

Law Termination of Default on Credit of Guna Bhakti

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Abstract: Credit Activities for Bhakti, the BJB Bank has procedures that must be taken when applying for credit. The procedure was intended as a guideline for the BJB Bank in carrying out the Guna Bhakti lending process so that the implementation of credit activities is as planned. BJB Bank in distributing its credit applies the principle of prudence with the aim to reduce the risk of the emergence of non-performing loans (Non-Performing Loans) which can occur at any time. The aim was to find out the statutory arrangements for the implementation of granting credit for community service associated with legal services, due to legal defaults on loan agreements for devotional service and how responsible for the Province of North Sumatera education service was for bail out loans. This type of research uses empirical juridical and this research was analytical descriptive. Sources of Legal Materials used are primary, secondary and tertiary legal materials. The data collection technique was used library research and the researcher also conducts interviews. Data analysis was carried out in a qualitative way. The results of the study are the legal provisions for granting credit for community service associated with legal services including Article 1754 to 1769 Civil Code, Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking and Law Number 21 of 2011 concerning the Financial Services Authority. The legal consequences of default on credit for devotional service are the responsibility of the provincial education service based on corporate guarantee. The responsibility of the agency was in the form of efforts to collect or deduct salary from the defaulter debtor.

1 INTRODUCTION

Banking loans were channeled by banks to the public in accordance with their main function of collecting and channeling public funds. In the implementation of the provision of bank credit, it was usually associated with various requirements (M. Bahsan, 2007). Lending to debtors was based on trust. The bank believed that credit that has been given to debtors will be returned at a later date when the credit was due, in accordance with the conditions written in the credit agreement (loan principal, loan interest, credit period, maturity date, etc.) (Supriyono, 2011). If the credit disbursed experiences a bottleneck, the steps taken to save the credit are various. It was said to be various because we saw the cause first. If it could still be helped, then the action to help was either by increasing the amount of credit or by extending the period of time (Abdullah, 2013).

Credit according to the Banking Law Number 10 of 1998 was the provision of money or equivalent claims, based on a loan agreement or agreement

between the bank and another party which required the borrower to pay off its debt after a certain period of time by giving interest. Almost all banks provide credit facilities, one of which was PT. Jawa Barat and Banten Regional Development Bank, Tbk Medan Branch (BJB Bank). As a business entity that has an important role on the economic growth of a country and contributes greatly to the traffic of payments and the allocation of funds, PT. The West Jawa and Banten Regional Development Bank, Tbk Medan Branch provides several credit facilities which are concurrent with several credit products, one of which was the Guna Bhakti Credit. Guna Bhakti Credit was one of the credit products provided by BJB Bank which was intended for Civil Servants, privated employees of state-owned enterprises and the Indonesian national army. Deposit insurance amplified the impact of rising crop prices on bank portfolios, while higher minimum capital requirements dampened the effects. Banks that responded most aggressively to the asset boom had a higher probability of closing in the bust, and counties with more bank closures

experienced larger declines in land prices (Jaremski, 2020).

In Guna Bhakti Credit activities, Bank BJB has a procedure that must be followed when applying for credit. This procedure was intended as a guideline for BJB Bank in carrying out the process of providing Guna Bhakti credit so that the implementation of credit activities was as planned. BJB Bank, in channeling its loans, applies the principle of prudence with the aim of reducing the risk of non-performing loans which can occur at any time.

Guna Bhakti Credit also has a procedure that can support the smooth distribution of credit itself. In implementing the procedure, before credit was given to a prospective customer, the bank was supposed to carry out a credit analysis. This credit analysed was useful so that the credit to be given to the customer was truly safe and falls into the right hands of the customer. One of them was Guna Bhakti Credit. Guna Bhakti Credit was one of the credit products provided by BJB Bank which was primarily intended for Civil Servants.

In Guna Bhakti Credit activities, Bank BJB has a procedure that must be followed when applying for credit. The provision of this Guna Bhakti Credit facility requires a prior cooperation agreement with the agency or service where the prospective debtor works. One of them was a cooperation agreement between PT. Regional Development Bank of West Jawa and Banten, Tbk Medan Branch with the Education Office of North Sumatra Province (Provincial Education Office) with multipurpose purposes. Guna Bhakti Credit was a financing provided by the Bank for fixed-income debtors whose salaries have been channeled through the Bank and/or where the debtor works and has a cooperation agreement with the Bank where the source of return comes from employee salaries which are used for consumptive purposes.

Based on the fact that there is an imbalance of bargaining position of the parties. Although the agreement has put forward the principle of freedom of contract. Freedom of contract is based on the assumption that the parties to the contract have a balanced bargaining position, but in reality the parties do not always have a balanced bargaining position (Pakpahan, 2017). This was very clearly written into the Employment Law. That moral outrage should be its own emphatic remedy, and a philosophically informed approach to judicial interpretation requires expressions of moral outrage from the bench to address ongoing injustice or the threat of injustice directed at vulnerable

communities such as women and religious minorities in the current political climate (Rudolph, 2020). First, both equity-based compensation and debt-like compensation induce risk-taking behavior by the executives. Secondly, the correlation between both the form of the compensation and the CDS spread was weakened in a high information asymmetry environment. Lastly, this study finds that a CFO's compensation has more influence on the CDS spread, compared to the other board executives, but this condition only occurs when the compensation was awarded in the form of debt-like compensation. To improve the generalization of the results, a further study may consider expanding the sample into several countries (Meizaroh, 2019).

On the process of providing credit, it was expected that there will be communication between the BJB Bank and customers who will applied for credit. One of the efforts to establish this communication was the process of providing credit which was supported by the participation of the customer by fulfilling various credit requirements in accordance with the provisions imposed by Bank BJB. For this reason, it was necessary to have good cooperation in carrying out the Guna Bhakti credit process between the bank and the debtor so that the Guna Bhakti credit process runs smoothly. Credit risk moderation on the loan relation and intellectual capital with profitability. The sample selection technique used purposive sampling method and data analysis used moderated regression analysis. The results show that loans have a positive effect on profitability, intellectual capital has a positive effect on profitability, and credit risk moderates the effect of loans and intellectual capital on profitability (Erzha, 2019).

In this cooperation agreement, there was an agreement clause that has been agreed between the two parties, namely PT. Regional Development Bank of West Java and Banten, Tbk Medan Branch with the Education Office of North Sumatra Province. In order to ensure that the Guna Bhakti Credit loan installments come from employee salaries and anticipate possible risks that may arise as a result of company / agency policies, the Guna Bhakti Credit service must be supported by a Cooperation Agreement between PT. Regional Development Bank of West Jawa and Banten, Tbk Medan Branch with the Education Office of North Sumatra Province.

The contents of the Cooperation Agreement include statements and guarantees, rights and obligations, responsibilities and authorities of each party, terms and procedures for Guna Bhakti Credit.

With the signing of the Cooperation Agreement by the Branch Manager of PT. West Jawa Regional Development Bank and Banten, Tbk Medan Branch as the first party, with an official who has the authority by the North Sumatra Provincial Education Office, as the second party. In this case the first party was willing to provide Guna Bhakti Credit facilities to employees at the Education Office of North Sumatra Province, the second party who meets the terms and conditions set by the first party. Law has three tools at hand to govern contract's social cost: delineating subject matter about which parties can bargain, interacting with parties as a regulator, and, finally, interpreting and reforming in court. Post-hoc consideration of social costs was the least well-known, and most unsettled, mode of governing contract externalities. We ground that technique in its history as a specialized application of the law of contract public policy. Practically, this Essay advises parties negotiating whether and how to perform to consider the public's health, since history teaches that, at least some of the time, courts will too (Hoffman, 2020).

Extension of the subpoena power that agencies like the SEC, FTC, and EPA possess and was the lynchpin of a system that depends on private litigants to enforce our most important statutes. By forcing parties to disclose large amounts of information, discovery deters harm and, most importantly, shapes industry-wide practices and the primary behavior of regulated entities. This approach has a vast array of implications for the scope of discovery as well as the debate over costs. Scholars and courts should thus grapple with the consequences of what I call "regulatory discovery" for the entire legal system (Zambrano, 2020).

The existence of rights and obligations in the Cooperation Agreement contains the same meaning as the provisions in Article 1338 of the Civil Code, which states that "all agreements made legally are valid as law for those who make them". The agreement cannot be withdrawn other than with the agreement of the two parties, or for reasons determined by law. So that these provisions bind the bank as the creditor to exercise their rights and obligations. The parties of PT. The Regional Development Bank of West Java and Banten, Tbk, Medan Branch with the Education Office of North Sumatra Province have agreed and agreed to make and sign a cooperation agreement for the provision of Guna Bhakti Credit facilities.

Find that estimated coefficients for a minimal set of theoretical determinants of default risk are consistent with theory and are significant

statistically and economically. Volatility and leverage have substantial explanatory power in univariate and multivariate regressions. A principal component analysis of residuals and spreads indicates limited evidence for a residual common factor, confirming that the theoretical variables explain a significant amount of the variation in the data (Jan, 2009).

Investors, who hold the economy's capital stock, own the firms and supply credit, and workers, who supply labor and demand credit to finance consumption. Furthermore, workers condition their consumption choice on the investors' level of consumption. We estimate the model and find a significant keeping up mechanism by matching business cycle statistics. In reproducing credit moments, our proposed model significantly outperforms a model version in which we abstract from consumption externalities (Mathias, 2020).

Access to the unfair dismissal jurisdictions of industrial tribunals was now so limited that most employees and employers are returned to the position before awards gave unfair dismissal protection, and laws were enacted to ameliorate the inadequacies of the common law. This article analyses the changes and contends that federal law was 'back to the future' for unfair dismissal, and predicts a return to reliance on contract law and other remedies (Pittard, 2008). The Education Office of North Sumatra Province was willing and able to provide a Corporate Guarantee for the provision of credit facilities by PT. Regional Development Bank of West Java and Banten, Tbk Medan Branch, as referred to in Article 1 number 6 of this agreement. The content of Article 1 point 6 of the Corporate Guarantee was the availability of the North Sumatra Provincial Education Office to ensure the smooth payment of loans to Bank bjb Medan Branch by prioritizing salary deductions for employees who are debtors of Bank bjb Medan Branch for installment payments to Bank bjb Medan Branch based on a credit agreement between Bank bjb Medan Branch and employees outside of pieces related to employment. Guarantee to give priority to the deduction of the rights obtained by employees in the event of termination of employment or other consequences that result in termination of employment in accordance with statutory regulations. The guarantee provided does not eliminate the obligation of giving the employee power of attorney to the North Sumatra Provincial Education Office in deducting the rights obtained by employees upon termination of employment relations.

The difference in this research was how the legal perspective between the cooperation between a private bank, namely BJB bank, in cooperation with an education office of the province of North Sumatra. Which then was the legal consequence of the default against the parties.

2 RESEARCH METHODS

This research uses empirical juridical method as a research method. That was, analyzing the rules that apply to the arrangements that occur in the field. For the circumstances in the study, an interview method was also carried out as an additional material that strengthened the power of the test of whether the legal consequences of failing for payments between bank bjb and the Education Office of North Sumatra Province were prepared.

In this study, taking data from the BJB bank that has collaborated with the North Sumatra Provincial Education Office in the service credit sector. Especially in data collection through the interview method and how the laws and regulations in the company environment have different impacts, thus giving rise to new enforcement of existing regulations.

3 RESEARCH RESULTS AND ANALYSIS

3.1 Legislative Regulations on the Implementation of Credit for Service Related to Legal Services

The legal force in the Cooperation Agreement according to the provisions of Article 1338 paragraph (1) of the Civil Code was an agreement made legally by both parties in this agreement, so that the agreement was validated as law for both the creditor (bank) and the second party in the agreement. It acts for and on behalf of the agency / company of the debtor or civil servant concerned. The agreement cannot be withdrawn other than by the agreement of the two parties, or for reasons determined by law. The agreement in the above agreement contains an important consensual principle in the credit agreement.

The validity of an agreement as contained in Article 1320 of the Civil Code was a condition for the validity of an agreement where the agreement was one type of agreement. According to Article

1321 of the Civil Code, it states that if an agreement contains errors, coercion and fraud, it means that there was a defect in the agreement between the parties and therefore the agreement can be canceled. According to Article 1329 of the Civil Code, it states that everyone was capable of making an engagement, unless the law states that the person was incapable, people who are incapable of making an agreement are minors and those who are placed under pardon.

According to Article 1333 BW the goods which become the object of an agreement must be certain, at least the type must be determined, while the amount does not need to be determined, as long as it can be determined or calculated later. Article 1335 BW states that an agreement without cause, or that has been made due to false or prohibited causes has no power. False causes can occur when a cause does not correspond to the actual or simulated cause. The cause may also have been mistaken. Thus, what matters was not what was stated as the cause, but what was the actual cause. The definition of a lawful cause was not what causes the agreement, but the content of the agreement itself. The contents of the agreement may not conflict with the decency law or public order according to Article 1337 of the Civil Code.

In the process of granting a credit agreement before an agreement occurs, the customer must apply for a credit which was completed with conditions. After the agreement, there will be legal consequences that result in rights and obligations between the two parties. The bank was only bound and obliged to provide credit for debtors and debtors who are entitled to use the credit they receive from the bank for credit purposes and up to a specified date. The debtor was required to pay off all his loans including interest, fines and interest in arrears as well as other fees charged by the Bank to the debtor no later than the end date of this Agreement.

The credit agreement between the debtor and creditor was stated in the credit agreement. The credit agreement contains the rights and obligations of debtors and creditors. The credit agreement was expected to make the parties bound by the agreement fulfill all of their obligations properly. However, in the credit agreement there are times when one party does not fulfill the agreement according to what has been mutually agreed. The bank must have confidence that the debtor can repay the debt according to the time limit specified in the credit agreement. To obtain this assurance, before extending credit, a bank must make a careful assessment of the nature, ability, capital, collateral

and guarantee of the agency. This was done to reduce the risk of bad credit which can affect the health of the bank.

Banks are only bound and obliged to provide credit for debtors and debtors who are entitled to use the credit they get from the Bank for credit purposes. Meanwhile, the debtor was required to pay off all his / her credit including interest, fines and arrears and other fees charged by the Bank to the debtor not later than the end date of this Agreement.

Both the process of implementing the Guna Bhakti Credit agreement at PT. West Jawa Regional Development Bank and Banten, Tbk Medan Branch with debtors and a cooperation agreement made between PT. The West Java and Banten Regional Development Bank, Tbk Medan Branch with the Education Office of North Sumatra Province was a standard contract, in which the contents or clauses of the bank credit agreement have been standardized and set forth in a form (blank), but not bound to some form (Vron vrij).

3.2 Legal Consequences of Default on Guna Bhakti Credit between BJB Bank and the North Sumatra Provincial Education Office

The legal consequences of default against credit for non-compliance between BJB Bank and the provincial education office and agency accountability for debtor default include:

1. Default occurs due to negligence on the part of the debtor

Based on article 1238 BW the debtor was negligent, if he by means of a warrant or with a similar deed has been declared negligent by the expiration of the specified time. Determination of default was a letter of warning from the creditor to the debtor with the aim of notifying when the debtor must meet his performance at the latest. When there have been repeated summons / reprimands, the debtor still does not want to meet the mutually agreed achievements, then he must bear all the adverse consequences caused by not fulfilling the achievements (Wulandari, 2016).

Debtors who get credit from the bank are not entirely able to return the credit at the agreed time. In fact, there are always some debtors who for some reason cannot return credit to the bank that has provided the loan. As a result of the debtor being unable to pay off his debt, the credit trip stops or was negligent. To be clear, what was called default was a

condition in which a debtor was unable to pay off a bank credit on time.

After the PT. The West Jawa and Banten Regional Development Bank, Tbk Medan Branch has delivered an amount as agreed in the Guna Bhakti Credit agreement, so since then the debtor has the obligation to pay off the credit in accordance with the amount and period of installments and interest as agreed. However, due to various factors the debtor did not fulfill his obligations, resulting in the credit given to the debtor to become non-current credit, doubtful and even negligent in payment. Thus the debtor in this case was in default as agreed

Fulfillment of achievements was the essence of an agreement. The obligation to fulfill the achievements of the debtor was always accompanied by responsibility, meaning that the debtor was risking his assets as a guarantee for the fulfillment of his debt to the creditor (Khairandy, 2014). The debtor was said to be in default if the debtor does not carry out his performance, where this achievement was not carried out due to the debtor's error either on purpose or due to negligence, and all of these can be blamed on him (Khairandy, 2014).

The debtor's action of not carrying out his obligations was a form of default of not doing what he was determined to do as agreed. However, to state that a debtor has defaulted was not necessarily based on the fact that the debtor has not carried out his obligations in accordance with what was agreed as agreed. Article 1243 of the Criminal Code stipulates that claims for default of an agreement can only be made if the debtor has been warned that he has neglected his obligations, but then he continues to neglect it.

In the provisions of Article 1238 of the Civil Code, it determines that the debtor was negligent, if he has been declared negligent by means of a warrant or with a similar deed, or for the sake of his own engagement, this was if this stipulates that the debtor must be considered negligent by the expiration of the specified time. From the provisions of Article 1238, one of the ways to declare a debtor was negligent can be done in the form of a similar deed or what was known as a summons.

2. The legal consequence of default was not as promised

The provision of credit by banks was based on

an agreement. Since the Guna Bhakti Credit agreement has not been specifically regulated, the principles and principles of agreement law in civil law apply when entering into a Guna Bhakti Credit agreement. When a debtor was about to apply for a credit, the debtor must pay attention to the clauses contained in the Guna Bhakti Credit agreement. In Guna Bhakti Credit agreements with banks, there was usually a standard clause. This was not prohibited because of the precautionary factor implemented by the bank but sometimes it does not match the expectations of the debtor. In addition, it must be remembered that banks are also looking for benefits from providing Guna Bhakti Credit through debt interest that must be paid by the debtor (borrower) to the bank.

The Guna Bhakti Credit Agreement was expected to make the parties bound by the agreement fulfill all of their obligations properly. However, in the loan-borrowing agreement, there are times when one of the parties does not fulfill the agreement according to what has been mutually agreed. A credit agreement was a principal agreement that regulates the rights and obligations between a creditor and a debtor. The Guna Bhakti Credit Agreement was also one very important aspect of providing Guna Bhakti Credit.

However, in reality it does not always run smoothly and well, because at one time, whether intentionally or not, the debtor who received the credit made a default so that PT. The Regional Development Bank of West Jawah and Banten, Tbk Medan Branch was having difficulty asking for the loan repayment installments. The emergence of default was influenced by various factors, these factors, namely because the income was reduced, the treasurer was unable to directly cut salaries due to external policies, bad faith from the debtor and so on, resulting in the debtor being unable to perform within a predetermined period of time. The occurrence of default was indeed due to factors from the human person not to and / or being able to fulfill the achievements that have been promised was also one of the contributing factors (Interview with Adrianus Ulun who serves as branch leader of PT. Bank Pembangunan Daerah Jawa Barat and Banten, Tbk, 2019).

3. Default occurs due to weak credit supervision on the part of the bank

As an effort to prevent potential non-performing loans, the existing credit supervision system at PT. The Regional Development Bank of West Jawah and Banten, Tbk Medan Branch has become a good system to prevent potential problem loans. The aspects that are monitored cover all aspects that exist in the provision of credit, namely aspects of internal supervision, legal supervision which refers to debtor supervision, and aspects of supervision of credit quality, namely referring to the collectability of loans. Credit supervision techniques applied by PT. The Jawah Barat and Banten Regional Development Bank, Tbk Medan Branch was also a good supervisory technique, which was not only supervising externally but also internally and not only in the form of administrative supervision but also direct supervision in the field. Credit supervision at PT. The Regional Development Bank of West Jawah and Banten, Tbk, Medan Branch was also carried out with a good mechanism, which was carried out from the credit planning stage to the evaluation of the credit provided, so that credit supervision was present in every stage of credit and is well structured. In addition, credit supervision at PT. The Regional Development Bank of West Jawah and Banten, Tbk, Medan Branch was more complete with the existence of internal control as a form of internal credit supervision which aims to avoid the abused of power of every official involved in providing credit (Interview with Adrianus Ulun who was the Branch Manager of PT. Regional Development Bank of West Java and Banten, Tbk Medan Branch, 2019).

The implementation of this supervisory function was the responsibility of each level of management or each individual who manages activities in the credit sector at each bank or branch. So that in essence, credit supervision activities are inherent in the organization and existing work procedures that are managed by each management / individual level.

Weak supervision from an early age, that was, since the credit was given a decision by an authorized bank official. In the case that supervision was absolutely necessary, especially when the Guna Bhakti Credit was already in the hands of the customer,

monitoring must be carried out regularly. Supervision of each Guna Bhakti Credit that will be provided to debtors related to certain large banks and debtors. Whether the provision of Guna Bhakti Credit was in accordance with the provisions outlined in the main policy for distributing Ghuna Bhakti Credit and the provisions outlined by the central bank government (Interview with Adrianus Ulun who was the Branch Manager of PT. Bank Pembangunan Daerah Jawa Barat and Banten, Tbk Medan Branch, 2019).

Debtor supervision was very important. Credit officers can evaluate the creditworthiness of the credit that has been granted, debtor supervision policies, including the smoothness of installments using the payment history form and debtor collectability. In addition, banks also make efforts to prevent the possibility of further losses on non-current loans. One of the risks faced by banks in providing Guna Bhakti Credit was bad credit. Therefore, monitoring of non-performing loans must still be carried out in accordance with the action plan. Credit rescue was carried out by a special division for restructuring, which was one of the bank's efforts to generate credit so that debtors can fulfill their obligations according to their abilities.

3.3 The Responsibility of the North Sumatra Provincial Education Office for the Guna Bhakti Credit Default

The cooperation agreement that occurred between the PT. The Regional Development Bank of West Jawa and Banten, Tbk Medan Branch with the Education Office of North Sumatra Province, in practice sometimes it does not go according to the wishes of the parties. These credit agreements can create unwanted problems. Default was considered as a failure to carry out the agreed promise because the debtor does not fulfill the obligation without reasons that can be accepted by law. It can be said that it does not fulfill the achievement at all; cash holdings meet the achievement; being late in fulfilling achievement was wrong to fulfill achievement. Since when a debtor was said to be in default. This issue was very important because default has certain legal consequences for the debtor concerned. Negligence or failure was a situation that occurs because one party does not fulfill its obligations or allows a situation to take place in such a way (non-performance), so that the other party was unfairly disadvantaged because it cannot enjoy its

rights based on a mutually agreed contract. Because of this, usually default was actively formulated in the sense that default occurs when the obliged party does not carry out its obligations or passively by allowing conditions (which should have been prevented) as defined in certain provisions (Kusumohamidjojo, 2001). Usually reflected in the clauses contained in the agreement between creditors and debtors.

Based on the results of the research, the agency's responsibility for debtor defaults was not carried out significantly by the Provincial Education Office because the corporate guarantee in the clause in the cooperation agreement was not made specifically which explained in more detail and steps that had to be taken including the obligation of the provincial education office if the debtor was an employee in the agency committed default. In addition, it was also found that the head of the department has limited authority regarding changes in external policies which resulted in the treasurer being unable to cut employee salaries to be deposited with the Bank according to the cooperation agreement.

4 CONCLUSIONS

The statutory arrangements either in the Civil Code or the Banking Law clearly regulate the law of agreements including credit agreements. In the credit agreement for bhakti rights, it has fulfilled the legislation. The rights and obligations of the parties based on credit for service are set forth in the form of a standard contract which results in finding weaknesses in the agreement clause where the Corporate Guarantee clause does not clearly explain the obligations of the provincial education office as a basis for the service's consideration to be responsible for defaults and also for the interests of the Bank. in asking for official responsibilities.

The legal consequence of default on credit for devotion between Bank BJB and the Provincial Education Office results in the Agency having to take responsibility due to the existence of a cooperation agreement that underlies the credit for service.

The responsibility of the education office for defaulting debtors was in the form of taking part in the efforts deemed necessary so that the default debtor can meet his performance again, such as making summons, warning letters, efforts to withhold salaries or allowances and other income for installment payments to BJB Bank.

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