is the cause of many cases of violation of the law through sale and purchase agreements made through Instagram. Therefore, it needs to be strengthened in terms of applying the principle of good faith in an agreement. However, the application of the principle of good faith must be applied from the very beginning the parties are negotiating in reaching an agreement up to the stage of implementing the agreement. This is one of the best solutions to avoid violations of the law in terms of purchase and sale agreements via Instagram.

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Anang Sugeng Cahyono, "Pengaruh Media Sosial Terhadap Perubahan Sosial Masyarakat di Indonesia", *Jurnal Publiciana* 9, No. 1, (2016): 142. <https://doi.org/10.36563/publiciana.v9i1.79>.

Andi Rezty Amalia, Erlina, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Elektronik Melalui Sosial Media Instagram", *Alauddin Law Development Journal* 4, No. 2, (2022): 449.

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<sup>29</sup> Deviana Yuanitasari, Hazar Kusmayanti, "Pengembangan Hukum Perjanjian Dalam Pelaksanaan Asas Itikad Baik Pada Tahap Pra kontraktual", *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Fakultas Hukum Unpad* 3, No. 2, (2020): 294.

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