Adagium: Jurnal Ilmiah Hukum
E-ISSN: 2985-5128
Volume 4 Number 2 (2026), pp. 828-839
DOI: https://doi.org/10.70308/0y82vh30

Unlawful-Act Liability and the Supervisory Duties of the Financial Services Authority in Online Lending: A Critical Analysis of Cassation Decision Number 1206 K/Pdt/2024

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Received: 30 May 2026	Accepted: 30 August 2026	Published: 09 September 2026

Abstrak

Penelitian ini menganalisis secara kritis pertanggungjawaban perbuatan melawan hukum dalam pengaturan dan pengawasan pinjaman daring oleh Otoritas Jasa Keuangan (OJK) melalui Putusan Kasasi Nomor 1206 K/Pdt/2024. Artikel membedakan secara tegas antara ratio dan amar pengadilan dengan evaluasi normatif penulis. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan kasus terhadap rezim LPBBTI yang berlaku pada periode sengketa, perkembangan regulasi hingga 31 Agustus 2026, serta unsur Pasal 1365 KUH Perdata. Analisis berfokus pada sumber kewajiban hukum OJK, unlawfulness, fault, loss, dan causal verband, serta sifat citizen lawsuit sebagai mekanisme remedial kepentingan publik. Temuan menunjukkan bahwa kegagalan pengawasan tidak boleh diasumsikan hanya dari adanya kerugian konsumen; hubungan kausal harus diuji melalui kewajiban spesifik, kemampuan mencegah risiko, kedekatan sebab, dan sifat kerugian yang dimohonkan. Putusan digunakan sebagai objek kritik yuridis, bukan sebagai dasar untuk menyatakan bahwa setiap kerugian pinjaman daring merupakan tanggung jawab perdata OJK.

Kata Kunci: Perbuatan Melawan Hukum, Pinjaman Online, Otoritas Jasa Keuangan, Perlindungan Konsumen, Putusan Kasasi Nomor 1206K/Pdt/2024.

Abstract

This article critically analyses unlawful-act liability in the regulation and supervision of online lending by Indonesia's Financial Services Authority (OJK) through Cassation Decision Number 1206 K/Pdt/2024. It expressly separates the court's ratio and dispositive order from the authors' normative evaluation. The study uses normative legal research with statutory and case approaches, examining the LPBBTI rules applicable during the disputed period, subsequent regulatory developments up to 31 August 2026, and the elements of Civil Code Article 1365. The analysis focuses on the legal source of OJK's duty, unlawfulness, fault, loss, and causal connection, as well as the remedial character of a citizen lawsuit. It argues that supervisory failure cannot be inferred merely from consumer loss; causation must be tested through a specific legal duty, regulatory capacity to prevent the relevant risk, causal proximity, and the remedy sought. The decision is therefore treated as an object of critical legal analysis rather than authority for the proposition that OJK is civilly liable for every loss associated with online lending.

Keywords: *Unlawful Act, Online Lending, Financial Services Authority (OJK), Consumer Protection, Cassation Decision No. 1206 K/Pdt/2024.*

INTRODUCTION

Fundamentally, the financial system is the economic structure of a country responsible for providing financial services through financial institutions and other supporting entities.[1] One significant impact of this technological modernization is also evident in the financial services sector, specifically through the emergence of financial technology (Fintech).[2] Financial technology, or fintech, is the latest advancement in the financial industry that combines technology and digital methods to provide faster, more user-friendly, and more affordable financial services to the public.[3]

The evolution of financial technology commonly known as Fintech has given rise to various lending services that leverage information technology. These digital advancements have expanded payment options for customers. Fintech lending also referred to as online lending is a financial service that connects individuals seeking to lend with those needing a loan, enabling them to enter into direct lending agreements via an online system. Fintech lending is also known as LPBBTI, or Information Technology-Based Joint Funding Services.[4]

Fintech is a financial service innovation that leverages technology to make services easily accessible to many people who were previously unable to use conventional banking services (the "unbanked"), offering fast, efficient, and practical solutions ranging from digital payments to online lending.[5] From a regulatory perspective, information technology-based money lending services are addressed in Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. Article 1, point 3 of Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services states the following: “Information Technology-Based Money Lending Services constitute the provision of financial services to connect lenders with borrowers for the purpose of entering into loan agreements denominated in Rupiah, conducted directly via an electronic system using the internet network.”[6]

Pursuant to Article 24 of the Financial Services Authority Regulation on Information Technology-Based Lending Services, operators are required to utilize escrow accounts and virtual accounts. This requirement ensures that funds provided by lenders are neither owned nor managed by the Fintech P2P lending

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[1] Djoni S. Gazali dan Rachmadi Usman, *Hukum Perbankan*, (Jakarta: Sinar Grafika 2016), hlm. 39.

[2] Rustan, DM, *“Peran Financial Technology (Fintech) dalam Meningkatkan Inklusi Keuangan di Indonesia* “, Jurnal Kolaboratif Sains, Vol.8, No.8, (2025), hlm.929.

[3] Esa Negrawati dan Siti Rohana, “*Peran Fintech dalam Meningkatkan Akses Keuangan di Era Digital,”* Jurnal Ekonomi, Bisnis dan Manajemen, Vol.3, No.4, (2024), hlm.47.

[4] Otoritas Jasa Keuangan, “Teknologi Finansial- P2P Lending- Pinjaman Online Berizin di OJK”., https://ojk.go.id//berita/Pages/Financial-Technology-P2P-Lending-Pinjaman-Online-Berizin-diOJK.aspx,

Diakses pada 10 Juni 2026

[5] Anita dan Rusfandi,” *Aspek Yuridis Penyelenggaraan Financial Technology Berbasis Peer To Peer Lending,”* Jurnal Jendela Hukum, Vol.8, No.2 (2021), hlm. 38.

[6] Peraturan Otoritas Jasa Keuangan No. 77/Pojk.01/2016 Pasal 1 Angka 3

operator. Funds transferred by lenders are not intended to be owned or managed by the operator as is the case in conventional loan agreements but are merely channeled by the Fintech P2P lending operator to the borrowers.[7]

P2P/fintech lending should not be described as being 'explicitly governed' by the ITE Law. The ITE Law supplies general rules for electronic information and transactions, while the sector-specific framework is the LPBBTI regime administered by OJK. Regulation must also be read temporally. POJK Number 77/POJK.01/2016 was replaced by POJK Number 10/POJK.05/2022, which in turn was replaced by POJK Number 40 of 2024. Later rules, including 2026 reporting changes, describe the current framework but cannot be retroactively used as the legal standard for conduct occurring before their effective dates. The case analysis therefore identifies the regulation in force at each material period before evaluating alleged supervisory omissions.[8]

However, these conveniences do not always ensure adequate protection for the public. In Indonesia, online lending practices frequently give rise to various issues, such as high interest rates lacking clear limits, inhumane debt collection tactics, and violations of borrowers' personal data privacy.[9] Furthermore, issues arising alongside this convenience include broad access to data stored on the borrower's device and data collection practices targeting both the borrower and their emergency contacts. Other problematic actions include threats and defamation, fraud, the dissemination of personal data, the sharing of photos and loan details with contacts stored on the borrower's phone, and the escalation of administrative fees and interest rates.[10]

Government handling of online lending continues to leave significant loopholes that disadvantage the public legally, economically, and socially. Although the online lending sector has expanded rapidly and is recognized within the national financial system as a component of digital inclusion, the government's regulatory response has tended to be reactive, failing to address the root structural issues. Through the Financial Services Authority (OJK) and the Ministry of Communication and Informatics, the government typically limits its actions to revoking licenses or banning unauthorized lending sites; it lacks comprehensive oversight of legal providers that continue to impose high interest rates and burdensome daily penalties, as well as collection practices involving intimidation and the misuse of personal data.[11]

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[7] Jihan Ayuzein Furqanita dan Agus Suwandono, "*Pertanggungjawaban Penyelenggaraan Fintech Peer to Peer Lending Terhadap Kerugian Konsumen Berdasarkan POJK Penyelenggara Layanan Konsumen dan Masyarakat di Sektor Jasa Keuangan,"* Jurnal Ilmu Hukum Kenotariatan Fakultas Hukum Unpad, Vol.4, No.2 (2021), hlm. 281.

[8] Peraturan Otoritas Jasa Keuangan tentang Layanan Pendanaan Berbasis Teknologi No.10 Tahun 2022 Pasal 1 angka 1

[9] Grace Uli Natalia Ritonga, *"Analisis Dispartasi Putusan Hakim Terkait Gugatan Warga Negara (Citizen LawSuit) Dalam Kasus Pinjaman Online: Studi Putusan Mahkamah Agung No.1206K/Pdt/2024)"* (Skripsi Fakultas Hukum Universitas Sumatera Utara 2025), hlm. 4.

[10] Siti Nasikhatuddini, *"Perlindungan Hukum Pidana Terhadap Nasabah dalam Pelaksanaan Pinjam Meminjam Uang Berbasis Teknologi Informasi (Fintech) Peer to Peer Lending* ", Lex Renaissance, Vol 6, No.3, (2021), hlm. 443.

[11] Dodi Wijaya, *"Fenomena Pinjaman Online dan Tantangan Regulasi di Indonesia",* Jurnal Hukum & Masyarakat, Vol.10, No.2, (2023), hlm. 125.

This situation is further exacerbated by the absence of specific regulations clearly governing debt collection practices such as the use of personal data as a threat and other methods that violate OJK (Financial Services Authority) provisions as well as the prevalence of online lending platforms charging high interest rates that exceed applicable OJK regulations, and weak inter-agency coordination in comprehensively resolving public complaints.[12] The OJK's consumer protection efforts are carried out through education and the provision of information, by requiring financial institutions to halt activities that could potentially harm the public, and by providing consumer complaint services.[13]

A citizen lawsuit is relevant because the plaintiffs framed the dispute as a failure of public authorities to fulfil legal duties affecting the public. The procedural vehicle should not be equated with an ordinary individual damages action. The analysis must therefore identify the legal duty invoked, the public interest said to be impaired, standing as accepted in the litigation, and the remedial order sought. Questions of civil-court competence, the boundary with administrative adjudication, and the distinction between a general regulatory duty and an individually owed duty are part of the legal analysis rather than assumptions.

One example that has garnered significant public attention involves the case filed by Nining Elitos and 18 others who submitted their grievances via a dedicated complaint center as detailed in Ruling No. 1206/K/Pdt/2024; this lawsuit was originally registered at the Central Jakarta District Court in 2021 under case number 689/Pdt.G/2021/PN Jkt.Pst. In the lawsuit, the plaintiffs presented data from the Complaint Center for Online Loan Victims, which documented no fewer than 14 types of violations ranging from uncapped high interest rates, intimidating collection tactics, and the dissemination of personal photos and data to all contacts on the borrower's phone, to slander, threats, sexual harassment, and fraud. The data revealed 89 complaints originating from 25 provinces across Indonesia, with 72% of the complainants being women and 84% of the loans valued at under IDR 2,000,000, illustrating the extreme vulnerability of the affected demographic.

The thesis of this article is critical rather than merely descriptive: even where the Supreme Court ultimately granted cassation or imposed remedial obligations, the juridical soundness of an unlawful-act conclusion must still be tested element by element. The court's result is reported accurately; the authors then ask whether the identified OJK duty, the alleged omission, fault, loss, and causal connection are sufficiently demonstrated for the specific legal consequence attributed to Article 1365.

The case record must be read through procedural posture. Allegations made by plaintiffs are not automatically judicial findings; general matters treated as commonly known do not eliminate the need to prove the elements that are decisive for liability. Each statement in this article is therefore identified, where material, as an allegation, an established fact, a lower-court finding, a Supreme Court proposition, or the authors' evaluation. Any use of notoir feiten is confined to

[12] Andika Setiawan*," Perlindungan Hukum terhadap Konsumen Pinjaman Online di Indonesia", Jurnal Legislasi Indonesia,* Vol.20, No.1, (2024), hlm. 87.

[13] Rovita Ayuningtyas, "*Perlindungan Konsumen Asuransi Pasca Terbentuknya Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa keuangan,"* Jurnal Repetorium, Edisi 3 Januari – Juni (2015), hlm. 129 – 130.

genuinely general facts and does not substitute for proof of a specific supervisory omission or causal link.

Based on the explanation above, the author intends to conduct research titled: "A Juridical Analysis of Unlawful Acts regarding the Regulation and Supervision of Online Lending by the Financial Services Authority (OJK): A Case Study of Cassation Decision No. 1206 K/Pdt/2024." The research focuses on the supervision exercised by the Financial Services Authority specifically regarding the licensing of online lending platforms in a manner that may be classified as an unlawful act, as well as the substantiation of the causal link (causal verband) between the Financial Services Authority's supervisory failure and the losses suffered by online lending service users in Cassation Decision No. 1206 K/Pdt/2024.

RESEARCH METHOD

This is normative legal research using statutory and case approaches. Primary materials include the Civil Code, the OJK Law, consumer-protection and electronic-transaction statutes, the LPBBTI regulations applicable at the time of the alleged conduct, and the decisions at first instance, appeal, and cassation in the citizen-lawsuit litigation culminating in Decision Number 1206 K/Pdt/2024. The case approach separates party allegations, facts accepted by the court, ratio decidendi, and the dispositive order. The statutory approach maps the chronology from POJK 77/2016 to POJK 10/2022 and the current POJK 40/2024 framework. The analytical sequence tests (1) the source and content of OJK's legal duty; (2) the alleged unlawful omission; (3) fault or attribution; (4) legally cognisable loss or public-interest injury; (5) factual and adequate causation; and (6) whether the remedy is consistent with the citizen lawsuit's public-law remedial function.[14]

RESULTS AND DISCUSSION

The Implementation of Supervision by the Financial Services Authority Regarding the Licensing of Online Lending Platforms Governed by Legal Provisions, Such That It May Be Classified as an Unlawful Act.

As a developing nation increasingly integrated into the global economy, maintaining stability and strengthening oversight of the financial sector are crucial for supporting national economic growth while simultaneously safeguarding public welfare. Oversight of the financial sector is vital given its significant contribution to the nation's stability and prosperity. Any element detrimental to state finances must be interpreted to include actions that cause financial loss due to an inability to properly discharge duties and responsibilities.[15] Therefore, the state has the right to establish supervisory bodies to regulate various segments of the financial sector, enabling the sector to contribute optimally to economic growth.[16] The realization of a state based on the rule of law depends on the existence of effective law

[14] Yulia Audin Sukmawan dan Dwi Damayanti, *"Metode Penelitian Hukum Normatif dan Empiris sebagai Strategis Penguatan Prespektif Kajian Ilmu Hukum",* Notary Law Journal, Vol.4, No.3, (2025), hlm. 117.

[15] Janpatar Simamora dan Risma Elfrida Esther Manik, *"Legal Politics in Combating Corruption During Indonesia's Era of Regional Autonomy"*, Jurnal of Indonesian Legal Studies, Vol. 10, No. 1, (2025), hlm.141.

[16] Rony Ricky Rinaldi, Irwandi, dan Muhammad Amin, *"Kewenangan OJK Dalam Pengawasan Pinjaman Online Berdasarkan Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan",* Limbago: Jurnal Of Constitutional Law, Vol. 4, No. 3, (2024), hlm. 403.

enforcement institutions. In other words, even though Indonesia is constitutionally defined as a state based on the rule of law, if its law enforcement institutions fail to function properly, that concept remains nothing more than a theoretical ideal.[17]

To enable the government to help protect the public using fintech services, regulations and oversight must be implemented for digital financial service providers in Indonesia. Failure to manage digital financial services effectively could jeopardize economic stability, inflation rates, financial system stability, and overall security.[18] Bank Indonesia and the Financial Services Authority (OJK) are the two primary institutions in Indonesia responsible for the financial sector. The OJK also regulates and supervises financial technology (fintech) providers.[19]

Pursuant to Law Number 21 of 2011 concerning the Financial Services Authority, the Financial Services Authority is authorized to supervise, examine, and investigate all activities related to the financial services sector in Indonesia. Consequently, the Financial Services Authority is responsible for all operations within the financial industry, encompassing banking, capital markets, insurance, pension funds, financing institutions, and various other types of financial institutions.[20] However, to date, the OJK has yet to exercise adequate supervision over the peer-to-peer (P2P) fintech lending industry in Indonesia. Many operators continue to function despite lacking a license, offering services to the public via SMS messages and pop-ups across various platforms.

This is because the Financial Services Authority did not provide sufficient training on these new financial services, meaning not everyone understood them. Consequently, unscrupulous individuals seized the opportunity for personal gain.[21] Weaknesses in the OJK's regulatory and supervisory frameworks have led to a lawsuit filed by the public via the citizen lawsuit mechanism. The suit alleges that the OJK committed an unlawful act due to its negligence in protecting online loan consumers from such detrimental practices, as outlined in Cassation Ruling No. 1206K/Pdt/2024.[22]

A "citizen lawsuit" is a claim addressing government negligence in protecting citizens' rights. The plaintiff must specify the nature of the negligence and the reasons why the state failed to uphold those rights. Decisions made by state officials cannot be overturned through a citizen lawsuit; such decisions fall under the jurisdiction of the State Administrative Court and are considered final and binding.

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[17] Janpatar Simamora dan Bintang M. E. Naibaho, *"Strengthening the Legal Foundation of the Prosecutor's Office in the Constitutional System of the Republic of Indonesia", Jurnal Konstitusi, Vol. 22, No. 2, (2025), hlm. 335*

[18] Meline Gerarita Sitompul, *"Urgensi Legalitas Financial Tecnhology (Fintech): Peer To Peer Lending di Indonesia"*, Jurnal Yuridis Unaja, Vol. 1, No. 2, (2019), hlm. 71.

[19] Zaenal Arifin, et al., *"Peran Otoritas Jasa Keuangan Dalam Pengawasan Jasa Layanan Keuangan Berbasis Finacial Technology Peer to Peer Lending*", Jurnal USM Law Review, Vol. 6, No. 2, (2023), hlm. 715.

[20] Lina Maulidiana, *"Fungsi Otoritas Jasa Keuangan Sebagai Lembaga Pengawas Perbankan Nasional di Indonesia*", Jurnal Keadilan Progresif, Vol. 5, No. 1, (2014), hlm.102-103.

[21] Subhan Zein, *"Tinjauan Yuridis Pengawasan Otoritas Jasa Keuangan Terhadap Aplikasi Pinjaman Dana Bebasis Elektronik (Peer to Peer Lending/ Crowfunding) Di Indonesia",* Jurnal Bisnis Dan Akuntansi Unsurya, Vol.4, No.2, (2019), hlm.122-123.

[22] Davina Adinda dan Rosa Agustina, *"Kelalaian Otoritas Jasa Keuangan Dalam Pengaturan dan Pengawasam Pinjaman Online Sebagai Perbuatan Melawan Hukum Penguasa: Studi Kasus Putusan Kasasi No. 1206K/Pdt/2024"*, Lex Patrimonium, Vol. 4, No. 1, (2025), hlm. 1.

This is because the State Administrative Court holds jurisdiction over such matters. Furthermore, it is not possible to file a civil lawsuit seeking to challenge the validity of a statute, as that authority rests with the Constitutional Court. Similarly, citizens cannot seek the annulment of regulations subordinate to a statute, as that falls within the purview of the Supreme Court. Consequently, a citizen lawsuit is pursued by filing a claim in the General Courts or through judicial dispute resolution (litigation).[23]

There are 19 petitioners seeking cassation in this case, consisting of Indonesian citizen activists led by Nining Elitos. The petitioners authorized advocates, public interest lawyers, and legal aid assistants from the Jakarta Legal Aid Institute (LBH Jakarta) to file a lawsuit via the "citizen lawsuit" mechanism a legal avenue emphasizing the right of citizens to exercise oversight over state policies. This lawsuit was filed as an expression of civic responsibility regarding the enforcement of human rights in the face of alleged negligence by state officials. The defendants in this case include the President and Vice President of the Republic of Indonesia, the Speaker of the House of Representatives (DPR), the Minister of Communication and Informatics, and the Chairperson of the Board of Commissioners of the Financial Services Authority (OJK). These five parties are being sued for alleged unlawful acts (PMH) due to their failure to provide protection for the public using online lending services.

The Central Jakarta District Court is the venue where the plaintiff filed a lawsuit seeking legal redress for an unlawful act (PMH) against the President, the Vice President, the Speaker of the House of Representatives (DPR), the Minister of Communication and Informatics, and the Chairman of the Board of Commissioners of the Financial Services Authority (OJK). Based on Articles 1365, 1366, and 1367 paragraph (3) of the Indonesian Civil Code which govern liability for losses caused by negligence the lawsuit centers on the Defendants' failure to fulfill their legal obligations to manage and oversee online lending operations. This failure resulted in losses for the plaintiff and the general public, particularly regarding rights to privacy and a sense of security.

In their complaint, the Plaintiffs detail the specific grievances underlying their legal action filed with the Central Jakarta District Court seeking legal redress for unlawful acts (PMH) committed by the President, the Speaker of the House of Representatives (DPR), the Minister of Communication and Informatics, and the Chairman of the Board of Commissioners of the Financial Services Authority (OJK). The lawsuit is grounded in Articles 1365, 1366, and 1367 paragraph (3) of the Indonesian Civil Code, which govern legal liability for losses resulting from negligence. The core of the complaint centers on the Defendants' failure to fulfill their legal obligations to manage and oversee online lending operations, resulting in harm to the Plaintiffs and the general public particularly regarding rights to privacy and personal security. Defendant III (Speaker of the DPR) is alleged to have failed to exercise oversight over the relevant executive institutions. Meanwhile, Defendant IV (Minister of Communication and Informatics) is deemed to have failed to optimally

[23] Ahmad Rayhan Thoha Ridho, Dwi Fitri Rahmadani Panggabean, dan Vania Winky Asmaradana, "*Perbandingan Konsep Citizen Lawsuit atau Gugatan Warga Negara Terhadap Kebijakan Pemerintah di Berbagai Negara (Studi Perbandingan Indonesia, Amerika Serikat dan Belanda)",* Jurnal Studia Legalia: Jurnal Ilmu Hukum, Vol. 5, No. 1, (2024), hlm. 62.

perform duties regarding data protection and the public interest, and to have been negligent in enforcing the law against online lending practices. Defendant V (Chairman of the Board of Commissioners of the OJK) is alleged to have failed to implement regulations and supervision that adequately protect consumers and to have disregarded legal obligations regarding the regulation of online lending service providers.

Due to the defendants' negligence, the plaintiffs suffered various types of losses both those that can be quantified in monetary terms and those that cannot. The violations endured included the dissemination of personal data (such as ID cards and personal photographs), unauthorized access to mobile device data, threats, fraud, the spreading of defamatory statements, and even sexual harassment during the debt collection process. Furthermore, the absence of an effective dispute resolution mechanism exacerbated the situation, as the public lacked adequate legal protection. These violations not only infringed upon the right to privacy and a sense of security but also reflected a systemic failure to protect consumers in the digital realm.

In ruling No. 1206 K/Pdt/2024, the Supreme Court granted the petitioners' appeal for cassation and overturned the decisions of both the court of first instance and the appellate court. The Supreme Court held that the claims regarding an unlawful act (PMH) were abstract in nature and did not pertain to specific, individual government actions; therefore, jurisdiction remained with the General Courts. The Court further determined that the operation of online lending services had caused public suffering due to the absence of fair and certain regulations, and that the Defendants' negligence in regulating and supervising this phenomenon constituted an unlawful act. The Supreme Court affirmed that the government's inaction allowing these practices to continue without legal safeguards had harmed the public, and that the lawsuit filed by the plaintiffs aligned with the public interest by advocating for the creation of comprehensive regulations that are fair and serve the people's interests.

An unlawful-act analysis requires cumulative attention to the legally protected duty, unlawfulness, attribution or fault, loss, and causation. Unlawfulness may derive from breach of a statutory duty, violation of a legally protected right, contravention of legal obligations governing administration, or other recognised grounds, but the source must be identified. A broad statutory mandate to regulate and supervise does not by itself prove that OJK unlawfully failed to perform a particular preventive act in relation to a particular platform or harm.[24]

The article therefore does not both accept and reject the Supreme Court's reasoning at the same time. It accepts the binding outcome for the parties and accurately reports the Court's legal position, while critically evaluating whether that position supplies a sufficiently determinate Article 1365 framework for future cases. The distinction between ratio and academic critique is maintained throughout the discussion.

[24] Gisnih Halipah et al., "*Tinjauan Yuridis Konsep Perbuatan Melawan Hukum Dalam Konteks Hukum Perdata",* Jurnal Serambi Hukum, Vol. 16, No. 1, (2023), hlm. 140.

Establishing the causal link (causal verband) between the Financial Services Authority's supervisory failure and the losses suffered by online loan service users in Cassation Decision No. 1206 K/Pdt/2024.

In law whether criminal or civil a person cannot be held liable for an act unless there is a clear causal link between that act and the resulting consequence. Proving this causal relationship is a complex issue in judicial practice, given that a consequence often arises not from a single cause, but rather from a series of interconnected events. Therefore, it is important to further examine how this causal relationship is legally established, particularly the theories employed to determine the legally relevant cause.

In judicial practice, the establishment of a causal relationship is carried out by the judge through an assessment of facts revealed during the trial, employing inductive reasoning drawing a general conclusion regarding the existence of a causal link based on specific, proven facts. Judges are not absolutely bound to any single theory of causation; rather, they may use the *conditio sine qua non* doctrine as a starting point and subsequently refine it with other theories where necessary, ensuring that the findings align with the sense of justice and the community's legal consciousness.

Causal verband is the most demanding element when the alleged wrong is regulatory omission. A useful structure combines factual causation (whether the harm would probably have been avoided absent the alleged omission) with adequate or proximate causation (whether the type of harm was a reasonably attributable consequence of that omission). The inquiry must consider intervening conduct by the platform, lender, borrower, debt collector, and other regulators. Foreseeability may strengthen attribution but does not dispense with proof that a legally required supervisory act was capable of materially preventing or reducing the relevant harm.

The construction of causality established by the Supreme Court has not been free from academic criticism. One analysis of the ruling argues that, although the Supreme Court deemed the OJK to have failed to perform its duties adequately, the OJK had in fact legally fulfilled its obligations in accordance with prevailing regulations. Consequently, the elements of liability under Article 1365 of the Civil Code including the causal link between the OJK's actions and the losses suffered by the victims were not sufficiently established, either formally or substantively. In essence, this criticism highlights the Supreme Court's tendency to infer causation in an abstract and systemic manner given the nature of the case as a "citizen lawsuit" aimed at policy reform rather than individual compensation without specifically tracing the chain of causation between the absence or inadequacy of specific supervisory actions and the concrete losses sustained by individual victims. As a result, the standard of proof regarding the causal link (causal verband) in this ruling is less rigorous than the standard typically applied in conventional tort cases seeking individual compensation.

Where plaintiffs allege systemic harm, the remedial character of a citizen lawsuit becomes especially important. Systemic causality can justify prospective regulatory or administrative relief if a proven institutional omission increases a class-wide risk, but it should not automatically establish individual pecuniary damages for every user. Individual compensation ordinarily requires proof of each claimant's loss and causal chain, whereas public-interest relief may focus on correction of regulatory practices. This distinction reconciles collective preventive remedies with disciplined civil-liability analysis.

CONCLUSION

Cassation Decision Number 1206 K/Pdt/2024 is legally significant because it places OJK's regulatory and supervisory responsibilities within an unlawful-act debate, but its significance must be stated with precision. OJK's duty is sectoral and temporal: the applicable LPBBTI regulation depends on the period of the alleged conduct, while later regulations inform current policy rather than retroactively defining unlawfulness. A finding of public loss does not itself prove OJK's civil liability.

For Article 1365 purposes, future cases should identify a specific legal duty, the alleged omission, attribution or fault, the legally cognisable harm, and both factual and adequate causation, including intervening conduct by private actors. Citizen lawsuits may be particularly suited to prospective or corrective public-interest relief; individual damages require a more claimant-specific causal showing. This normative study does not measure regulatory effectiveness or platform conduct empirically and should be complemented by access to the full record and supervisory evidence.

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