

## Settlement of Credit Agreements, For Debtors Who Deceased With Life Insurance Claims (Study Putusan Mahkamah Agung Nomor: 3079 K/Pdt/2019)

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**Abstract.** *This study, entitled Legal Review of Credit Settlement from Deceased Debtors with Life Insurance Claims (Study of Supreme Court Decision Number: 3079 K/Pdt/2019), this study aims to determine the implementation of credit settlement from deceased debtors with life insurance claims based on Law of the Republic of Indonesia Number 40 of 2014 concerning Insurance and to determine the legal protection for debtors for non-payment of claims by insurance companies against credit submitted by debtors. The approach method in this research is normative juridical, namely research conducted by emphasizing applicable regulations and literature or books related to legal relations, especially regarding. Based on the research results, it can be concluded that the implementation of credit settlement from deceased debtors with life insurance claims based on the Republic of Indonesia Law Number 40 of 2014 concerning Insurance depends on the contents of the insurance agreement stated in the insurance policy itself. And based on the Republic of Indonesia Law Number 40 of 2014 concerning Insurance Article 31 Paragraphs (3) and (4) in submitting claims, insurance companies are required to handle claims and complaints through a fast, simple, easily accessible, and fair process and are prohibited from taking actions that can slow down the settlement or payment of claims, or not taking actions that should be taken so as to result in delays in the settlement or payment of claims. Legal protection for debtors for non-payment of claims by insurance companies against credit submitted by debtors is regulated in Article 70 of Law Number 40 of 2014 concerning insurance that the Financial Services Authority has the authority to impose administrative sanctions on insurance institutions that violate the provisions of laws and regulations, and matters that cannot be violated have been clearly stated one by one in Article 71 of Law Number 40 of 2014 concerning Insurance.*

**Keywords:** Credit; Death; Insurance; Life.

## 1. Introduction

The approach method in the activity of borrowing and lending money has been carried out for a long time in the lives of people who have known money as a means of payment. It can be seen that almost all people have made the activity of borrowing and lending money as something that is very necessary to support the development of their business activities and to improve their standard of living. Lenders who have excess money are willing to provide loans to those who need it. Conversely, borrowers based on certain needs or purposes borrow the money. In general, it can be said that borrowers borrow money from lenders to finance needs related to daily life or to meet the need for funds to finance their business activities. Thus, the activity of borrowing and lending money is already a part of people's lives today.<sup>1</sup>

Subekti said that an agreement is an event where a person promises to another person or where two people promise each other to do something. From this event arises a legal relationship between two parties called an agreement. The agreement issues an agreement between the two people who make it.<sup>2</sup>

Borrowing money, the debt that occurs because of it only consists of the amount of money stated in the agreement. If, before the time of repayment, there is an increase or decrease in price (value) or there is a change regarding the validity of the currency, then the return of the amount borrowed must be made in the currency in force at the time of repayment, calculated according to its price (value) in force at that time (Article 1756). Thus, to determine the amount of money owed, we must start from the amount stated in the agreement.<sup>3</sup>

In general, a person always wants to be healthy, prosperous and safe without lacking anything. However, in the future there are many risks that we cannot predict, such as accidents, illness or even death. Even though we have tried to prepare for the possibilities that will occur, various other possibilities can still occur without us preparing. Death is one possibility that we cannot predict in the future.

From this situation, someone will think about how to reduce unwanted risks in the future by making an agreement with the insured party, namely the insurance company. By purchasing an insurance policy, someone transfers the risk they face to the insurance company by paying a premium. This is because insurance is a company that carries out activities to take responsibility for the risks or losses faced by its customers.

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<sup>1</sup>M. Bahsan. (2015). *Hukum Jaminan dan Jaminan Kredit Perbankan Indonesia*, Jakarta: PT. Rajagrafindo Persada. p. 1.

<sup>2</sup>Sutarno. (2004). *Aspek-Aspek Hukum Perkreditan Pada Bank*, Bandung: Alfabeta. p. 74.

<sup>3</sup>R. Subekti. (1995). *Aneka Perjanjian*, Bandung: PT. Citra Aditya Bakti. p. 126

Insurance is closely related to reciprocal agreements because basically insurance is an agreement between one party who will receive payment compensation according to the risk with another party, so that the first party gets protection from the possibility of loss, damage, or loss from an event that causes danger to him.

Radiks Purba explains in his book that credit life insurance is a type of insurance that is closed in the name of the credit recipient (debtor or borrower) as the insured. The one who closes the insurance is the creditor (creditor or lender) as the policyholder and beneficiary of the insurance.<sup>4</sup>For example, if someone dies while borrowing money from a bank, the person's loan will be paid off by the insurer or insurance company. Basically, credit life insurance is the same as general life insurance, because the object insured is the life of the credit recipient (debtor).

The difference is that insurance companies cover the remaining debtor's (credit recipient) loan to the creditor (credit provider) who dies before the loan is paid off. In carrying out their function as guarantors, insurance companies collect premiums from many policyholders so that large funds are collected. From the collected funds, a sum of money is taken which is given as compensation to policyholders who suffer losses caused by the risks covered by the policy.

The author cites the case that occurred, namely the Supreme Court Decision Number: 3079 K / Pdt / 2019), where in the case as follows, That the late husband of the Plaintiff named JUANDA initially wanted to buy a car on credit. That in submitting a car loan to Defendant I, the late husband of the Plaintiff named JUANDA was also included by Defendant I in the Credit Life Insurance Program for the Defendant

II to cover the debtor's inability to pay off the remaining loan due to the risk of death. On September 24, 2017, the Plaintiff's husband named JUANDA then passed away, although the Plaintiff's late husband named JUANDA had passed away, Defendant I still collected the remaining debt of the Plaintiff's late husband named JUANDA from the Plaintiff and when the Plaintiff argued that the debt of the Plaintiff's late husband named JUANDA had been paid off because it was covered by Defendant II, Defendant I instead gave power of attorney to a third party to withdraw the car unit from the Plaintiff's possession. That because the Plaintiff's late husband named JUANDA had become the Insured for Defendant II, according to the law with the death of JUANDA as the Insured, Defendant II as the Insurer must provide payment of claims or insurance benefits based on the death of the insured as regulated in the provisions of Article 1 number 1 letter b of Law No. 40 of 2014 concerning Insurance and Credit Debt of the Plaintiff's late husband

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<sup>4</sup>Radiks Purba. (2011). *Memahami Asuransi di Indonesia*, Jakarta; PT. Pustaka Binaman Pressindo. p. 43

named JUANDA to Defendant I was paid off.

Thus, the bank or other creditors do not need to worry if there is a credit arrears if the debtor dies before he pays off his loan. The bank or other creditors can file a claim with the insurance company that covers the debtor, then the claim payment or insurance money is used to cover the remaining loan that has not been paid by the deceased debtor.

## 2. Research Methods

This research is normative juridical<sup>5</sup>namely research conducted with an emphasis on applicable regulations and literature or books related to legal relations, especially regarding credit settlements from deceased debtors with life insurance claims.

## 3. Results and Discussion

### 3.1. Legal Protection for Debtors Who Deceased Due to Non-Payment of Claims by Insurance Companies Against Credit Submitted by Debtors

The performance in the insurance agreement is embodied in the Insurance Policy which is balanced, in the sense that for example the obligation to pay insurance premiums periodically by the insured or participant is balanced with the expected benefits, the greater the premium value that must be paid periodically, the greater the risk value that is transferred, or in other words the performance is determined in the classification, for example in the health insurance agreement there is a certain item whether the transfer of risk due to all diseases including health surgery costs, or not, depending on the amount of performance value. For the insurance company as the underwriter in the health insurance agreement, for example, it is a natural thing if someone pays close attention to their health, does not fall ill or does not even have surgery because the costs are very expensive. Serious illnesses that require expensive surgery include heart surgery, obstetric surgery, and so on. However, every normal person tries to be healthy, does not fall ill for years without ever suffering from illness, never having surgery, but as the insured is still obliged to pay insurance premiums. The condition of not being sick or not having surgery on an insured and still paying insurance premiums to the insurer or insurance company, is an added value or something that is beneficial for the insurer or insurance company. Although no one wants to be sick or want to have surgery for their illness, when insurance premium payments are made on time, it has guaranteed the insured party if in the future they suffer from illness or surgery, then there is a transfer of risk to the insurer or insurance company. According to Abdulkadir Muhammad, in the business world of insurance

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<sup>5</sup>Rony Hanitijo Soemitro. (1990). *Metode Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia, p. 21

companies, they are always ready to accept offers from the insured party.<sup>6</sup>to take over the risk in return for premium payments.

Legal responsibility for insurance policy holders is very important because the policy is the only written evidence to prove that insurance has occurred. The insurance policy as evidence of the occurrence of a binding insurance agreement through the insurance agreement which is proven by the insurance policy that there has been a transfer of risk, for example life insurance or loss insurance to the insurance company. Abdul Kadir Muhammad explained, through the insurance agreement the risk of the possibility of an event causing a loss that threatens the interests of the insured is transferred to the loss insurance company as the insurer. Claims filed by insurance policy holders against insurance companies are often complicated, and are rejected for various reasons so that protection for the interests of insurance policy holders becomes an important part and is related to the function of the Financial Services Authority in carrying out the functions of regulation and supervision as well as protection of insurance service consumers.

According to the provisions of Article 70 of Law Number 40 of 2014, the Financial Services Authority has the authority to impose administrative sanctions on insurance institutions that violate the provisions of laws and regulations, and for matters that cannot be violated, they have been clearly stated one by one in Article 71 of Law Number 40 of 2014. If they violate, they will receive administrative sanctions in the form of:

- 1) Written warning
- 2) Restrictions on business activities, for some or all business activities
- 3) Prohibition on marketing insurance products or sharia insurance products for certain business lines
- 4) Revocation of business license
- 5) Cancellation of registration statement for insurance brokers, reinsurance brokers and insurance agents
- 6) Cancellation of registration statement for actuarial consultants, public accountants, appraisers or other parties who provide services to insurance companies.
- 7) Cancellation of approval for a mediation institution or association
- 8) Administrative fines
- 9) Prohibition on becoming a shareholder, controller, director, board of

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<sup>6</sup>Subekti. (2004). *Hukum Perjanjian*, Jakarta: Intermasa. p. 12.

commissioners, or equivalent to a shareholder, controller, director and board of commissioners in a legal entity in the form of a cooperative or joint venture as referred to in Article 6 paragraph 1 letter c, sharia supervisory board, or holding an executive position under the board of directors, or equivalent to an executive position under the board of directors in a legal entity in the form of a cooperative or joint venture as referred to in Article 6 paragraph 1 letter c, in an insurance company.

Legal Protection for Customers (Insured) in Insurance Reviewed from the Insurance Law In Law Number 40 of 2014 concerning Insurance, Article 52 can be used as a legal basis guideline by policyholders to fulfill the rights of policyholders. The provisions in Article 52 of Law Number 40 of 2014 explain that the position of the policyholder is the main right and its position is higher than other parties. Paragraph (2) also explains that insurance funds must be used first to fulfill obligations to the policyholder. In this case, the plaintiff as a consumer who insures his credit with the defendant has the right to have his rights protected, because as is known, the policyholder and the insurance company have a legal relationship that has been mutually agreed upon and stated in the form of a policy that often makes the policyholder directly or indirectly subject to the provisions or general conditions of the policy made unilaterally by the insurance company. In order to provide legal protection for customers who insure their credit, one effort that can be made is to file a lawsuit for the failure to pay claims in order to pay off the insured's credit from the insurance company to the bank. Customers who feel aggrieved by the actions of the insurance company can also resolve this issue through mediation. This is in accordance with Article 54 paragraph 1 of Law Number 40 of 2014 concerning Insurance. Meanwhile, legal protection between Creditors and Insurance Companies is the same as for debtors, namely in accordance with Article 54 Paragraph 1 of Law Number 40 of 2014 concerning Insurance, namely Insurance Companies, Sharia Insurance Companies, reinsurance companies, and sharia reinsurance companies are required to be members of a mediation institution that functions to resolve disputes between Insurance Companies, Sharia Insurance Companies, reinsurance companies, or sharia reinsurance companies and Policyholders, Insured, Participants, or other parties entitled to receive insurance benefits.

### **3.2. Implementation of Credit Settlement from Deceased Debtors with Life Insurance Claims in Supreme Court Decision Number: 3079 K/Pdt/2019 Based on Law of the Republic of Indonesia Number 40 of 2014 Concerning Insurance**

Each insurance company has its own payment method and is different from each other. After all claim submission documents are complete and have been processed, the insured or heirs are entitled to receive claim payments according

to the amount of insurance that has been agreed upon previously.<sup>7</sup>

Based on the research conducted by the author regarding credit settlement from deceased debtors with life insurance claims based on the Republic of Indonesia Law Number 40 of 2014 concerning Insurance, the requirements for submitting a claim are in accordance with Article 31 paragraph (3) and (4) of statutory regulation Number 40 of 2014 concerning Insurance, namely

(3) Insurance companies, Sharia insurance companies, reinsurance companies, sharia reinsurance companies, insurance brokerage companies, and reinsurance brokerage companies are required to handle claims and complaints through a fast, simple, easily accessible, and fair process.

(4) Insurance companies, Sharia insurance companies, reinsurance companies and sharia reinsurance companies are prohibited from taking actions that could delay the settlement or payment of claims, or not taking actions that should be taken, resulting in delays in the settlement or payment of claims.

The author cites a Supreme Court Decision, namely Decision Number: 3079 K/Pdt/2019, the case in the decision is that the Plaintiff's late husband named JUANDA initially wanted to buy a car on credit. That in submitting a car loan to Defendant I, the Plaintiff's late husband named JUANDA was also included by Defendant I in the Credit Life Insurance Program with Defendant II in order to cover the debtor's inability to pay off the remaining loan due to the risk of death. On September 24, 2017, the Plaintiff's husband named JUANDA then passed away, although the Plaintiff's late husband named JUANDA had passed away, Defendant I still collected the remaining debt of the Plaintiff's late husband named JUANDA to the Plaintiff and when the Plaintiff argued that the debt of the Plaintiff's late husband named JUANDA had been paid off because it was covered by Defendant II, Defendant I instead gave power of attorney to a third party to withdraw the car unit from the Plaintiff's possession. That because the Plaintiff's late husband named JUANDA had become the Insured for Defendant II, according to the law with the death of JUANDA as the Insured, Defendant II as the Insurer must provide payment of claims or insurance benefits based on the death of the insured as regulated in the provisions of Article 1 number 1 letter b of Law No. 40 of 2014 concerning Insurance and the Credit debt of the Plaintiff's late husband named JUANDA to Defendant I was paid off. That Defendant II apparently did not want to carry out his obligation to pay the claim or insurance benefits submitted by Defendant I to Defendant II with reasons that were made up and unreasonable, so that as a result of the rejection of the claim submitted by Defendant II, Defendant I then collected the remaining debt of the Plaintiff's late husband named JUANDA to the Plaintiff, withheld proof of ownership (BPKB) of the a quo car unit and gave

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<sup>7</sup>Abbas Salim. (2003). *Asuransi dan Manajemen Resiko*, Jakarta: Raja Grafindo Persada. p. 37



power of attorney to a third party to withdraw the a quo car unit from the Plaintiff's possession as one of the heirs of the late JUANDA.

The actions of Defendant II who refused to make payment of the Life insurance claim filed by Defendant I who had covered the Plaintiff's deceased husband named JUANDA as the Insured in the Mandiri Inhealth Insurance Certificate No. C 019001 issued by Defendant II on August 3, 2017 and the actions of Defendant I in collecting the remaining debt of the Plaintiff's deceased husband named JUANDA to the Plaintiff, withholding proof of ownership (BPKB) of the a quo car unit and giving power of attorney to a third party to withdraw the a quo car unit from the Plaintiff's possession constitute Unlawful Acts that are detrimental to the Plaintiff as one of the heirs of the deceased JUANDA.

Based on the facts of the case, the Panel of Judges decided to grant the cassation request from the Cassation Applicant SUNIAH and annul the Pontianak Court Decision Number 79/PDT/2018/PT PTK., dated December 20, 2018 which confirmed the Ketapang District Court Decision Number 2/Pdt.G/2018/PN Ktp., dated July 17, 2018.

The author analyzes that the agreement made by the plaintiff and the defendant is valid and without coercion, but in reality the defendant does not have good intentions to carry out the agreement. Therefore, the author salutes the plaintiff's struggle to seek justice to the cassation level, where the results of the cassation resulted in a result that the defendant must pay off the credit according to the agreement.

#### **4. Conclusion**

Based on the research that the author has conducted on credit settlement from deceased debtors with life insurance claims, the author concludes: The implementation of credit settlement from deceased debtors with life insurance claims based on Law of the Republic of Indonesia Number 40 of 2014 concerning Insurance depends on the contents of the insurance agreement stated in the insurance policy itself. And based on the Republic of Indonesia Law Number 40 of 2014 concerning Insurance Article 31 Paragraphs (3) and (4) in submitting claims, insurance companies are required to handle claims and complaints through a fast, simple, easily accessible and fair process and are prohibited from taking actions that can delay the settlement or payment of claims, or not taking actions that should be taken so as to result in delays in the settlement or payment of claims, Legal protection for debtors for non-payment of claims by insurance companies against credit submitted by debtors is regulated in the provisions of Article 70 of Law Number 40 of 2014 concerning Insurance that the Financial Services Authority has the authority to impose administrative sanctions on insurance institutions that violate the provisions of laws and regulations, and for matters that cannot be violated have been clearly stated one by one in Article 71 of Law Number 40 of



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