

## Analysis of Debt Receivables Dispute Settlement from Agreements Under the Hand (Decision Study Number 142/Pdt/2022/PT.Smg)

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**Abstract.** *This study aims to determine and analyze the settlement of debt disputes from underhand agreements in decision Number 124/Pdt/2022/PT.Smg and the judge's considerations. This study uses a normative juridical approach method, analytical descriptive research specifications. The data used are secondary data. The data collection method is a literature study, and the data analysis method is qualitative. The theory used in this study is the theory of justice, the theory of legal certainty. The results of the study indicate that the settlement of debt disputes from underhand agreements in decision Number 124/Pdt/2022/PT.Smg has reflected justice, namely the plaintiff receives payment of debt from the defendant, while the defendant will obtain back the land certificate used as collateral after the payment of the debt to the plaintiff is paid in full. The judge's considerations in decision Number 124/Pdt/2022/PT.Smg are appropriate, namely based on legal facts revealed in court, referring to statutory regulations; philosophical, juridical and sociological aspects; aspects of justice, legal certainty and benefits as well as evidence and arguments presented by the plaintiff and defendant.*

**Keywords:** *Debt Dispute; Settlement; Underhand Agreement.*

## 1. Introduction

The Republic of Indonesia, as mandated in Article 1 paragraph (3) of the 1945 Constitution (UUD 1945), is a state of law, this means that everything must be based on law.<sup>1</sup>All forms of decisions, actions of state apparatus, all attitudes, behavior and actions including those carried out by citizens must have legal legitimacy.<sup>2</sup> Indonesia guarantees legal certainty and protection in every aspect of community life, including in civil relations. This is also emphasized in Article 28D paragraph (1) of the 1945 Constitution, which guarantees that everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law. Civil law is further regulated in the Civil Code (KUHPerdata), so that every citizen has rights and obligations that are recognized and protected by law in carrying out agreements. An agreement begins with a difference or disparity of interests between the parties. The formulation of such an agreement generally begins with a negotiation process between the parties. Through negotiation, the parties attempt to create a form of agreement to achieve mutually desired outcomes (interests) through bargaining.<sup>3</sup>Legally, an agreement is an event where one person makes a promise to another person or where two people promise each other to do something.<sup>4</sup>

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<sup>1</sup>Ike Perwitasari, (2024), *Penyelesaian Wanprestasi Dalam Perjanjian Pembayaran Hutang Piutang Dengan Bilyet Giro Di Pengadilan Negeri Surakarta, Privat Law*, <https://www.neliti.com/publications/26556/penyelesaian-wanprestasi-dalam-perjanjian-pembayaran-hutang-piutang-dengan-bilye>, accessed April 15, 2025

<sup>2</sup>Muhammad Adiel Aristo & Umar Ma'ruf, Criminal Law Police Against Actor of Criminal Performance Persecution, *Jurnal Daulat Hukum*, Volume 3 Nomor 1, p. 139.

<sup>3</sup>Agus Yudha Hernoko, (2008), *Hukum Perjanjian Azas Proporsionalitas Dalam Kontrak Komersial*, Yogyakarta : Laksbang Mediatama, p. 1.

<sup>4</sup>Wirjono Prodjodikoro, (2000), *Azas-Azas Hukum Perjanjian*, Bandung : Mandar Maju, p. 4.

An agreement gives rise to a contract, although some contracts are also created by law. This is in accordance with Article 1233 of the Civil Code, which states that every contract is created, whether by agreement or by law. A contract is a legal relationship, meaning a relationship regulated and recognized by law. This legal relationship must be distinguished from relationships that occur in social interactions based on politeness, propriety, and morality.<sup>5</sup> In everyday life, the need for funds to drive the economy is increasingly felt. On one hand, some people have excess funds, while on the other, others lack them. To bring the two together, an intermediary is needed, acting as a creditor and providing funds to debtors. This is where debt agreements arise.<sup>6</sup> Debts are generally referred to as a loan for use or in Dutch, *verbuikleen*, which is further defined as a replacement loan. According to civil law, a replacement loan is when one party releases a certain amount of money or goods to another party who uses them when used with the promise that at a later date the money or goods will be returned in the same amount, in the same condition, and under the same circumstances.<sup>7</sup> The above provision, as stipulated in Article 1757 of the Civil Code, states that if the debtor fails to pay interest on their loan, the creditor cannot sue for the cancellation of the debt agreement if the interest on the debt was not previously agreed upon. In other words, there is no interest on a debt if it was not previously agreed upon by the parties.<sup>8</sup> An agreement creates a legal relationship that creates rights and obligations for each party, and has legal consequences. The requirements for an agreement, as stipulated in Article 1320 of the Civil Code, include mutual agreement, the ability to enter into an agreement, a specific purpose, and a lawful cause. If these requirements are met, the agreement is valid. With an agreement, the lender has the right to demand fulfillment of obligations from the debtor, while the debtor is obligated to fulfill their obligations.<sup>9</sup> The practice of borrowing and lending is commonplace in society. However, it's not uncommon for problems to arise, including defaults, which can lead to disputes.<sup>10</sup> Debt disputes are a common civil law issue, both in personal relationships and in business. These disputes often result in losses for one party and require legal or out-of-court settlement.

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<sup>5</sup>R. Setiawan, (1987), *Pokok-Pokok Hukum Perikatan*, Bandung : Binacipta, p. 3.

<sup>6</sup>Gunawan Widjaja & Ahmad Yani, (2007), *Jaminan Fidusia*, Jakarta : PT. Raja Grafindo Persada, p.1

<sup>7</sup>Badriyah Harun, (2010), *Penyelesaian Kredit Bermasalah*, Yogyakarta : Pustaka Yustisia, p. 1.

<sup>8</sup>*Ibid.*, p. 2.

<sup>9</sup>Muhammad Indra Muhtar dk, Analisis Putusan Kasus Wanprestasi (Studi Putusan No. 650/Pdt.G/2021/PN Jkt Pst), *Diponegoro Privat Law Review*, Vol 11 No. 1 Tahun 2024, p. 83

<sup>10</sup>UMS, Utang Piutang dalam Islam, <https://www.ums.ac.id/berita/mimbar/utang-piutang-dalam-islam>, accessed April 15, 2025.

One example of a debt dispute case that was resolved through legal channels is the Semarang High Court Decision Number 142/Pdt/2022/PT. SMG, which is an appellate decision in the case of MN as plaintiff (appellant) against AM as defendant I (appellee 1) and KH as defendant II (appellee II). The debt dispute in Decision Number 124/Pdt/2022/PT.Smg is a dispute that began when the defendant borrowed money from the plaintiff in the amount of Rp. 200,000,000 with an agreement to be paid in full on January 25, 2016. On August 14, 2015, the defendant submitted SHM No. 03133 in the name of defendant II as collateral. On the due date of January 25, 2016, the defendant was unable to fulfill his obligation to pay the debt, so the plaintiff asked the defendants to sign the deeds related to the transfer of the certificate in the name of the plaintiff, but the request was rejected by the defendant, so the plaintiff filed a lawsuit to the Brebes District Court.

By the Brebes District Court, the lawsuit was rejected, so the plaintiff filed an appeal in which the Semarang High Court overturned the decision of the Brebes District Court. The decision in the debt dispute based on the private agreement is interesting to study, considering that the plaintiff's lawsuit was rejected at the first instance, but then overturned at the cassation level. This indicates a difference in legal assessment by the panel of judges regarding the validity and enforceability of the agreement. This study aims to determine the resolution of the debt dispute based on the private agreement in Decision Number 124/Pdt/2022/PT.Smg and the judge's considerations.

## 2. Research Methods

This research uses a normative juridical approach, with descriptive analytical research specifications. The data used are secondary data. The data collection method is a literature study, and the data analysis method is qualitative. The theory used in this research is the theory of justice, the theory of legal certainty.

## 3. Results and Discussion

### 3.1. Settlement of Debt Disputes Regarding the Validity of Private Debt Agreements in Decision Number 124/Pdt/2022/PT.Smg

Debts can be made through a loan agreement as regulated in Article 1754 of the Civil Code which states that a loan is an agreement whereby one party gives another party a certain amount of goods which are used up due to use, on the condition that the latter party will return the same amount of the same type and condition.<sup>11</sup>In practice, many debt-related transactions are not accompanied by a

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<sup>11</sup>Mariska, Bagaimana Cara Penyelesaian Kasus Utang Piutang?, <https://kontrakhukum.com/article/kasus-utang-piutang/>, accessed August 28, 2025.

clear agreement, usually only a receipt. This means that the debt-related agreement is a private agreement, as it does not involve a notary. If a dispute arises regarding the savings and loan agreement (where the borrower defaults), the receipt can still be used as evidence in court. This situation is common in society, one example being the case of Decision Number 124/Pdt/2022/PT.Smg, which involved a private debt-related agreement.

Decision Number 142/Pdt/2022/PT. SMG, which is an appellate decision in the case of MN as plaintiff (appellant) against AM as defendant I (defendant 1) and KH as defendant II (defendant II). The situation is that on August 14, 2015, between the plaintiff and the defendant, a legal relationship of debt occurred where the plaintiff was the lender and the defendants were the debtors, with a total debt of Rp. 200,000,000, - As collateral for the debt, the defendants submitted a Certificate of Ownership number 03133 in the name of KH (Defendant II) covering an area of 453 m<sup>2</sup> located in Ketanggungan Village, Ketanggungan District, Brebes Regency, where the debt matured on January 25, 2016. However, until the promised deadline, the defendants could not return the debt. Therefore, the plaintiff filed a lawsuit with the Brebes District Court, where the judge, through Decision Number 34/Pdt.G/2021/PN.Bbs, declared the plaintiff's lawsuit inadmissible. The plaintiff then filed an appeal. In the appeal decision, the judge overturned the Brebes District Court's Decision Number 34/Pdt.G/PN.Bbs.

The debt dispute in Decision Number 124/Pdt/2022/PT.Smg is a dispute that began when the defendant borrowed money from the plaintiff in the amount of Rp. 200,000,000 with an agreement to be paid in full on January 25, 2016. On August 14, 2015, the defendant submitted SHM No. 03133 in the name of Defendant II as collateral. On the due date, namely January 25, 2016, the defendant was unable to fulfill his obligation to pay the debt, so the plaintiff asked the defendants to sign the deeds related to the transfer of the certificate in the name of the plaintiff, but the request was rejected by the defendant, so the plaintiff filed a lawsuit to the Brebes District Court. The Brebes District Court rejected the lawsuit, so the plaintiff filed an appeal in which the Semarang High Court overturned the Brebes District Court's decision.

According to the author, the decision is correct and fair, where the debt and receivable agreement between the plaintiff and the defendant with the private agreement is valid according to law so that it is binding on both parties. The defendant's debt, which was originally IDR 200,000,000, was adjusted to the current currency value so that when the lawsuit was filed, it was calculated at IDR 400,000,000. Bearing in mind that the legal relationship between the plaintiff and the defendant is a debt and receivable, where the defendant is the one who owes the debt, the defendant must pay the debt to the plaintiff in the amount of IDR 400,000,000 (according to the current value of money). Meanwhile, the certificate

handed over by the defendant to the plaintiff is as collateral for a debt, so the certificate must be returned to the plaintiff after the defendant pays the debt. Bearing in mind that the certificate is a guarantee and not a means of payment, it would not be appropriate if the plaintiff asked the defendant to immediately hand over the certificate and land and sign deeds of transfer of rights from defendant II to the plaintiff. Based on statutory regulations, if the defendant is in default, the certificate can be sold/auctioned, the proceeds of which can be used to pay the defendant's debt of Rp. 400,000,000, while if there is still a remainder, it becomes the right of the defendants.

Based on the above description, the resolution of debt disputes based on private agreements is in accordance with applicable laws and regulations. In the debt dispute, Decision 124/Pdt/2022/PT. Smg used private agreements, which are very common among the public. The public generally enters into debt agreements using only receipts, stamps, and the signatures of the parties, without the intermediary of public officials. The public generally enters into agreements solely based on trust.<sup>12</sup>

Private debt agreements do not have full legal force, but private agreements are recognized in the Civil Code. This is as regulated in Article 1320 of the Civil Code, which determines four conditions for a valid agreement. Judging from these four valid conditions, it can be interpreted that an agreement not made by and before a PPAT is still valid as long as the parties have agreed and fulfilled the elements in Article 1320 of the Civil Code. An agreement arises on the basis of an agreement, occurring because there is an intention from the people concerned, but in practice, the basis is the statement of will or intention.<sup>13</sup>

Furthermore, Article 1338 of the Civil Code states that a legally entered into agreement is valid as law for those who make it. The provisions of this article can be concluded that every agreement made privately by the parties is valid under applicable law/statute. Therefore, a private deed, which in a decision is in the form of a receipt, has strong legal force as a means of evidence, as long as the agreement is made in good faith and meets the requirements of Article 1320 of the Civil Code.<sup>14</sup>

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<sup>12</sup>Richard Cisanto Palit, *Kekuatan Akta Di Bawah Tangan Sebagai Alat Bukti Di Pengadilan*, *Lex Privatum*, Vol. III/No. 2, Apr-Jun/2015, p. 137.

<sup>13</sup>*Ibid.*

<sup>14</sup>*Ibid*

### 3.2. Judge's Considerations in Settling Debt Disputes Regarding the Validity of Private Debt Agreements in Decision Number 124/Pdt/2022/PT.Smg

The judge's consideration is an important aspect in determining the value of a judge's decision that contains justice and legal certainty. The judge's consideration must also be addressed carefully, well, and precisely so that it can benefit the parties involved in a decision. Judges in carrying out their duties to decide a case must be based on various considerations that are acceptable to all parties and do not deviate from existing legal rules, which is called legal considerations or legal reasoning. If the judge's consideration is not careful, good, and precise, then the decision derived from the judge's consideration will be overturned by the High Court/Supreme Court.<sup>15</sup>

The judge's consideration above, in the author's opinion, is correct. It can be seen that in his consideration, the judge has seen the legal fact that the main point of the lawsuit is the demand for fulfillment of rights and compensation for unlawful acts committed by the Defendants who are unwilling to sign letters, documents and deeds related to the process of transferring land rights as stated in SHM No. 03133 in the name of Defendant II, which according to Defendant II has been submitted to the Plaintiff as a means of paying a debt of Rp. 200,000,000. However, the Defendant argues that SHM No. 03133 in the name of Defendant II which was submitted to the Plaintiff by Defendant II is as a guarantee for a debt dated August 14, 2015 amounting to Rp. 200,000,000. - and not as a means of paying a debt that should have matured on January 25, 2016, but until now the debt has not been paid by Defendant II to the Plaintiff. Thus the legal relationship between the Plaintiff and Defendant II is a legal relationship based on the payment of a sum of money guaranteed by SHM No. 03133 in the name of Defendant II, so that it can be qualified as a loan. Considering that the due date for repayment is January 25, 2016, and after that date the defendant has not paid his debt to the user, the defendant's actions are qualified as a default as evidenced by the receipt and connected with the Defendant's admission that Defendant II owes the Plaintiff Rp. 200,000,000,- Considering that the due date for payment until the time the lawsuit was filed has changed the value of money, so that the debt is converted to US dollars or if converted to gold prices so that it becomes Rp. 400,000,000,-

The judge's considerations in calculating the conversion of a debt that had been unpaid for six years were based on the jurisprudence of the Supreme Court of the Republic of Indonesia, as stated in Decision No. 380/Sip/1975, and were also appropriate. This was considering that the debt in the case had not been paid by

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<sup>15</sup>Muh Iman, Pertimbangan Hakim Dalam Penyelesaian Kasus Hutang-Piutang Dalam Perspektif Hukum Adat (Studi Putusan NomoR: 94/ Pdt.G/2018/PN Btl), *Intelektualitas: Jurnal Penelitian Lintas Keilmuan*, Volume 1, Number 2, 2024, p.122



the defendant for six years, so it was appropriate to convert the monetary value to the current value, so as not to disadvantage the party providing the loan.

The judge's consideration stating that the defendant had defaulted was also appropriate, considering that in the agreement the defendant would pay off the debt as of January 25, 2026, but until the lawsuit was filed (2024) the defendant had not paid the debt. According to Article 1238 of the Civil Code, default is a condition where the debtor is declared negligent in relation to an order or similar deed or based on the power of the agreement itself. The elements of a default lawsuit include:

1. Not doing what was promised or not doing what was promised as stated in an agreement;
2. Does what is promised, but not as promised;
3. Doing what was promised, but exceeding the agreed deadline;
4. Doing something that according to the agreement is not allowed to be done.

Furthermore, according to the provisions of Article 1239 of the Civil Code, Every obligation to do something, or not to do something, must be resolved by providing compensation for costs, losses and interest, if one party does not fulfill its obligations. In decision No. 142/Pdt/2022/PT.SMG, based on legal facts, it was found that the defendant failed to fulfill his promise or did not fulfill what was promised as stated in the agreement, thus being deemed a breach of contract. Therefore, the judge's consideration in the decision, which ordered the defendant to pay the plaintiff his debt along with the change in the monetary value, was appropriate.

The judge's consideration regarding SHM No. 03133 in the name of Defendant II who argued that the certificate is a guarantee for the defendant's debt to the plaintiff, so it cannot be immediately transferred to the plaintiff but must follow the applicable legal procedures is correct. Where the judge is of the opinion that in the execution of collateral objects, a sale/auction can be carried out. Thus, if the collateral is sold and a reasonable price is obtained, the sale money can be used to pay the debt, while the remainder becomes the defendant's right.

The judge's considerations in decision 124/Pdt/2022/PT.Smg have Based on the legal facts revealed in the trial, the judge referred to the statutory regulations, namely the HIR/KUHAP, the Judicial Law and jurisprudence; philosophical, juridical and sociological aspects; aspects of justice, legal certainty and benefit as well as evidence and arguments presented by the plaintiff and defendant.



#### 4. Conclusion

The resolution of the debt dispute regarding the validity of the private agreement in Decision Number 124/Pdt/2022/PT.Smg reflects justice. The judge's considerations were appropriate, based on the legal facts revealed in court, referring to statutory regulations; philosophical, juridical, and sociological aspects; aspects of justice, legal certainty, and expediency; and the evidence and arguments presented by the plaintiff and defendant. Going forward, judges should thoroughly explore and examine the legal facts revealed in court to render a just decision for the disputing parties.

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