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Faculty of Law, Sultan Agung Islamic University

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“Legal Reconstruction in Indonesia Based on Human Right”

IMAM AS SYAFEI BUILDING

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Reviewer:

Prof. Dr. H. Gunarto, S.H., S.E., Akt., M.Hum

Dr. Hj. Anis Mashdurohatun, S.H., M.Hum

Prof. Henning Glaser

Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM

Prof. Shimada Yuzuru

Prof. Associate Dr. Dr. Ahmad Zaharudin Sani

Editor:

Dr. Amin Purnawan., S.H., CN., M.Hum

Dr. Hj. Widayati., S.H., M.H

Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum

Dr. H. Ahmad Khisni., S.H., M.H

M. Abdul Hadi., SE

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PREFACE

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegnau, Ph.D from Sorbone University, Prof. Topo Santoso From Indonesian University, and Dr. Sri Endah Wahyuningsih, S.H., M.H from Sultan Agung Islamic University.

This was our fourth International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner in the concerned field to be discussed as guidelines to exchange and talk about views on the most important recent on Legal Construction and Development focusing on The Role of Indigenous and Global Community in Constructing National Law happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

PROCEEDINGS

The 5th International Conference and Call for Paper Faculty of Law 2019 Legal Reconstruction in Indonesia Based on Human Right

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Legal Due To The Implementation Of Public Business Credits With Guarantee Of The Rights Of Liability Made In Notary

Riska Fauziana

Student of Master of Notarial Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA)
email rzkfzna@gmail.com

Abstract

In this paper, the formulation of the problem is used, among others, as follows: How is the Process of Implementing the People's Business Credit Agreement (KUR) with Mortgage Guarantee Made by a Notary at BRI Jepara? What Constraints Are Faced In Implementing People's Business Credit (KUR) With Guarantee of Mortgage Rights at BRI Jepara and What are the Solutions ?; and What are the legal consequences of BRI Jepara on Debtors who have defaulted? While the research method used is the Sociological Juridical Approach Method

The results of this study indicate that the process of implementing the People's Business Credit Agreement (KUR) with Mortgage Guarantee made by a Notary at BRI Jepara is very simple and the process is fast. However, this provides a weakness, where it is often included in the type of business that is not prospective, does not have good management, and the guarantor is not attached with any security rights, but is only held by the bank, this is not in accordance with the guarantee procedure in the guarantee institution used. . So if there is a default, it makes it difficult for the creditor to execute the collateral. BRI Jepara's efforts include continuous and ongoing collection of debtors and tightening credit analysis. Against bad credit,

Keywords: Legal Consequences, People's Business Credit, Mortgage Guarantee.

A. PRELIMINARY

In the context of implementing economic development activities, both government and society, both individuals and legal entities need large funds. As development increases, so does the need for funding, most of the funds needed to meet these needs through borrowing and lending. Bank Rakyat Indonesia as one of the largest state-owned banks in Indonesia,¹ which serves as a financial institution that collects public funds and functions as a credit channeling institution that is expected to be the locomotive of the community's economy. Lending is expected to be able to improve the community's economy, increase employment and increase the per capita income of the community due to trade and related industrial activities.

Providing healthy credit is expected to generate a favorable rate of loan interest income to finance banking operations,

because ultimately a banking business is required to be able to generate profits from the soundness of its credit portfolio, the importance of this is a concern in the People's Business Credit agreement, so this is what encourages the author to take the research title "The Legal Consequences of Implementing People's Business Credit (Kur) With Guarantee of Mortgage Made by Notaries and the Problems at BRI Jepara."

The problem statement is as follows :

1. How The process of implementing the People's Business Credit Agreement (KUR) with Mortgage Guarantee made by a Notary at BRI Jepara?
2. What are the obstacles faced in the implementation of people's business credit (KUR) with guaranteed mortgage rights at BRI Jepara and what are the solutions?
3. How The Legal Consequences of BRI Jepara on Debtors Who Have Defaulted?

¹. <https://id.m.wikipedia.org>

B. DISCUSSION

1. The process of implementing the People's Business Credit Agreement (KUR) with Mortgage Guarantee made by a Notary at BRI Jepara

The implementation of the BRI People's Business Credit Agreement is as follows²: Prospective debtors come to BRI with their Identity Cards (KTP), photocopies of family cards, signed business certificates and RT / Kel / Kec stamps, and photocopies of guarantee letters (BPKB motorbike / car along with STNK, or SHM); Prospective Debtors fill out the KUR Loan Registration / Application Form that has been provided by BRI, assisted by CS; Prospective Debtors submit files (Original KTP and photocopies, photocopies of family cards, photocopies of business certificates and photocopies of guarantee letters; Analysis with the 5C Principle (Character, Capacity, Capital, Collateral, and Condition of Economy)³ by AO / Mantri and Kaunit / Pinca; Field survey by AO / Mantri to the homes and places of business of the Prospective Debtor; AO / Mantri checking the accuracy of the prospective debtor data files; CS contacts Prospective Debtors to come and bring the original documents of KTP, KK and collateral (BPKB for motorbikes / cars and their STNK, or SHM); Prospective Debtors (husband and wife) come and submit the files requested by BRI; The debtor signs the documents that have been prepared by CS (Credit Recognition Letter and KUR Disbursement Receipt with a stamp duty of 6000); Approval / Fiat Pay by Kaunit / Pinca to Teller; Documents and files are kept by CS; and Teller provides loan disbursements via Cash / Cash or into their savings account.

A decision is issued 1 (one) to 3 (three) days after registration of the application for People's Business Credit. So it is known as the service "One Day Service"

². Interview with Anton Umboro Sakti, Head of the BRI Jepara Unit.

³. Muhamad Djumhana, 2011, Banking Law in Indonesia, Citra Aditya, Bandung, p. 394.

(One Day Service), to simplify the process of implementing People's Business Credit, so that the implementation of People's Business Credit is known "Fast and Easy."⁴

2. Obstacles Faced in Implementing People's Business Credit (KUR) With Mortgage Guarantee at BRI Jepara and Their Solutions

Problem KUR is KUR which is classified as Substandard (KL), Under Special Mention (DPK), and Loss.⁵ The obstacles and solutions faced in implementing the KUR agreement at BRI Jepara are as follows:⁶

1) Obstacles

- a. The types of businesses that are not prospective are often included.
- b. The guarantee object is not attached with any collateral, but is only held by the bank, it is not in accordance with the guarantee procedure in the guarantee institution used which causes difficulties for BRI Jepara to execute the guarantee if the debtor defaults.
- c. BRI has given too long time to non-performing credit debtors, so there are some debtors who take it easy.
- d. The decline in the debtor's business and the management of the debtor's business that is not going well, as well as the overstatement that KUR is assistance from the government, so this can increase BRI's credit problems.

2) Solution

- a. BRI Jepara tightened and was more thorough in analyzing business and credit using the 5C Principle, in order to know precisely the ability of debtors to repay their loans, and the

⁴. Interview with Erry Asdiatmiko, Account Officer / Mantri BRI Unit Jepara.

⁵. Decree of the Board of Directors of Bank Indonesia PBI Number 7/2 / pbi / 2005 of 2005 concerning Bank Indonesia Regulation Concerning Asset Quality Assessment for Commercial Banks.

⁶. Interview with Anton Umboro Sakti, Head of the BRI Jepara Unit.

distribution of KUR to these debtors was right on target.

- b. The settlement was taken by billing and urging the debtor more frequently to ascertain when the debtor can pay his installments, and BRI Jepara reformulated the strategy for binding collateral in KUR distribution, namely by installing a guarantee bond over the mortgage. So if the debtor defaults, the guarantor object can be immediately processed by BRI Jepara to provide effectiveness for the revolving capital and not wait longer.
- c. BRI is more strict in imposing time limits on loan repayments / repayments to non-performing credit debtors, and imposing sanctions on debtors who have indeed committed continuous violations, so that they do not take BRI easy.
- d. BRI routinely and continuously provides guidance and more approaches to its debtors, and helps provide alternatives to debtor business management, so that debtors can continue to run their business well, so that their credit is not problematic.

3. Legal Consequences of BRI Jepara on Debtors who Have Defaulted

One of the efforts made by BRI Jepara in recovering its receivables was to do it credit rescue actions by banks as stated or set forth in the credit rescue agreement. The forms and recovery of the credit can be in the form of: rescheduling; Reconditioning requirements; and restructuring. In addition, BRI also submits guarantor claims (Askrindo and Jamkrindo) as guarantor of the KUR.⁷

C. CLOSING

Based on the description above it can be concluded that:

1. The implementation of the KUR agreement in practice is carried out in a

simple way, starting with a request for examination of files, analysis of document correctness, observation to the debtor regarding research on business truth and accuracy of guarantees, which is then carried out an approval analysis which will be followed up with summons and disbursement of loan applications to debtors. Simply put, the implementation of the KUR agreement makes the process very fast, but because it provides weaknesses such as the frequent inclusion of types of businesses that are not prospective and do not have good management in the form of business bookkeeping. Therefore, BRI Jepara tightened and increased accuracy in analyzing business and credit using the 5C Principles,

2. Constraints in the process of implementing KUR, which credit distribution runs very quickly and simply so that defaults often occur by debtors. This can happen because in KUR the guarantor's object is not paired with any collateral, but is only held by the bank, and is not in accordance with the guarantee procedure in the guarantee institution used, so if a default occurs it makes it difficult for the creditor to execute the object submitted by the debtor. as a guarantee. The solution is to collect and pressure the debtor more frequently to ensure when the debtor can pay his installments. Fortunately, the distribution of KUR is related to the middle and lower social strata of society who have a strong shame culture. so that these insistences become an effective way of resolving the problem of default and as a motivation not to commit default. Another obstacle is the decline in the debtor's business and the management of the debtor's business that is not going well, as well as the overstatement that KUR is assistance from the government, so that BRI makes regular and continuous efforts to provide guidance and more approaches to its debtors, as well as helping provide alternative business

⁷. Interview with Anton Umboro Sakti, Head of the BRI Jepara Unit.

management debtors, so that debtors can continue to run their business well, so that their credit is not problematic.

3. As a result of the law made by BRI Jepara if the debtor defaults, then in saving bank assets, the bank can file a claim to the guarantor institution, in this case Askrindo and Jamkrindo with the prescribed

procedure. Jamkrindo / Askrindo guarantees 70% (Seventy Percent) of the size of the loan issued by BRI Jepara, and 30% (Thirty Percent) is borne by BRI Jepara. Apart from submitting these claims, BRI Jepara also continuously invoices debtors to pay off their debts

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