

Construction of Non Performing Loan Settlement at State Owned Bank (Bank BUMN) Post of Revocation of Authority of the State Receivable Affairs Committee (PUPN)

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Abstract

The problem of bad credit is inevitable in the banking business. Although anticipation with pre- and post-credit risk management has been carried out as well as possible, good credit performance may not necessarily be achieved. Because the operational reality of the banking industry is subject to the dynamic performance of debtors from time to time in the tenor of their debt. This paper will review how the construction of bad credit management in state-owned banks, after the decision of the Constitutional Court number 77/PUU-XIX/2011, where the extension and role of PUPN no longer exists in the structure of bad credit management at the state-owned bank. This means that the banking sector has absolute sovereignty to solve the NPL problems it faces. This research is a literature study, which will qualitatively analyze that reality with secondary sources. From the results of the study, it can be concluded that (1) State-owned banks have full sovereignty in the settlement of bad loans, (2) Banks must strengthen risk management, without compromising the achievement of sales targets, (3) Settlement of bad loans in order to prioritize a win-win solution between debtors and creditors by adhering to the principle of justice.

Keywords

construction; bad credit; bank; BUMN; authority



I. Introduction

The banking industry is very lucrative in terms of profit, so it is not surprising that in this country there are so many industrial players engaged in this field. The banking industry is mostly owned by the private sector and the state or state-owned enterprises. In general, what is meant by a banking institution is a financial institution that acts as an intermediary between parties who have excess funds (surplus of funds) and parties who need funds or lack funds (Hermansyah, 2011). Today's society will only choose a bank that is healthy and has a high level of liquidity to store their funds. Various criteria that guide a risky business or not are the bigger the business, the higher the risk, the more specific the business field, the higher the risk, the greater the investment in working capital, the higher the risk when compared to businesses that invest in capital goods. and capital-intensive businesses in developing countries will have a greater risk than those with a lot of exertion.

One of the bank's functions is the provision of credit. Financial performance is a measuring instrument to know the process of implementing the company's financial resources (Ichsan, R. et al. 2021). According to the Big Indonesian Dictionary, the definition of credit is a loan of money with a certain amount permitted by a bank or other financial institution. Meanwhile, Article 1 point 11 of the Banking Law is formulated that credit is the provision of money or an equivalent claim, based on an agreement or loan agreement between a bank and another party which requires the borrower to repay his debt

after a certain period of time by granting a loan. flower. Based on the above understanding, it shows that the achievements that must be made by the debtor on the credit given to him are not merely paying off the debt but also accompanied by interest according to the previously agreed agreement (Hermansyah, 2011).

The Ministry of Finance has 2 (two) organizational units tasked with managing state receivables, namely the Committee for State Receivable Affairs (hereinafter referred to as PUPN) and the Directorate General of State Assets (hereinafter referred to as DJKN). The Head of the Regional DJKN Office in the region will automatically serve as the Head of PUPN. Under the DJKN Regional Office, there is an operational office, namely the Office of the State Assets and Auction Service (KPKNL). DJKN as a unit for managing state assets has various duties and functions, namely carrying out the management of State Property, Separate State Assets, and Other State Assets. Based on this background, the authors limit the problems in this paper, namely the handling of bad loans by internal state-owned banks and the problem of settling bank accounts with the State Receivable Affairs Committee.

II. Research Method

The determination of the specifications in this study refers to the type of analytical descriptive research (Moleong, 2005). The type of research used in this study is legal research (Ashofah, 2016), where legal research is normative research, the purpose of using this research is to analyze legal problems that occur and find solutions to these problems, this study aims to find coherence truth This activity is based on a benchmark in the form of morals. Norms which are a reference for actions based on legal principles based on morals. The rule of law must be coherent with legal norms and coherent legal norms with legal principles (Marzuki, 2005).

In overcoming the problems that are being faced in this research, the steps that are then taken are: First, seek the truth of the legal facts and reduce the parts that are not related to this problem and then place the legal issues that will be sought for this solution; Second, collecting legal materials that are felt to have a relationship with the issue as well as non-legal materials in this case secondary and primary legal materials; Third, analyzing the legal issues being faced by using the materials that have been collected; Fourth, a study of doctrines and concepts is carried out, systematized, analyzed and concluded in the form of relevant legal opinions to answer legal issues; and Fifth, giving prescriptions based on the arguments that have been built in the conclusions (Marzuki, 2005).

III. Results and Discussion

The position of the state towards SOEs is as the founder of SOEs. In addition, the state is also a capital participant (shareholder). As a capital participant, you have the right to control SOEs through their decisions (GMS decisions). The state's responsibility is limited to the amount of capital invested. If SOEs suffer losses that exceed their capital, the state is not responsible for bearing the losses.

Bahtiar Arif emphasized that the provision for handover of state-owned bank receivables to be transferred and handed over to PUPN has resulted in different treatment between state-owned bank debtors and non-BUMN bank debtors, so that according to the Court this is contrary to the constitutional principles contained in Article 28D paragraph (1) of the Constitution. 1945 (Arief, tt).

The existence of PP No. 33 of 2006, the role of the KPKNL in handling state receivables from banks was minimal. This is due to the limitation of the scope of the definition of finance so that it does not cover the separated aspects of state assets, which are in BUMN/BUMD so that existing loans to state-owned banks are not categorized as state financial losses.

The problem arose when the parties who were constitutionally disadvantaged submitted a request for a judicial review of the law to the Constitutional Court, so that the Court issued Decision No. 77/PUU-IX/2011 which cancels the provisions of Law no. 49 Prp. 1960. Based on the decision of the Constitutional Court that the Court revoked the authority of PUPN in terms of collecting state debt and transferred to the business entity that became the party to the debt. Each business entity that is the owner of the receivables is also expected to be able to carry out or continue the process of collecting debts from the debtor company.

The issuance of the decision provides legal certainty to the bank to settle non-performing loans that occur in the bank. This also provides bank benefits because state-owned banks can solve problems regarding bad loans based on the bank's management decisions, they are no longer given to PUPN/DJPLN.

3.1 Bad Credit

Loans to state-owned banks are classified into two parts, which are the form of products in the credit, namely commercial and consumer loans. The occurrence of congestion regarding consumer credit is motivated by conditions without a referral which of course has an impact on the debtor intentionally in order not to complete his responsibility to pay off credit installment payments, for example there are obstacles experienced by family members who are sick and make payments according to the needs of the school while through other backgrounds, namely the incompatibility of the implementation of supervision applied to banks, the obstacles that were passed and the increase in commodity prices for goods and services that had been determined.

Commercial credit as a form of credit stipulated in the company and of course the disclosure of this form of funds has a very large and significant reach. Meanwhile, the congestion that occurs in the background is caused by two causes, namely from the internal aspect of the debtor itself or externally.

Marketing is a process of planning and execution, starting from the conception stage, pricing, promotion, to the distribution of goods, ideas and services, to make exchanges that satisfy the individual and his institutions (Dianto in Asmuni *et al*, 2020). According to Tjiptono in Marlizar (2020) marketing performance is a function that has the greatest contact with the external environment, even though the company only has limited control over the company's environment. In the world of marketing, consumers are assets that must be maintained and maintained their existence in order to remain consistent with the products we produce (Romdonny and Rosmadi, 2019).

Included in the scope of the debtor's internal causes, for example, can be seen from the lack of potential for procedures and marketing carried out, lack of ability related to regulatory authorities in the financial sector and use of funds, as well as the presence of unprofessional management. Meanwhile, what is included in the external coverage of debtors based on the cause is the implementation on the basis of policies set by the government from various losses, and other obstacles.

In fact, the provision of credit given to debtors is experiencing congestion / bad credit. The bank itself is actually trying to get these creditors to pay off their credit. However, if the bad credit cannot be collected, it will become a receivable. For a bank

whose ownership is as a PT Persero bank, the transfer of management is called State Receivables (Perpu 14/1960). In order to obtain legal certainty in the management of bad state receivables against debtor/debt guarantor customers, PUPN holds a joint statement (PB) with debtor/debt guarantor customers, which includes forest acknowledgment to the state and the terms of settlement (Mantayborbir, et.al, 2002).

3.2 Internal Banking Settlement

a. Summons Publishing

The existence of a subpoena against the debtor provided by the bank to complete the form of responsibility so that it can be completed, but in a juridical review the summons certainly does not have an impact that is legally coercive on the debtor. The minimum share through subpoenas that have been executed amounted to 3 times from the creditor. When the subpoena mentioned cannot be carried out properly, the issue in question is allowed for the creditor to submit it to the court. So that the decision that will be determined is in accordance with the court's policy in determining the default or vice versa.

b. Guarantee Execution

If the credit agreement with the bank to determine the share of default experienced by the debtor will be attached to Article 20 paragraph 1 of Law No. 4 of 1996 related to mortgage rights received on land and also objects related to land and Article 29 paragraph 1 of Law No. 42 of 1999 related to the fiduciary guarantee applied, there is a right for the bank in making sales to provide guarantees in paying off all forms of debt from the debtor in accordance with the acquisitions obtained from the sales guarantee in question.

c. Filing a Lawsuit to the District Court

The existence of a litigation path that is determined to be responsible for I so that it can be used when the debtor moves his efforts but cannot fulfill all forms of responsibility for the credit while the debtor who seeks does not have conformity but does not want to carry out work that establishes work partners so that it can be fulfilled all responsibilities. With regard to such significant issues accompanied by significant economic aspects from the creditors and debtors, no consensus was found regarding efforts to deal with conflicts that arise, so that the creditors submitted submissions to the District Court.

d. Enforcement of a Lawsuit against the Commercial Court

As stated in Law No. 4 of 1998 related to bankruptcy to explain the condition of the debtor in interpreting bankruptcy as having more than 1 creditor who does not make payments based on the agreed debt based on the time specified in the collection process so that it can be submitted to the Commercial Court.

e. Handling of Other Alternatives to Resolve Conflicts

Alternative dispute resolution (ADR) as a foreign term put forward in the scope of the Indonesian language, alternatives are used to incubate the concept. The meaning in question refers to efforts to manage conflict in cooperative management actions, but in other words to deal with issues regarding the conflict through peaceful actions that do not bring them to court. Be it from the act of negotiation, mediation, conciliation and so on.

f. Handling of Debt Collectors

The Depcollector in the collection process stated that there was an order from another party that was put forward by the bank on the basis of a power of attorney as a potential to collect debts against bad credit debtors on behalf of the power given by the bank.

3.3 Banking Crime Indications

There is a classification into 2 aspects. In finding the right solution for bad loans, it is known that there are indications of banking crimes, namely:

a. Bank Internal Settlement

All forms of state-owned banks are universally integrated in order to carry out supervision from internal aspects in accordance with the responsibility to provide supervision on the performance produced by bank employees. Internal supervisors have the power to conduct examinations of bank employees who are known to have participated in finding indications of problems regarding banking criminal acts themselves. There is proper evidence against employees for their participation in banking crimes so that the implementation of these actions which are then presented in accordance with transfers to other divisions, always suspensions and layoffs.

b. Bank External Settlement

The existence of the ability to arise from bank credit in terms of losses to be experienced which are in nature exceeding the main nominal which requires special procedures for settlement. The decision is made for those who have received indications of their participation in banking crimes by bank employees, of course, they are required to carry out examinations in state agencies that have power over the law, be it the National Police, the Attorney General's Office, the Supreme Court and the KPK. The existence of a situation from the financial aspect that is explained in accordance with the issues relating to bank employees as stated in Law No. 15 of 2004 regarding efforts to carry out the responsibilities and management of state finances of course conducts an examination of the BPK and is not followed by a request from the bank. There is evidence of banking crimes committed by bank employees to obtain suspensions and even layoffs.

IV. Conclusion

From the results of the study, it can be concluded that (1) State-owned banks have full sovereignty in the settlement of bad loans, (2) Banks must strengthen risk management, without compromising the achievement of sales targets, (3) Settlement of bad loans in order to prioritize a win-win solution between debtors and creditors by adhering to the principle of justice. For this reason, it is necessary to make efforts to increase human resources which are very limited within the scope of the DJKN, especially in the State Receivables Section, which is carried out by providing education and coaching. The education carried out are: (a) bailiff training; (b) Education and training on the management of state/regional receivables (c) Education and training on allowance for doubtful accounts.

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