

The Rights of Credit Consumers to Terminate The Credit Agreement Earlier in Accordance with Law No. 7 of 1992 Concerning Banking in Conjunction with Law No. 10 of 1998 Concerning National Credit

Agung Apriantono

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, E-mail: agungapriantomo.std@unissula.ac.id

Abstract. *In realizing a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, it is necessary to implement sustainable national economic development based on economic democracy. One of the goals of national economic development is to increase economic growth as a whole. Today, it is not enough for companies to only focus on economic growth alone, but a new paradigm is needed in the business sector, namely, sustainable development, which means an effort to meet current needs without reducing the ability and opportunities of the next generation to meet their needs. One of the contracts applied in the financing scheme in Islamic banks is through the murabahah contract. Murabahah itself is a concept obtained through a commodity buying and selling mechanism through additional margins as profits that have been agreed upon with the bank as the seller and the customer as the buyer. In this agreement, the bank finances the purchase of goods needed by its customers by purchasing goods from suppliers, then selling them at a price plus the profit from the sale of goods to customers which is carried out on a cost-plus profit basis. Credit agreements are one of the important instruments in the economy, both for individuals, companies, and financial institutions. However, in practice, it is not uncommon for problems to occur related to the rights of credit consumers who feel disadvantaged or trapped in an unfavorable credit agreement. In this context, the rights of credit consumers to terminate the credit agreement early (early termination) need to be clearly regulated in order to create a balance between the interests of consumers and financial institutions.*

Keywords: Agreement; Bank; Consumer; Credit.

1. Introduction

According to Law No. 7 of 1992 concerning Banking, which was later amended by Law No. 10 of 1998 concerning National Credit, it is important to ensure that consumers have adequate legal protection in every credit transaction. Protection of consumer credit rights includes the right to terminate a previously made credit agreement, with a clear and transparent mechanism. Given that inadequate regulation of consumer rights can lead to injustice, this is an issue that needs to be considered in existing regulations.

As part of a state based on law that upholds the principle of justice, enforcing consumer credit rights is important to provide balanced legal protection and protect basic consumer rights in the banking world.

The philosophical basis underlying the regulation of consumer credit rights can be found in Pancasila, especially the 5th principle, namely "Social Justice for All Indonesian People." This principle teaches that every citizen has the right to receive justice and fair treatment, including consumers involved in credit agreements with financial institutions. Therefore, the state needs to protect the rights of credit consumers, one of which is the right to terminate credit agreements legally and fairly.

In addition, the 1945 Constitution of the Republic of Indonesia also mandates that the state protect all Indonesian people, including in the context of economic and financial relations.¹In Article 33 paragraph (1) of the 1945 Constitution, it is stated that "The economy is structured as a joint venture based on the principle of family." This means that every economic transaction, including credit agreements, must be carried out on the principle of mutual benefit and prioritizing common interests, where the consumer's right to terminate a credit agreement is one of the instruments in realizing justice in the banking world.²

Law No. 7 of 1992 concerning Banking³in conjunction with Law No. 10 of 1998 concerning National Credit.⁴The Banking Law provides a legal basis for financial institutions to provide credit to the public and regulates the rights and obligations between banks and debtors. As part of broader regulations, this law also regulates the rights of credit consumers, including the right to terminate a credit agreement, either unilaterally or through negotiation with the financial institution.

Law No. 8 of 1999 concerning Consumer Protection.⁵This law provides legal protection to consumers in various transactions, including in credit agreements with financial institutions. One important aspect is to provide consumers with the

¹Pancasila, the 5th principle.

²Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

³Law No. 7 of 1992 concerning Banking, Article 1 number 1.

⁴Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking, Article 1.

⁵Law No. 8 of 1999 concerning Consumer Protection, Article 4.

right to obtain clear and complete information and the right to cancel credit agreements under certain detrimental conditions.

Financial Services Authority (OJK) Regulations related to consumer protection. OJK as a supervisory institution for the financial services industry in Indonesia also has regulations governing consumer protection in credit agreements. One of them is the provision regarding transparency of information and the obligation of financial institutions to provide dispute resolution mechanisms.

From a sociological perspective, the problem of consumer credit rights can be seen from the fact that many consumers do not understand the contents of the credit agreements they sign. The public generally does not have an adequate understanding of their rights and obligations in credit agreements, which risks leading to abuse of position by financial institutions. In addition, the imbalance in the regulation of credit agreements often causes consumers to be trapped in debt conditions that are difficult to repay.

On the other hand, financial and banking institutions, with the aim of profitability, sometimes impose conditions that burden consumers, especially in terms of fines or non-transparent interest. In this context, the protection of credit consumer rights becomes very important, because the existence of the right to terminate a credit agreement in a legal and fair manner will help create equality in financial transactions. This can also increase public trust in the banking system and increase financial inclusion in Indonesia.

The development of the banking industry and financial institutions in Indonesia is increasingly rapid. Credit, as one of the main instruments in the financial system, makes a major contribution to the national economy. Credit allows people and business actors to obtain funds for various purposes, from consumption to investment. However, along with the increase in credit transactions, problems related to consumer rights and obligations in credit agreements have also emerged. One of them is the consumer's right to terminate the credit agreement early, which is regulated in various legal provisions, including Law No. 7 of 1992 concerning Banking and Law No. 10 of 1998 concerning National Credit.

Consumer rights in this case are the ability to cancel or terminate a credit agreement before the end of its term, which is often related to problems with ability to pay, changes in economic conditions, or dissatisfaction with services. Although consumers have the right to terminate the agreement, the procedures and consequences arising from such termination are strictly regulated by laws and regulations to protect both parties, both consumers and credit institutions.

The problem that often arises is the ignorance or limited understanding of consumers regarding their rights in credit agreements, as well as the procedures and legal impacts of terminating the agreement. In addition, there is often an imbalance between the bank which has greater power and resources and

consumers who tend to be in a weaker position. Therefore, there needs to be a clear understanding of consumer rights in terminating credit agreements based on applicable laws.

In Law No. 7 of 1992 concerning Banking, which was later updated by Law No. 10 of 1998, there are several provisions that give consumers the right to terminate credit agreements. The articles in the Law provide guidelines for consumers and banks in terms of cancellation or termination of credit agreements where banks provide an opportunity for debtors to apply for early credit repayment with reasonable provisions.

"Article 8 (1) In providing credit or financing based on Sharia Principles, Commercial Banks are required to have confidence based on in-depth analysis or the good faith and ability and capability of the Debtor Customer to pay off his debt or return the financing in question in accordance with what was agreed.⁶

For example, in Law No. 10 of 1998, there is a provision that provides space for debtors to pay off credit faster than the agreed period, even though there are fines or administrative fees that must be paid. This gives consumers the right to end the credit relationship early if they have the financial ability to pay off the loan.

However, this regulation also protects banks by giving them the right to impose penalties or fines if the credit agreement is terminated prematurely. However, the procedure for terminating the credit agreement must still be carried out in accordance with existing provisions so as not to harm either party.

Credit Termination Case by Consumers at BRI Bank (2023)

In 2023, a BRI Bank customer applied for early termination of credit for a KTA (Unsecured Credit) loan that was applied for several years earlier. The consumer experienced financial difficulties after the COVID-19 pandemic and wanted to pay off his loan immediately. BRI Bank accepted the customer's request to pay off early, even though there was a fine imposed according to the provisions stated in the credit agreement. This case shows that although consumers have the right to terminate a credit agreement, the procedures and payment of penalties must be followed.⁷

Credit Termination Case by Consumer at Bank Mandiri (2024)

A debtor who applied for a vehicle loan at Bank Mandiri in 2022 submitted a request to terminate the credit agreement early in early 2024. In this case, the debtor felt unable to continue paying installments due to changes in employment and income situations. Bank Mandiri approved the request after going through the appropriate procedures, including settling administrative fines. This case

⁶Article 8 paragraph (1) Law no. 7/1992 Jo. UU no. 10/1998

⁷"Bank BRI Approves Early Credit Termination by Customers", Jakarta Post, 2023.

illustrates how a consumer's right to terminate a credit agreement early can be accessed under certain conditions, with the consequence of paying a penalty.⁸

Although the consumer's right to terminate a credit agreement in advance is regulated in Law No. 7 of 1992 and Number 10 of 1998, it is important for consumers to understand the applicable provisions so as not to harm themselves. The bank must also ensure that the credit termination procedure is carried out in accordance with applicable law, while maintaining a balance of interests between consumers and credit institutions.

2. Research Methods

The approach used in this study is a normative-juridical approach, which emphasizes the analysis of applicable laws and regulations, especially those related to the rights of credit consumers in credit agreements. This approach will examine the legal norms contained in Law No. 7/1992 concerning Banking, Law No. 10/1998 concerning National Credit, as well as the practice of implementing these legal rules in the context of the relationship between credit consumers and banking institutions. This study uses analytical descriptive specifications. This study aims to describe in depth the rights of credit consumers in terminating credit agreements, as well as to analyze the mechanisms and procedures that have been regulated in applicable laws. The focus of the study is on the rights of consumers to pay off credit early and procedures in accordance with existing legal provisions.

3. Results and Discussion

3.1. Consumer Protection

The definition of consumer protection is stated in Article 1 number 1 of the Consumer Protection Law which states that "Consumer protection is any effort that guarantees legal certainty to provide protection to consumers". Arbitrariness will result in legal uncertainty. Therefore, in order for all efforts to provide a guarantee of legal certainty, its qualitative size is determined in the Consumer Protection Law and other laws that are also intended and still apply to provide consumer protection, both in the field of Private Law (Civil Law) and the field of Public Law (Criminal Law and State Administrative Law). The involvement of various disciplines as stated above, clarifies the position of Consumer Protection Law in the study of Economic Law.⁹

Referring to the definition in Law No. 8 of 1999, the focus of consumer protection is indeed on the consumer, who has so far been considered to be in a weak position compared to the position of business actors. Consumers are defined by Article 1 number 2 of Law No. 8 of 1999 as every person who uses

⁸"Bank Mandiri Customers Terminate Vehicle Credits Earlier", Kompas, 2024.

⁹Ahmadi Miru and Sutarman Yodo, 2004, Consumer Protection Law, Publisher: Raja Grafindo Persada, Jakarta, p. 1-2.

goods and/or services available in society, either for the benefit of themselves, their families, other people or other living creatures and not for trading. Consumers in the sense of Article 1 number 2 of Law No. 8 of 1999 are known in economic terms as end consumers.¹⁰ Business actors are every individual or business entity, whether in the form of a legal entity or not, which is established and domiciled or carries out or carries out activities within the jurisdiction of the Republic of Indonesia, either alone or together through an agreement to carry out business activities in various economic fields.

1) Financing

The two main functions of banking are fundraising and fund distribution. Fund distribution in conventional banks and in Islamic banks have essential differences, both in terms of name, contract, and transaction. In conventional banking, fund distribution is known as credit, while in Islamic banking it is financing. Unlike the definition of credit which requires the debtor to return the loan with interest to the bank, financing based on Islamic principles is loan repayment with profit sharing based on an agreement between the bank and the debtor.¹¹ Technically, banks provide funding or financing to support investment or the running of a business that has been planned between the two parties with a profit-sharing agreement therein. As Allah says in the Qur'an, Surah Al-Ma'idah (5): 1:

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا اَوْفُوْا بِالْعُقُوْدِ ۗ

"O you who believe! Fulfill those promises."

The verse above explains about contracts or agreements, which include promises of loyalty from Allah's servants and agreements made by humans in their interactions with each other (between the bank and customers).

Financing, which is funding provided by one party to another party to support planned investments, either done by themselves or by institutions. So it can be defined, the definition of financing is the provision of money or bills that can be equated with it, based on an agreement or agreement with the bank with another party that requires the financed party to return the money or bill within a certain time with compensation or profit sharing.¹²

Financing is a very important activity because with the financing of the contract the main source of income is obtained and becomes a supporter of the continuity of the bank's business. On the other hand, if the management is not good, it will cause problems and the bank's business will stop. Therefore, it is

¹⁰Andika Wijaya and Wida Peace Ananta, *Property Business Law in Indonesia*, (Jakarta: Grasindo, 2017), p. 291.

¹¹Djawahir Hejaziey, *Syrian Banking in Theory and Practice*, (Yogyakarta: Depublish, 2014), p. 137.

¹²Kasmir, *Banking Management*, (Jakarta: Rajagrafindo Persada, 20013), p. 73.

necessary to have a good sharia financing management so that the distribution and or in this case financing to customers can be effective and efficient in accordance with the objectives of the company and Islamic law itself.¹³

2) Customer

Customers are customers (customers), namely individuals or companies who receive benefits or products and services from a banking company, including purchasing, rental and service activities.¹⁴ According to Article 1 paragraph (17) of Law No. 10 of 1998, customers are "parties who use bank services." Customers have an important role in the banking industry, where the funds deposited by customers in the bank are the most important funds in bank operations to run their businesses. The definition of customers according to experts is as follows: According to Kasmir, "Customers are consumers who buy or use products sold or offered by banks."¹⁵ According to Saladin, customers are "Consumers as providers of funds".¹⁶ According to Tjiptono, the definition of a customer is "Any person who buys and uses a company's products or services".¹⁷

3) Credit Agreement

A credit agreement is an agreement made between a bank and a customer. A credit agreement can actually be equated with a debt agreement. The difference is, the term credit agreement is generally used by banks as creditors, while a debt agreement is generally used by the public.¹⁸

Credit is defined as "the provision of money or bills that can be equated with it based on an agreement or loan agreement between a bank and another party that requires the borrower to repay his debt after a certain period of time with the provision of interest." Based on this understanding, a credit agreement can be defined as a loan agreement between a bank as a creditor and another party

¹³Djawahir Hejaziey, *Syrian Banking in Theory and Practice*, (Yogyakarta: Depublish, 2014), p. 137-138.

¹⁴Mislah Hayati Nasution, Sutisna. 2015. Factors Influencing Customer Interest in Internet Banking. *Nisbah Journal*. Volume 1 Number 1, p. 65.

¹⁵Sonny Koeswara, Muslimah. 2013. Analysis of the Magnitude of the Influence of Frontliner Service Performance and Customer Satisfaction on Priority Customer Loyalty of PT. BCA Tbk Permata Buana Branch Using Multiple Linear Regression Method Approach. *Pasti Journal*. Volume 8 Number 1, p. 3.

¹⁶vi Yupitri, Raina Linda Sari. 2012. Analysis of Factors Influencing Non-Muslims to Become Customers of Bank Syariah Mandiri in Medan. *Journal of Economics and Finance*. Volume 1 Number 1, p. 49.

¹⁷Dwi Perwitasari Wiryaningtyas. 2016. The Influence of Customer Decisions in Taking Credit at the Village Credit Bank of Jember Regency. *Journal of Economics and Business Growth*. Volume 14 Number 2, p. 50.

¹⁸Adrian Sutedi, *Mortgage Law* (Jakarta: Sinar Grafika, 2010), p. 12

as a debtor that requires the debtor to repay his debt after a certain period of time with the provision of interest.

4) Banking Law

The law that regulates banking issues is called Banking Law, but it is very difficult to provide a rational definition of Banking Law. Therefore, it is necessary to state several definitions of Banking Law from Banking Law experts. Banking Law is a positive law that regulates everything related to Banks. Banks are one of the financial institutions whose main function is to collect and distribute public funds. It can be concluded that the definition of Banking Law is a series of positive legal provisions that regulate everything related to Banks, including institutions, business activities, and the methods and processes for implementing their business activities. The definition of Banking Law according to Muhamad Djumhana is a collection of legal regulations that regulate the activities of Bank financial institutions that cover all aspects, seen from the essence and existence and their relationship to other areas of life. From this formulation, it will be revealed that the regulations in the Banking sector will include, among others.¹⁹

- a. Basics of Banking, namely concerning the principles of banking activities such as: norms of efficiency, effectiveness, bank health, professionalism of banking actors, the aims and objectives of banking institutions, as well as their relationships, rights and obligations.
- b. The legal status of actors in the banking sector, such as: rules regarding managers such as the board of commissioners, directors, employees and affiliated parties, also regarding the form and legal entity of the manager, and regarding ownership.
- c. Banking rules that specifically pay attention to public interests such as rules that prevent unfair competition, antitrust, consumer protection (customers), and others. In Indonesia, it even has its own special characteristics, namely that national banking must pay attention to the harmony, alignment and balance of elements of equitable development, economic growth, and national stability.
- d. Rules concerning organizational structures, which support the government's economic and monetary policies, such as the Monetary Board and the Central Bank.
- e. The rules that guide economic life in the form of a basis for realizing the goals to be achieved through the determination of sanctions, incentives, and so on.

¹⁹Muhammad Djumhana, *Banking Law in Indonesia*, PT. Citra Aditya Bakti, Bandung, 2000, p. 1-2

f. The interrelationship of these provisions and legal rules means that they cannot stand alone, in fact their interrelationship is a logical relationship between the other parts."

4. Conclusion

The results of the study obtained by the author by answering each of the main problems that have been raised in the previous chapter, this chapter consists of two discussions, namely Legal analysis regarding Legal certainty for customers who make advance credit payments implemented with the provisions of Law No. 7 of 1992 concerning Banking in conjunction with Law No. 10 of 1998 concerning National Credit and the process and rules for granting by the bank to the Rights of Credit Consumers to Terminate the Credit Agreement on time or earlier than the time determined by the parties.

5. References

Journals:

Dwi Perwitasari Wiryaningtyas. 2016. The Influence of Customer Decisions in Taking Credit at the Village Credit Bank of Jember Regency. *Journal of Economics and Business Growth*. Volume 14 Number 2, p. 50.

Mislah Hayati Nasution, Sutisna.2015. Factors Influencing Customer Interest in Internet Banking. *Nisbah Journal*. Volume 1 Number 1, p. 65.

Sonny Koeswara, Muslimah. 2013. Analysis of the Magnitude of the Influence of Frontliner Service Performance and Customer Satisfaction on Priority Customer Loyalty of PT. BCA Tbk Permata Buana Branch Using Multiple Linear Regression Method Approach. *Pasti Journal*. Volume 8 Number 1, p. 3.

Pan Mohamad Faiz, 2009. "John Rawls' Theory of Justice", in *Constitutional Journal*, Volume 6 Number 1, Page 135

Yupitri, Raina Linda Sari. 2012. Analysis of Factors Influencing Non-Muslims to Become Customers of Bank Syariah Mandiri in Medan. *Journal of Economics and Finance*. Volume 1 Number 1, p. 49.

Books:

Ahmad Yani and Gunawan Widjaja, *Limited Liability Company Business Law Series*, (Jakarta, PT Raja Grafindo Persada, 2000).

Ahmadi Miru and Sutarman Yodo, 2004, *Consumer Protection Law*, Publisher: Raja Grafindo Persada, Jakarta.

- Andika Wijaya and Wida Peace Ananta, *Property Business Law in Indonesia*, (Jakarta: Grasindo, 2017).
- Adrian Sutedi, *Islamic Banking: Review and Several Legal Aspects*, (Jakarta: Ghalia Indonesia, 2009).
- , *Mortgage Law* (Jakarta: Sinar Grafika, 2010).
- Badriyah Harun, *Settlement of Problematic Credit Disputes*, Pustaka Yustisia, Yogyakarta, 2010.
- Carl Joachim Friedrich, 2004. "Philosophy of Law: Historical Perspective, Nuansa and Nusamedia. Bandung.
- Djawahir Hejazziey, *Syrian Banking in Theory and Practice*, (Yogyakarta: Depublish, 2014).
- Faisal Badroen, *Business Ethics in Islam*, (Jakarta: Kencana, 2006).
- LJ Van Apeldoorn, 1996. "Introduction to Legal Science", twenty-sixth printing of Pradnya Paramita, , Jakarta.
- Kasmir, *Basics of Banking*, (Jakarta, PT. Raja Grafindo Persada, 2002).
- , *Banking Management*, (Jakarta: Rajagrafindo Persada, 20013).
- Mohammad Tjoetem, *Core Business Credit of Commercial Banks (Concepts, Techniques, and Cases)*, (Jakarta: Gramedia Pustaka Utama, 1999).
- Marhais Abdul Miru, *Banking Law in Indonesia*, Alumni, (Bandung, 2004).
- Muhammad Djumhana, *Banking Law in Indonesia*, PT. Citra Aditya Bakti, Bandung, 2000.
- Financial Services Authority (OJK), *Sharia Banking Product Standards*, (Jakarta: OJK, 2016).
- Satjipto Raharjo, *Legal Science*, PT. Citra Aditya Bakti, Bandung, 2000, p.53.
- Soerjono Soekanto, *Introduction to Legal Research*, Ui Press, Jakarta, 1984, p. 133.
- Shole Soeaidy and Zulkhair *Legal Basis for Child Protection*, CV. NOVINDO PUSTAKA MANDIRI, Jakarta, 2011, p. 4.
- Soejono Soekamto, 1986, *Introduction to Legal Research*, Jakarta, UI Press.
- Sumadi Suryabrata, 1998, *Research Methodology*, Jakarta, Raja Gofindo.
- Soejono Soekamto and Sri Mamudi, 1995, *Normative Legal Research: A Brief Review*, Jakarta, PT. Raja Grafindo Persada.

Yadi Janwari, *Islamic Financial Institutions*, (Bandung: PT Remaja Rosdakarya, 2015).

Regulation:

1945 Constitution

Law No. 8 of 1999 concerning Consumer Protection;

Law no. 21 of 2008 concerning Sharia Banking;

Financial Services Authority Regulation Number: 1/POJK.07/2013 Concerning Consumer Protection in the Financial Services Sector;

Criminal Code;

Criminal Procedure Code;

Internet:

Financial Services Authority, 2022 Financial Report, <https://ir.bankbsi.co.id/misc/AR/AR2022-ID/13/index.html> / accessed on July 19, 2024 at 20:00 WIB.