

ABSTRACT

Principle of Proof for Settlement of Consumer Dispute Under the Law No. 8 of 1999

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This research deals with two legal issues: the principle of consumers protection in according to the Law No. 8 of 1999 and the reflection of these principle in the matters of proof regarding to the settlement of consumers dispute that is also known as product liability. In order to analyze the issues, I undertook a legal research (or legal dogmatic research) by statute, case and comparative approaches.

The result of the research found that the principles of consumer protection regarding to settlement of product liability are the principle of shifting of the burden and the principle of dispute settlement properly through the non-judicial legal remedies or the alternative dispute resolution. The principle of shifting of the burden of proof in keeping with the product liability under the Law No. 8 of 1999 is *lex specialis* against the provision of article 1365 of the BW and articles 1865 of the BW, 163 of the HIR and 283 of the Rbg as the general rules of proof under the law of civil procedure known as *actori incumbit probatio* principle.

The law of proof is the most difficult problem with respect to the law of civil procedure. In practice, before the Law No. 8 of 1999 in force, judges of the court were able to use their policy in order to deliver justice according to law in the dispute settlement. After the Law No. 9 of 1999 in force, this problem is overcome by shifting the burden of proof from plaintiff, in this case is consumer, to the defendant, in this case is business actor, for proving that he is not fault.

Keywords:

Consumer dispute or product liability;
Principle of consumer protection or caveat venditor;
Principle of proof.