



Legal Analysis of Compensation Lawsuits Due To The Cancellation of Unilateral Marriage Promises (Case Study of Supreme Court Decision No. 1644 K/Pdt/2020)

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Abstract

Marriage promises made by a man to a woman are usually only verbal without written evidence. If the party who made the promise denies it, holding him accountable will not be easy, so this situation is very detrimental to women, both material and immaterial losses. The objectives of this study are to identify and criticize the cancellation of a marriage promise as an act against the law or default and to find out what are the legal consequences that arise from an act of unilaterally canceling a marriage promise. This research is normative juridical research, essentially examining the law conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior. This study emphasizes secondary data, which emphasizes the study of positive legal principles derived from library data, which means it will examine and examine secondary data as a normative approach. The research specification used is descriptive-analytical, namely by describing the applicable laws and regulations related to legal theories and positive law implementation practices related to problems. The cancellation of a marriage promise carried out unilaterally is included in an unlawful act; the consequences arising from the cancellation of a unilateral marriage promise are material or immaterial losses.

Keywords: Promise of Marriage, Acts against the law, default

Abstrak

Janji kawin yang diucapkan oleh seorang laki – laki pada perempuan biasanya hanya secara lisan tanpa adanya bukti tertulis. Jika pihak yang berjanji mengingkarinya, maka akan sulit untuk meminta pertanggungjawabannya. Sehingga keadaan ini sangat merugikan bagi pihak perempuan baik kerugian materiil maupun kerugian immateriil. Tujuan yang ingin dicapai dari penelitian ini adalah untuk mengetahui dan mengkritisi pembatalan janji kawin merupakan perbuatan melawan hukum atau wanprestasi dan untuk mengetahui apa akibat hukum yang timbul dari suatu perbuatan pembatalan janji kawin sepihak. Penelitian ini merupakan penelitian yuridis normatif, pada hakikatnya mengkaji hukum yang di konsepskan sebagai norma atau kaidah yang berlaku dalam masyarakat, dan menjadi acuan perilaku setiap orang. Penelitian ini menekankan pada data sekunder yang menekankan kajian pada asas-asas hukum positif yang berasal dari data kepustakaan yang berarti akan meneliti dan mengkaji data sekunder sebagai pendekatan normatif. Spesifikasi penelitian yang digunakan adalah deskriptif-analitis, yaitu dengan menggambarkan peraturan perundang-undangan yang berlaku dikaitkan dengan teori-teori hukum dan praktek pelaksanaan hukum positif yang berkaitan dengan permasalahan. Pembatalan janji kawin yang dilakukan secara sepihak termasuk dalam perbuatan melawan hukum, akibat yang timbul dari adanya pembatalan janji kawin sepihak yaitu adanya kerugian materiil maupun immateriil.

Kata kunci: Janji Kawin, Perbuatan melawan hukum, wanprestasi.

I. Introduction

Every human being cannot live alone apart from the group's life because it is human nature to live side by side with each other and try to continue the lineage using marriage. The development of human life today must also be followed by equipping it with existing legal instruments to regulate all aspects of life in society.¹ On its journey, human life will experience important events, namely when he is born, married, and dies. Humans are born as social beings who are always in a relationship and interact with each other. When growing up,

¹ Sasmiar, "Perkawinan Campuran dan Akibat Hukumnya", *Jurnal Ilmu Hukum Jambi*, vol. 2, no. 2, Universitas Jambi, page 40, 2011.

humans generally look for a life partner to foster a marriage as a relationship between individuals. The emergence of a bond between human relationships by nature means that living beings as humans are destined to live together. Carrying out life is part of the process that occurs in human life, which will occur and be carried out from birth to death.²

Before a marriage is held, people usually hold an engagement ceremony first to bind both parties (women and men) before a more serious relationship, namely marriage. In the Civil Code, engagement is not regulated; it only regulates marriage promises in Article 58 of the Civil Code, which states, "A marriage promise does not give rise to the right to sue before a judge for the duration of the marriage, nor does it give rise to the right to demand reimbursement of costs, losses, and interest. due to non-fulfillment of the promise, all agreements for compensation, in this case, are null and void." Meanwhile, the judge can only declare the annulment of the marriage.³

In article 58 of the Civil Code, three things can be formulated. First, the promise of marriage does not give rise to the right to sue before a judge for the marriage to take place. It also does not give rise to the right to demand compensation for costs, losses, and interest due to non-fulfillment of the promise. All compensation agreements, in this case, are void. Second, if an announcement has followed the notification of marriage, then this can be a basis for claiming damages. Article 58 paragraph (2) of the Civil Code states that if the announcement of the marriage has followed the notification of marriage to the civil registration officer, then this can give rise to reasons for demanding compensation for costs, losses, and interest based on actual losses that have been suffered by one party regarding his belongings, due to the other party's injury, in the meantime he should not take into account the loss of profit. It is clear here that Article 58 paragraph (2) of the Civil Code confirms if the marriage promise is followed up with a marriage plan and there has been a notification to the marriage registrar followed by an announcement (in the form of a marriage invitation), but then it is denied then the aggrieved party can demand a replacement. Costs, losses, and interest.⁴ Third, the expiration period for claiming compensation is 18 months from the announcement of the marriage plan.⁵ The third formulation of the legal basis is Article 58, paragraph (3) of the Civil Code.

Many lawsuits related to marriage promises that are not kept in the courts have recently gone to court. The marriage promise referred to here is the promise of a man to marry a woman who is his lover. Based on this promise, the woman is willing to comply with her lover's wishes. The man then broke his promise; the woman who was betrayed felt that her dignity as a woman was harmed, so she decided to file a lawsuit in court.⁶

There are two basic types of civil lawsuits: default and unlawful acts. A default/broken promise is an act of someone who does not fulfill his promise or achievement as agreed by the parties. Meanwhile, an unlawful act is an act that violates legal provisions, both written law (law) and unwritten law, namely actions that are contrary to decency or contrary to propriety that applies in society. The result of unlawful acts and default is the issuance of losses for other parties whose rights have been violated. The aggrieved party certainly wants their rights to be restored.⁷

One canceled Promise Marriage case occurred in Banyumas, where the SSL woman was the plaintiff, and the aS man was the Defendant. Starting from the introductions made by each

² Patricia Janice dan Satalim, "analisis dasar menuntut penggantian biaya dalam gugatan pembatalan persiapan acara perkawinan dalam putusan nomor: 82/Pdt.G/2014/PN.MKS", *Jurnal Hukum Adigama*, vol. 2, no. 2 page 1, 2019.

³ Kitab Undang - undang Hukum Perdata

⁴ Barakatullah Abdul Halim dan Tavinayati, "Janji Kawin Dalam Perspektif Hukum Perdata", *Jurnal Lambung Mangkurat Hukum*, Vol.5 No.1, 2020.

⁵ Diana Kusumasari, "Langkah Hukum jika calon suami membatalkan perkawinan secara sepihak". Retrieved From <http://www.hukumonline.com/klinik/detail/lt4f5564ef7541d/langkah-hukumjika-calon-suami-membatalkan-perkawinan-secara-sepihak> accessed on 28 April 2021 at 23.00. 2021.

⁶ Barakatullah Abdul Halim dan Tavinayati, "Janji Kawin Dalam Perspektif Hukum Perdata", *Jurnal Lambung Mangkurat Hukum*, Vol.5 No.1, 2020.

⁷ *Ibid*;

parent, the male party was dating the plaintiff; during the courtship, their relationship went well, so Plaintiff and Defendant decided to have a long-distance relationship because, at that time, Defendant was still working abroad (Korea). Then around November 2018, Defendant returned from working in Korea and decided to propose/apply to Plaintiff on February 14, 2018, where the application ceremony was held under Javanese customs (traditions). Still, in the application ceremony, it was also agreed by both Defendant and Plaintiff that Defendant would marry Plaintiff after the month of Sura (September 2018), which in Javanese custom is called "*getok dina*."

After the engagement event, which determined the month for holding a wedding promised by the men, SSL and AS establish a relationship as usual, like people in a relationship in an engagement bond. After a few months until September or according to the month that has been determined, there will be a wedding. However, it turned out that until October, the AS man remained uncertain when he would marry the SSL woman until the AS visited SSL's residence to refuse to marry the SSL woman for no apparent reason. So that the women who feel they have been harmed materially and immaterially sue the AS to the High Court. Previously, the woman filed a lawsuit to the Banyumas District Court on March 6, 2019, in Register Number 5/Pdt.G/2019/PN.Bms. In the lawsuit, the women stated the reasons for the lawsuit, and the women submitted evidence in letters and presented several witnesses. In the decision, the Panel of Judges stated that the AS male party must pay the compensation suffered by the female party in terms of immaterial losses with compensation of Rp. 100,000,000.00 (one hundred million rupiahs) to the SSL woman.

After the decision was issued, it turned out that the AS men did not accept the Banyumas District Court's decision, so the AS filed an appeal to the Semarang High Court with a case file dated August 6, 2019, Number 423/PDT/2019/PT SMG. However, in the decision of the High Court, the Panel of Judges changed the decision of the Banyumas District Court regarding the claim for immaterial compensation, which originated in the decision of the Banyumas District Court only to pay compensation of Rp. 100,000,000.00 (one hundred million rupiahs), but the decision of the Semarang High Court instead punishes the male party to pay compensation in the amount of Rp. 150,000,000.00 (one hundred and fifty million rupiahs) in cash and at once. Disappointed with the Semarang High Court's appeal decision which was issued until the men filed an appeal to the Supreme Court, but the Supreme Court rejected the lawsuit, and the AS still had to pay the compensation that the judge had decided. The judge in Decision Number 1644 K/Pdt/2020 decided that the AS's actions were unlawful. The cancellation of a marriage promise that has previously been an agreement if the agreement is not fulfilled or breaks the promise can also be categorized as an act of default.

Based on this description, the author intends to raise this in research with the title " Legal Analysis Of Compensation Lawsuits Due To The Cancellation Of Unilateral Marriage Promises (Case Study of Supreme Court Decision No. 1644 K/Pdt/2020)".

II. Research Problems

1. Is canceling a marriage contract an act against the law or a breach of contract?
2. What are legal consequences arising from the cancellation of the marriage promise unilaterally?

III. Research Methods

The method used in this study is a normative juridical method. Normative legal research examines laws conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. According to Soerjono Soekanto and Sri Mamudji, normative legal research is legal research conducted by examining library materials or

secondary data.⁸ Normative legal research is research with one type of legal research methodology whose analysis is based on applicable laws and regulations and is relevant to the legal issues that are the focus of this research.⁹ This study emphasizes secondary data, which emphasizes the study of positive legal principles derived from library data, which means that there will be more research and study of secondary data as a normative approach.¹⁰ The research specifications used are descriptive-analytical, describing the applicable laws and regulations associated with legal theories and the practice of implementing positive law related to the problem.¹¹ The data source used is secondary data. Secondary data is data obtained from the results of the literature through a literature study, namely conducting a study of documentation, archives, and literature by studying theoretical matters, concepts, views, and legal principles related to the subject of writing and legal knowledge consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Secondary data is an indirect source of data, while secondary data is data that supports the needs of primary data, such as books, literature, and readings related to supporting research.¹² This research was conducted to obtain secondary data, which was obtained through library research. The data analysis method in this study uses a qualitative descriptive method, which is a way to describe or describe the current state of the subject or object of research based on the facts that appear.

IV. Research Results And Discussion

1. Cancellation of Marriage Promise is included in Unlawful Acts or Default

To understand the marriage promise, one must first understand the meaning and law of the agreement generally from the agreement and the marriage promise itself. If described one by one, as contained in the provisions of Article 1313 of the Civil Code, the agreement is defined as: "an act by which one or more people bind themselves to one or more other people."¹³ If a person binds himself to another person in an engagement or agreement, then the parties must be responsible for what he has made, whether it is doing something or not being allowed to do something, because an agreement binds the parties.¹⁴

A new agreement can be valid and binding for the parties if it has fulfilled the legal requirements of an agreement, as regulated in Article 1320 of the Civil Code, namely:¹⁵

- a) Agree with those who bind themselves
- b) Ability to make a Treaty
- c) A Certain Thing
- d) A Halal Cause

According to the Civil Code, if one of the parties does not implement the agreement and does not fulfill the obligations stated in the agreement or has fulfilled its obligations but

⁸ H. Ishaq, "Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi", Bandung, CV. Alfabeta. page 66, 2017.

⁹ Kornelius Benus & Muhamad Azhar,, Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer, *Jurnal Gema Keadilan*, Vol 7 No 1, page 24. 2020.

¹⁰ Holyone Nurdin Singadimedjha, M., Penerapan Hukum Pidana Lingkungan Bagi Pelaku Pencemaran Citarum di Karawang, *Jurnal Ilmiah Hukum*, page 304, Fakultas Hukum Universitas Singaperbangsa Karawang, 2016.

¹¹ Ronny Haniatjo Soemitro, Metode Penelitian Hukum dan Jurumetri, (Jakarta: PT Ghalia Indonesia, 1990), page 97-98.

¹² Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Bandung: CV. Alfabeta, page 137. 2017.

¹³ Kitab Undang - undang Hukum Perdata

¹⁴ Wilopo Cahyo Figur Satrio, Sukirno dan Adya Paramita Prabandari, Prinsip Timbulnya Perikatan Dalam Perjanjian Jual Beli Berbasis Syariah, *Jurnal Notarius*, Vol. 13 No. 1, 2012.

¹⁵ Barakatullah Abdul Halim dan Tavinayati, "Janji Kawin Dalam Perspektif Hukum Perdata", *Jurnal Lambung Mangkurat Hukum*, Vol.5 No.1, 2020.

not as specified, then the act is categorized as a breach of contract.¹⁶ Default is a condition, according to the law of the agreement, where a person does not carry out the performance as agreed.¹⁷ Furthermore, in the event of a default, there is bound to be a violation of legal interests, an interest that is regulated and protected by law.¹⁸

Based on Article 1313 of the Civil Code, an agreement is an act of one or more persons binding themselves to one or more persons.¹⁹ Thus, the agreement issues an agreement of rights and obligations between the parties to the agreement²⁰ so that the party who does not fulfill the agreed obligations is declared in default.²¹ Thus, the default begins with the agreement of the parties to agree, with some clauses containing some rights and obligations between the two parties (in a reciprocal agreement). All of these clauses were submitted, negotiated, and finally drawn up in a balanced manner based on the mutual agreement of the two parties who made them. In the process of talks or negotiations at the time of drafting the agreement, each party proposes a set of rights expected from the opposing party by offering a set of obligations intended to be given to the opposing party as compensation for the requested rights. On the other hand, one of the parties will also offer several obligations to be fulfilled by the opposing party to offset many rights requested by the opposing party or instead offer several rights to the opposing party as compensation to offset some obligations that are later expected to be agreed upon by the opposing party.²²

Based on the provisions of Article 1238 of the Civil Code, it is also emphasized that default can only occur after the parties have agreed upon an agreement. From this understanding, without an agreement, there will be no default. Thus, the concept of default is an act of deviation by the party agreeing in non-coercive circumstances from what was previously agreed and agreed upon in the agreement, which can result in losses to the opposing party. The default can only occur in the implementation process after an agreement is declared legally agreed upon. The concept of default is regulated to protect the parties to the agreement, especially during implementation.²³

Illegal acts are regulated in Article 1365 of the Civil Code concerning unlawful acts (*onrechtmatigedaad*). Article 1365 of the Civil Code requires people who commit acts against the law and because their mistakes harm others to provide compensation. To file a lawsuit against the law, there is no need for a contractual relationship between the injured party and the party causing the loss.²⁴ A significant development in legal theory regards the definition of against the law as regulated in Article 1365 of the Civil Code. Initially, the notion of violating the law was only interpreted narrowly, namely acts that violate the law. However, later Hoge Raad, in the famous case of *Lindenbaum against Cohen*, expanded the notion of violating the law not only as an act that violates the law but also as any act that violates propriety, prudence, and decency in relations between fellow citizens and against objects. A broad interpretation of the meaning of unlawful acts is also in line with the development of theory in contract law that agreements must be made in good faith, which means that they must pay attention to the principle of propriety. So that the content of a one-sided agreement is not under propriety so

¹⁶ Hartana, *Hukum Perjanjian (Dalam Perspektif Perjanjian Karya Pengusahaan Pertambangan Batubara)*, *jurnal komunikasi hukum*, vol. 2, No. 2, 2016.

¹⁷ P.N.H. Simanjuntak, *Pokok-Pokok Hukum Perdata Indonesia*, Djambatan, Jakarta, page 339-340. 2009.

¹⁸ J. Satrio, *Wanprestasi Menurut KUHPerdata, Doktrin, dan Yurisprudensi*, Citra Aditya Bakti, Bandung, page 8, 2012.

¹⁹ Frans Satriyo Wicaksono, *Panduan Lengkap Membuat Surat-Surat Kontrak*, Visimedia, Jakarta, page 2, 2008.

²⁰ Djaja S. Meliala, *Hukum Perdata dalam Perspektif BW*, Nuansa Aulia, Bandung, page 177, 2012.

²¹ Nyoman Samuel Kurniawan, *Konsep Wanprestasi Dalam Hukum Perjanjian Dan Konsep Utang Dalam Hukum Kepailitan (Studi Komparatif Dalam Perspektif Hukum Perjanjian Dan Kepailitan)*, *Jurnal Universitas Udayana*, 2013.

²² *Ibid*;

²³ *Ibid*;

²⁴ Sedyo Prayogo, *Penerapan Batas - Batas Wanprestasi dan Perbuatan Melawan Hukum dalam Perjanjian*, *Jurnal Pembaharuan Hukum*, Vol. III No. 2. 2016.

that the one-sided clause can be declared null and void and does not bind the parties who agreed.²⁵

One of the considerations for canceling a unilateral agreement can be sued with a lawsuit against the law because it is considered that the unilateral cancellation is not based on reasons justified according to their agreement to be canceled and can be said to have violated a legal obligation that also exists outside of every agreement, namely always to have goodwill. Furthermore, act under propriety and the principle of prudence. Termination of the agreement, indeed regulated in the Civil Code, namely Article 1266, must meet the conditions that the agreement is reciprocal, there must be a default, and the cancellation must be requested by the judge (court). However, if the cancellation made does not meet these requirements, it can be said that the act of cancellation violates the law, namely Article 1266 of the Civil Code. In addition, if it can be seen from the reasons for canceling the agreement, if the cancellation contains arbitrariness or uses its dominant position to take advantage of a weak position (adverse situation) on the opposing party, then this is an unlawful act, due to arbitrariness or taking advantage of a weak position. or adverse conditions from the opposing party outside of the implementation of the obligations stipulated in the agreement, so that it is not a default, but rather towards violating its legal obligation to always have good intentions in the agreement.²⁶

In civil law, the loss suffered by a person due to the actions of another can arise due to a broken promise or default or an act against the law or *Onrechtmatige Daad*. Losses arising from broken promises begin with an agreement made by the parties, as stated in Article 1313 of the Civil Code. The agreement has the power to bind both parties as stipulated in Article 1338 paragraph (1) of the Civil Code.²⁷ By binding the agreement so that if one of the parties does not fulfill the contents of the agreement, it can be said to have broken a promise or default.

When viewed from the case, the author examined, AS actions can be categorized as violating the elements agreed upon in an agreement. Because the AS has promised SSL will marry him if SSL wants to be touched (conducting husband and wife) even though they are not yet married. The actions taken by the AS have fulfilled the elements of the agreement even though there is no written evidence but verbally. The marriage promise can also be said to be in default because if we look at the cancellation of the marriage promise, it includes breaking a promise that previously had an agreement made between the two parties. However, one of the parties broke a promise, and the author thinks that the act of canceling a marriage promise can also be said as a breach of contract. However, we still have to consider what constitutes a condition for an act to be considered a breach of contract or an act against the law.

The essential difference between a breach of contract and an act against the law lies in whether there was a prior consensus or agreement between the two parties and a previous contractual relationship. It is generally understood that the default occurs because one of the parties, namely the debtor, does not fulfill its performance. Meanwhile, per Article 1233 of the Civil Code, unlawful acts are engagements born of law (law in the broadest sense, including unwritten law). An act is an act against the law or not; the law determines. So, in an unlawful act, there is no prior consensus between the party who committed it and the party who suffered losses due to the unlawful act. In this regard, whether the lawsuit against the non-fulfillment of the marriage promise is purely a matter of unlawful acts or can also be sued based on default.

It all started from the provisions of Article 58 of the Civil Code, which became the basis for whether the non-fulfillment of the marriage promise was a breach of contract or an act against the law. From the sound of paragraph (1), Article 58 of the Civil Code, when examined, contains two elements, namely: (a) the aggrieved party cannot sue the other party

²⁵ *Ibid*;

²⁶ Gerry R. Weydekamp, Pembatalan Perjanjian Sepihak Sebagai Suatu Perbuatan Melawan Hukum, *Lex Privatum*, Vol. I No.4, 2013.

²⁷ The Civil Code

before the court to fulfill his promise to carry out the marriage as he had promised; and (b) parties who are harmed due to non-fulfillment of the marriage vows cannot claim compensation in the form of fees, losses, and interest. The claim against it is either useless or void. The two elements drawn in paragraph (1) of Article 58 of the Civil Code show that non-fulfillment of the marriage promise is not an act of default. Therefore, the claim for compensation due to non-fulfillment of the marriage promise will not be granted.²⁸

The legislators do not include a marriage promise that is denied as a breach of contract. Isn't that a promise, a deal? Isn't it based on the principle of binding force or *pacta sunt servanda*? The promise is binding as binding law for those who make it, as stated in Article 1338 paragraph (1) of the Civil Code. Article 1267 of the Civil Code regulates sanctions for negligent debtors: whether to demand fulfillment of the agreement, fulfillment of the agreement accompanied by compensation, compensation, cancellation of the agreement, or cancellation of the agreement accompanied by compensation. If you look at the provisions of Article 1267 of the Civil Code, the victim should be able to demand fulfillment of achievements in the form of marriage as promised. Denial of this is a breach of contract. However, before reaching this conclusion, it must first be seen whether the marriage promise fulfills the elements of the legal requirements of an agreement so that the agreement is binding on the parties who made it.

A marriage vow is not against laws, regulations, public order, or decency. It is customary in a relationship. If the marriage promise is broken and some parties become victims because they suffer material or immaterial losses, the victim can sue the perpetrator. The lawsuit's basis is not a breach of contract because it contradicts Article 58 paragraph (1) of the Civil Code. If the marriage promise does not fulfill the elements contained in Article 1320 of the Civil Code, especially the third and fourth elements, then the denial of the marriage promise is not an act of default. Article 58, paragraph (1) of the Civil Code confirms that non-fulfillment of the marriage promise is not a breach of contract. An agreement that does not fulfill the objective element, namely a sure thing and a lawful cause, then the agreement is null and void.

Regarding a particular matter, a particular thing means what is agreed upon, the rights and obligations of both parties, and at least the type of goods intended in the agreement determined. According to Article 1333 of the Criminal Code, the object of the agreement must include certain items of which at least the type can be determined. Article 1332 of the Criminal Code stipulates that the object of the agreement is goods that can be traded. Thus, a lawsuit against a broken marriage promise can only be sued based on an unlawful act.²⁹

So from the description above, the writer argues that the case of breaking a promise against a marriage promise that the author examines is categorized as an unlawful act in the form of a violation of the norms of decency and propriety in society. Based on the Supreme Court Decision that the author has examined, the decision explains that the judge decided that the actions committed by the AS were included in the Unlawful Acts "The Defense Defendant has committed an unlawful act because he has unilaterally canceled the marriage plan with the Concession Plaintiff which has been mutually agreed upon without any good reason. Legal, even though previously an agreement was made involving the relatives of both parties so that the cancellation of the quo brought moral losses to the compensation plaintiff and his family; so that the judge decides that the acts committed by the AS are included in Unlawful Acts, not default.

2. Legal Consequences arising from the Cancellation of the Marriage Promise unilaterally

²⁸ Barakatullah Abdul Halim dan Tavinayati, "Janji Kawin Dalam Perspektif Hukum Perdata", *Jurnal Lambung Mangkurat Hukum*, Vol.5 No.1, 2020.

²⁹ *Ibid*,

Cancellation of a marriage promise means considering a marriage promise made as an event that is invalid or considered to have never existed. The cancellation of marriage vows must receive attention from various related parties because the impact on both parties is also felt. Especially those who are most often harmed due to the cancellation of a unilateral marriage promise, namely from the woman. Because when viewed from the number of cases of unilateral cancellation of marriage promises, women are more victims of marriage promises canceled unilaterally by men. Men are candidates for family heads who should have the power to maintain dominance.³⁰ However, if at the time they were not married, the men had broken the promise that was spoken verbally, then what will happen in the future if there is a marriage

The essential thing in an unlawful act is whether the victim suffers a loss from the unlawful act. There are three forms of compensation for unlawful acts, which are known by law as follows: ³¹

a) Nominal compensation

If there is a severe unlawful act, such as an act that contains an element of intent but does not cause actual harm to the victim, then the victim can be given a certain amount of money under a sense of justice without calculating the actual amount of the loss.

b) Compensation/actual compensation

Compensation is compensation which is a payment to the victim for and for the loss experienced by the victim from an unlawful act. Therefore, this kind of compensation is also called actual compensation. For example, compensation for all costs incurred by the victim. Loss of profit/salary, illness, and suffering, including mental suffering such as stress, shame, falling on one's good name, and others.

c) Punishment compensation

Punishment in the form of a considerable amount of compensation will exceed the actual. The amount of compensation is intended as a punishment for the perpetrator. This compensation is appropriate to apply in cases of serious or sadistic intent. For example, the severe persecution of someone without any sense of humanity.

About the second form of compensation, namely actual compensation, which includes compensation for mental suffering, such as pain, shame, stress, loss of reputation, and excessive fear, it is most appropriate to accept the woman who is the victim of a broken marriage promise. This compensation, in practice, is known as immaterial compensation. This immaterial compensation is the provision of an amount of money whose amount cannot be calculated mathematically but is more at the discretion of the judge, but also on the condition that the amount depends on many things, including the following: ³²

- a. The victim bears the heavy mental burden
- b. Status and position of the victim
- c. Situations and conditions where unlawful acts occur
- d. The situation and mental state of the victim
- e. The situation and mental state of the perpetrator
- f. The background of the action against the law
- g. Types of unlawful acts include intentional, negligent, or absolute responsibility.

Losses suffered by women victims of marriage vows can be in the form of material and immaterial losses. In the case of Sri Subur Lestari (SSL) with Agus Suyitno (AS), in decision Number 5/Pdt.G/2019/PN.Bms SSL as the plaintiff. That the actions of the AS Defendant above are against the law and harm the Plaintiffs materially and immaterially as follows:

³⁰ Nadia Abd Aziz, Nurul, Syazliana Astrah Mohd Idris, Maisarah Ishak, Normilia Abd Wahid, Zaidatul Nadiah Abu Yazid, "Factors Affecting Domestic Violence Against Women: A Conceptual Model And Research Propositions", *International Journal For Studies On Children, Women, Elderly And Disabled*, Vol. 4, Juni, 2018.

³¹ Munir Fuady, *Perbuatan Melawan Hukum Pendekatan Kontemporer*, Bandung, Citra Aditya Bakti, page 134-135. 2010.

³² *Ibid*, Page. 142-143

- 1) Material loss, namely the Defendant, has snatched Plaintiff's chastity/virginity (having biological intercourse), which resulted in the tearing/damage of the hymen on Plaintiff's genitals, even if Defendant could restore the shape of the Plaintiff's genitals as before through plastic surgery, the Plaintiff asked for the cost of plastic surgery. To Defendant in the amount of Rp. 500,000,000.00 (five hundred million rupiah);
- 2) Immaterial losses include shame, disappointment, and loss of confidence due to the actions of Defendant, who has taken Plaintiff's chastity/virginity and terminated the engagement unilaterally with Plaintiff; moreover, Defendant has disseminated it to Defendant's friends if Plaintiff is no longer a virgin (already presided over by the Defendant). Which resulted in many people despising Plaintiff and even daring to be rude (insolent) to Plaintiff, so Plaintiff asked for immaterial compensation of Rp. 1,000,000,000.00 (one billion rupiah);

If we look at the reasons for the lawsuit submitted by SSL, the most significant loss suffered by a woman who is a victim of a marriage promise is an immaterial loss in the form of shame because of the loss of her good name. The women should be compensated as a restoration of their honor and reputation. Judging from the fourth element, there is a causal relationship between the promise of marriage and the losses suffered by the victim. As a result of persuasion in the form of a marriage promise, the woman is willing to comply with the man's wishes. Without the promise of marriage, the woman is unwilling to do something that her male partner asks. The most apparent loss suffered by the woman is the damage to her honor and a good name in the eyes of society. By suing the man, there is a restoration of his good name and honor in society.

This case shows that a broken marriage promise is an act against the law because it has incurred losses for the plaintiff. The loss suffered by Plaintiff is the basis of the lawsuit. The plaintiff did not demand that Defendant fulfill his promise to marry the plaintiff, but as a result of not fulfilling the marriage promise, he incurred losses for the plaintiff. There are two kinds of losses suffered by the plaintiff, namely material losses in the form of the loss of a woman's chastity, which basically cannot be replaced with money or anything because these actions are very detrimental to women as victims, and immaterial losses in the form of damage to the good name of the plaintiff in the eyes of the public who make public views or judgments. Bad for the plaintiff. If looking at the more dominant losses suffered by women, there should be separate protection for a woman who experiences a case like this because if you look at it, none of the parties benefit from a unilateral cancellation of a marriage promise.

V. Conclusions

Failure to fulfill the marriage promise in the Supreme Court's decision No. 1644 K/Pdt/2020 is an act against the law. Breaking a promise to a marriage promise can be categorized as an unlawful act in the form of a violation of the norms of decency and propriety in society that cause harm to others and cause moral loss to the victim and the victim's family. An agreement that does not fulfill the objective element, namely a sure thing and a lawful cause, then the agreement is null and void. Thus, a lawsuit against a broken marriage promise can only be sued based on an unlawful act.

The legal consequences arising from the cancellation of the marriage promise unilaterally are material and immaterial losses. Compensation due to mental suffering is most appropriate for women who are victims of a broken marriage promise. Immaterial compensation is giving a sum of money whose amount cannot be calculated mathematically.

The loss suffered by Plaintiff is the basis of the lawsuit. The plaintiff did not demand that Defendant fulfill his promise to marry the plaintiff, but as a result of not fulfilling the marriage promise, he incurred losses for the plaintiff.

VI. Suggestions

The results of the author's description, the authors provide constructive input and suggestions. Hopefully, this paper can provide benefits, especially for writers and the broader community in general. The suggestions given to the community, parties involved in the case, and the government or people who are aware of the law include:

1. Necessary for the Community and Parties involved in this case. It is better to keep yourself from completely swallowing the words of people who promise many things to all of us, and it should also be taught in an educational environment from an early age about the morals of at least junior high school to make knowledge earlier and avoid harmful actions from happening again. Even in a religious environment, such as in recitation or Uzziah events, religious leaders should also provide more knowledge about the importance of avoiding things related to marriage vows so that the wider community understands better that every promise made by someone has an impact on the promised party and the promised party especially if the promise is related to the promise of marriage.
2. So socialization can be carried out by the government or people who are aware of the law regarding marriage promises to the whole community, especially women and young people, as regulated in existing regulations and the impact that will be obtained if the breaking of the marriage promise occurs. Thus, this can protect against early acts of breaking promises which may increase yearly because of the growing modernization world, and many parties have been harmed, especially women, as evidenced by court decisions. So that in social life in the future, the losses caused by the marriage promise can be avoided because the non-fulfillment of the marriage promise causes legal consequences, namely as an act against the law.

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