

Legal Responsibility Towards Cust Omersexperiencing Bad Debt at PT. Bank BJB Plered

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Abstract. *The aim of the research is to find out and analyze about legal responsibility towards customers who experience bad debts at Bank BJB Plered and to find out and analyze efforts to resolve bad debts of customers at Bank BJB Plered. The approach method that will be used in this research is the method qualitative approach, qualitative data method is a research method that produces analytical descriptive data, namely what is stated by respondents in writing or verbally and also their real behavior, is researched and studied as a whole. The research results illustrate a common situation in the banking world, particularly in the credit sector. When a bank grants a loan to a debtor, there is a risk that the debtor will not fulfill the obligations agreed upon in the credit agreement. When a debtor fails to pay or fulfills their obligations within the agreed timeframe without a legally acceptable reason, this is referred to as "default." In the event of default, the bank, as the creditor, has the right to take legal action against the debtor. From a civil law perspective, current economic developments increasingly emphasize the important role of banks as financial institutions with a strategic role in maintaining economic stability and growth. Banks' primary task is to collect funds from the public in the form of deposits and then distribute them back to the public, including entrepreneurs, through credit.*

Keywords: *Bad Debt; Debtor's Responsibility; Default.*

1. Introduction

The role of the banking sector is very important in collecting public funds and channeling them for equitable development, economic growth, and national stability.¹ When providing credit facilities, collateral is essential for the security of the loan. A loan guarantee from the customer to the bank is a supplementary measure designed to protect installment payments from being disrupted by an accident.² In credit agreements and the credit granting process, we need binding rules that can protect the parties involved in making disbursements and guarantees in the credit agreement deed, in order to reduce the risk incurred by the debtor if they default and/or do not fulfill their obligations in paying off their debts.³

For creditors who have suffered losses due to the debtor's default, they can resolve the matter non-litigationally through parate execution or through arbitration, as well as through litigation through the courts in the form of real execution.⁴ Bank Bjb Plered also stipulates that the implementation of financing restructuring, in addition to paying attention to sharia principles, must also comply with the principle of prudence and is obliged to maintain and take steps so that the quality of financing after restructuring is in a smooth condition.⁵ Contracts are also generally based on the principle of freedom of contract, where both parties have the freedom to determine the contents of the agreement.⁶, as long as it does not conflict with the law, public order, or morality.

Default is not fulfilling obligations as stipulated in a contract or agreement. Failure to fulfill obligations in an agreement can be caused by two things, namely the debtor's mistake, whether intentional or due to negligence, and due to force majeure.⁷ This research aims to analyze credit liability within the context of the legal relationship between lenders and borrowers, particularly in the Islamic banking sector. Credit or financing is a crucial instrument for driving economic growth, but it also carries the risk of default, leading to bad debts. Bad debts are

¹Peranan Bank dalam Perekonomian Suatu Negara, <http://direktoritraining.com/peranan-bank-dalam-perekonomian-suatu-negara/>, accessed on February 5, 2023, at 1:12 PM WIB

²Heru Kristyana, "Restrukturisasi kredit," <http://www.liputan6.com>, accessed on December 1, 2020.

³Ratnaningtyas, Heny. "Pengaruh Return on Equity, Current Ratio Dan Debt To Equity Ratio Terhadap Harga Saham." *Jurnal Proaksi* 8, no. 1 (2021): 91-102.

⁴Si Pokrol, *Perbuatan Melanggar Hukum atau Wanprestasi*, <https://www.hukumonline.com/klinik/a/perbuatan-melanggar-hukum-atau-wanprestasi-cl2028>, accessed February 4, 2023, at 22.15 WIB.

⁵Namira Tasim, (2017). "*Strategi Dalam Menangani Pembiayaan Bermasalah Pada Masa Pandemi Covid-19 Tahun 2020 pada BPRS Bhakti Sumekar Kantor Cabang Jember*", (Skripsi : Universitas Kiai Kaji Achmad Siddiq).

⁶Djoni S. Gazali & Rachmadi Usman, (2016). *Hukum Perbankan*, Jakarta : Sinar Grafika, p. 242

⁷Djaja S. Meliala, (2012). *Hukum Perikatan dalam Prespektif BW*, (Bandung: Nuansa Aulia), p. 175.

not only a financial problem but also raise legal issues regarding the rights and obligations of the parties involved.

Overall, the legal responsibility of Islamic banking for bad debts is not only limited to collecting customer obligations, but also includes the obligation to restructure financing, maintain good relations with customers, and ensure dispute resolution in accordance with positive law and banking principles.

2. Research Methods

This research is a method qualitative approach, qualitative data method is a research method that produces analytical descriptive data, namely what is stated by respondents in writing or verbally and also their real behavior, is researched and studied as a whole.⁸

3. Results and Discussion

Hans Kelsen's definition of responsibility is that responsibility is closely related to obligations arising from the existence of legal certainty that regulates and imposes obligations on legal subjects. Legal subjects burdened with obligations must fulfill those obligations as mandated by the legal rules. Failure to fulfill these obligations will result in sanctions. These sanctions are coercive measures imposed by the legal rules to ensure that obligations are properly carried out by legal subjects. Legal subjects subject to these sanctions are said to be "Responsible."

Such responsibility can also be said to be legal responsibility, because it arises from the command of legal regulations/statutes and the sanctions given are also sanctions stipulated by law, therefore the responsibility carried out by legal subjects is legal responsibility.

Credit is an integral part of bank credit management, as it represents the risk banks face in conducting their banking business. Nearly all banks have non-performing loans, and in some cases in Indonesia, these credit problems have even resulted in the closure of several banks. As a business institution operating on a macro scale, banks must be able to minimize these non-performing loans to maintain public trust in the banking system.⁹

If a debtor continues to experience financial difficulties or faces bankruptcy, there are several steps that can be taken to address the situation.

⁸Soerjono Soekanto, (1998), *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta : Raja Grafindo, p. 12.

⁹Ade Erthesa & Edia Handiman, (2006). *Bank dan Lembaga Keuangan Bukan Bank*, Jakarta : PT. Indek Kelompok Gramedia, p.181

The transfer of obligations from the testator to the heir is based on the provisions in Article 833 and Article 955 of the Civil Code that an heir or person who is called to inherit, by law obtains all the rights and obligations of the testator, without the heir having to do anything, even if the heir is not aware of this.¹⁰

In applying bad debt resolution theory, several legal and economic theories can be used to inform the resolution steps taken by financial institutions or creditors. The following are some relevant theories and how they can be used in bad debt resolution:

In the context of civil law, legal responsibility is closely related to the concept of rights and obligations. Article 1313 of the Civil Code explains that an agreement creates rights and obligations for the parties. If one party to the agreement fails to fulfill its obligations (default), the injured party has the right to seek legal redress. In this case, legal responsibility arises from the contractual obligations agreed to by the parties, in accordance with applicable legal norms.

One important implication of legal certainty is that it encourages individuals to act responsibly. Knowing that certain actions will have clear legal consequences makes individuals more likely to follow the rules. In this regard, legal certainty also serves as a tool for creating social stability and maintaining peace within society.

Granting credit requires a valid agreement between the bank (as creditor) and the customer (as debtor). This agreement is known as a credit agreement.¹¹

Default, which comes from Dutch, means "bad performance,"¹² refers to the failure of the debtor to fulfill his obligations as agreed in the credit agreement. To determine whether a debtor is guilty of a breach of contract or not, there are four forms of default., among others:¹³

- 1) **Not Meeting the Achievements at All:** The debtor does not make any payments or fulfill the obligations agreed upon in the agreement.
- 2) **Late in Fulfilling Achievements:** The debtor makes payments, but not on time according to the schedule specified in the agreement, thus causing delays.
- 3) **Performing Not As Expected:** The debtor fulfills his obligations, but not in accordance with the terms or methods agreed upon in the agreement. For example, payment does not correspond to the specified amount or is made in an inappropriate manner.

¹⁰Maman Suparman, *Op.Cit.*, p. 69. Lihat juga J.Satrio, 1992, *Hukum Waris*, Bandung : Alumni, p. 313.

¹¹Wirjono Prodjodikoro, (2011), *Asas-asas Hukum Perjanjian*, Jakarta : CV. Mandar Maju, p. 4

¹²Subekti, (1987), *Hukum Perjanjian*, Jakarta : PT. Intermasa, p. 45

¹³Ridwan Syahrani, (2004), *Seluk Beluk dan Asas-Asas Hukum Perdata*, Bandung : Alumni, p. 95

4. Conclusion

This study concludes that banks are required to conduct a thorough risk analysis before granting credit, ensuring that customers have the ability to repay the loan. After the credit is granted, banks must regularly supervise and monitor customers to ensure smooth installment payments. If a bad loan occurs, banks must try to find a solution with the customer, such as credit restructuring or re-agreeing on payments. Meanwhile, customer responsibility is responsible for fulfilling payment obligations in accordance with the agreed credit agreement. Failure to pay on time can result in legal action. If a customer is unable to pay installments, the customer is required to report their financial condition to the bank and try to find a solution with the bank through negotiation or mediation. Banks toolt is likely that initial monitoring will be conducted on customers suspected of experiencing financial difficulties. This effort aims to detect problem loans early before they become non-performing loans. Educating customers about good financial management and responsible loan management is also an important preventative measure in reducing the risk of non-performing loans. Credit Restructuring: One common effort is to offer credit restructuring to customers. Restructuring can take the form of extending the loan term.

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