

Restructuring House Financing (KPR) Due to the Impact of the Covid-19 Pandemic at Pt Bank Tabungan Negara (Persero) Tbk KC Banyuwangi

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Abstract

Banks as financial institutions can collect funds from the public and channel them back to the community in the form of credit. One of the services provided by BTN KC Banyuwangi is a home financing loan. There are times when credit is disbursed by troubled banks due to various factors, one of which is being affected by the COVID-19 pandemic, causing debtor customers to default, so credit restructuring is needed. The question of this research is how to apply the regulation of POJK No. 11/2020 to the restructuring of housing loans at PT BTN KC Banyuwangi and the legal consequences of the restructured credit agreements. This research uses empirical and normative juridical methods, where the application of research is through literature studies, documentation and interviews. Data processing performs editing, coding and analysis. The results of the study concluded that the restructuring of KPR BTN KC Banyuwangi was carried out referring to PBI Number 8/2/2006 and POJK Number 11/2020, namely by taking into account the quality of productive assets, customer good faith and selecting the right rescue strategy target, namely the period of delaying payments for 6 month to 1 year. The legal consequence of the addendum to the financing contract is that it is in addition to the initial financing contract, so that the provision of the initial financing contract is still enforced as a binding condition for the parties.

Keywords

Banking; credit; restructuring



I. Introduction

According to article 1 point 2 of Law no. 10 of 1998 concerning Banking, explains the definition of a bank as follows: "A bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and or other forms in order to improve the standard of living of the people at large".

After obtaining funds in the form of deposits from the public, the banks will return the funds or resell them to the public in the form of loans or better known as credit (lending). In granting credit, loan services are also subject to loan services to credit recipients (debtors) in the form of interest and administrative fees. Meanwhile, for a bank based on Sharia principles, it can be based on profit sharing or equity participation (Kasmir, 2000:24).

The definition of credit is stated in Article 1 number 11 of Law no. 10 of 1998, namely: "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 the debt after a certain period of time with interest".

Meanwhile, the definition of financing is stated in the provisions of Article 1 number 12 of Law no. 10 of 1998, namely: "Financing based on Sharia Principles is the provision of money or an equivalent claim based on an agreement or agreement between the bank and another party that requires the party being financed to return the money or claim after a certain period of time with compensation or profit sharing." . From the juridical understanding above, it is known that the provision of credit or financing by a bank is based on an agreement or loan agreement (money) between the debtor and the bank (creditor) based on trust. In the Civil Code the provisions regarding credit agreements are generally regulated in Book III of the Civil Code regarding engagements, in particular article 1338 which reads: "A valid agreement applies as law for the party who promises", while specifically the credit agreement is regulated in Law no. 10 of 1998 concerning Banking.

Credit agreements need special attention both by banks as creditors and by customers as debtors, because credit agreements have a very important function in granting, managing and managing the credit itself (Muhamad Djumhana, 1993: 228).

Before the credit is given, the bank first conducts a credit analysis on the debtor to convince the bank that the customer can really be trusted. Credit analysis includes the background of the customer or company, business prospects, guarantees provided, and other factors. The purpose of this analysis is to ensure that the bank is sure that the credit provided is truly safe, in the sense that the money disbursed will definitely return. In practice, there are many credit problems where the debtor is unable to pay his debt for various reasons, it can be caused by the debtor's internal factors, or external debtors. Debtors who do not perform according to their obligations contained in the credit agreement are called default. This default may be experienced for several reasons, namely, first due to the occurrence of circumstances that forced him to be unable to perform (overmacht) and carry out his obligations. Or secondly, because the party intentionally defaulted (Abdulkadir Muhammad, 2000:203).

If the credit disbursed is jammed, then the steps taken by the bank are trying to save the credit in various ways depending on the condition of the customer or the cause of the bad credit. If it can still be helped, then the bank's actions to help the customer by increasing the amount of credit or by extending the time period. However, if it cannot be saved again, then the bank's last action is to confiscate the collateral that has been guaranteed by the customer (Kasmir, 2000:74).

The settlement step through credit restructuring requires the most important conditions, namely the willingness and good faith of the debtor and the willingness to follow the conditions determined by the bank, because in the settlement of credit through restructuring there are more negotiations and solutions offered by the bank to determine the terms and conditions of the restructuring.

The Covid-19 pandemic has had an impact on society, both health, social, economic, legal and others. The banking industry also feels the economic impact, such as non-performing credit risk, market risk and operational risk. As a result of the impact of Covid-19 on the banking sector, the banking sector issued a policy related to delaying credit payments for customers. The outbreak of this virus has an impact of a nation and Globally (Ningrum et al, 2020). The presence of Covid-19 as a pandemic certainly has an economic, social and psychological impact on society (Saleh and Mujahiddin, 2020). Covid 19 pandemic caused all efforts not to be as maximal as expected (Sihombing and Nasib, 2020).

Covid-19 has had legal implications for the parties to review the contents of the contract that are no longer in accordance with current conditions. Between banks and

debtor customers can carry out negotiations that can give birth to forms of agreement that consider each other's interests.

When the credit return approval is subject to the risk of failure, the situation is a non-performing loan situation (hereinafter referred to as NPL). NPL is a measure of the ability of bank management to manage non-performing loans issued by banks. If the NPL is higher, the quality of bank credit will be worse and cause the number of non-performing loans to increase.

Non-performing loans or non-performing loans in banking can be caused by various factors, for example, there is the intention of the parties involved in the credit process, errors in lending procedures, or caused by other factors such as macroeconomic factors (Hermansyah, 2009: 75).

The increase in NPL experienced by national banks resulted in banks losing their ability to generate optimal profits from bank operational activities. In order to survive, banks must maintain the level of profitability and the level of bank liquidity, so that banks can maintain public trust.

In an effort to ensure that banks are always in a healthy, liquid, and solvent and profitable, the Financial Services Authority issued Financial Services Authority Regulation Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical on the Impact of the Spread of Coronavirus Disease 2019 (hereinafter referred to as POJK 11/2020).

The basis for the formation of this regulation is the existence of Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 CoronaVirus Disease (covid-19) Pandemic and/or In The Framework for Facing Threats That Endanger the National Economy and/or Financial System Stability Becomes a Law. The development of COVID-19 globally has direct and indirect impacts on the performance and capacity of debtors in fulfilling credit and financing payments.

After the enactment of POJK 11/2020, it is explained in Article 2 paragraph (1) and paragraph (2) that Banks can implement policies that support economic growth stimulus for debtors affected by COVID-19 by doing: Regulations regarding policy provisions regarding asset quality and credit restructuring. Then, article 5 paragraph (1) explains that the quality of the restructured credit or financing is determined to be smooth since the credit restructuring is carried out.

PT Bank Tabungan Negara (BTN) Banyuwangi branch office is a State-Owned Enterprise, where one of its business services is the housing business through the Home Financing Credit (KPR-BTN) facility. The COVID-19 pandemic has also had an impact on KPR-BTN debtor customers. Until April 2021, there were 6052 confirmed positive cases of COVID-19 (corona.banyuwangikab.go.id, April 28, 2021) in the Banyuwangi Regency area which had an impact on KPR-BTN customers. There were 1021 PT BTN customers who applied for credit restructuring or relief in line with the relaxation policy for customers whose economy was affected by the spread of COVID-19 (interview, Mr. Moh Pungki Harto Nugroho).

The purpose of this study was to determine the application of POJK No. 11/2020 on mortgage restructuring at PT BTN KC Banyuwangi and the legal consequences of restructured credit agreements.

II. Research Method

At the beginning of each research activity, the research approach/design must be clearly defined. This is so that the research can actually have a solid foundation from the point of view of the research methodology, in addition to understanding the research results which will be more proportional if the reader knows the approach applied. Objects and research problems do influence considerations regarding the approach, design and research method that will be applied. Not all research objects and problems can be approached with a single approach. So it is necessary to understand other different approaches, so that if the objects and problems to be studied do not fit or are less than perfect with one other approach, they can be used or maybe even combine them (Sugiyono, 2016).

Sequentially, data analysis in qualitative research starts from the stages of data collection, data reduction and categorization, data display, and drawing conclusions. Qualitative data analysis is integrated into the activities of data collection, data reduction, data presentation, and conclusion of research results. The explanation of the four stages in qualitative research is as follows (Rijali, 2019).

Data collection the process of collecting data in qualitative research can be done in various ways, obtained by going directly to the field. This can be done through observations or observations, questionnaires, in-depth interviews with research objects, document studies, to focus group discussions.

Data reduction and data categorization in this stage, the raw data will be filtered. Researchers choose which data is most relevant to be used to support research. Qualitative data can be obtained from interviews and observations. So, sorting is needed to facilitate data categorization. So, the filtered data will be categorized as needed. For example, in research, data is divided by categories of informants or research locations.

Data display after the data is reduced and categorized, then enter the data display. In this stage of the process, the researcher designs the rows and columns of a qualitative data metric, and determines the type and form of data to be entered in the metric boxes. For example, data is presented with narratives, charts, flow charts, diagrams, and so on. Data is organized to make it easier to read.

Drawing conclusions after the three processes have been passed, the last step is to draw conclusions. The content of the conclusion should include all the important information found in the study. The language used to describe conclusions must also be easy to understand without being complicated (Darmalaksana, 2020).

III. Result and Discussion

3.1 Application of POJK Regulation Number 11/2020 on Restructuring KPR BTN KC Banyuwangi

The implementation of financing restructuring at bank BTN must comply with the principles of Bank Indonesia Regulation Number 7/2/PBI/2005 as amended by Bank Indonesia Regulation Number 8/2/PBI/2006 in addition to referring to the prudential banking principle. In addition, aspects of the need and conformity with the development of the banking industry are considered in improving the provisions regarding financing restructuring at bank BTN. The birth of POJK Number 11/2020, states that banks can apply this regulation to support the economic growth of debtors affected by the spread of COVID-19 by giving consideration to banks whether or not they can provide concessions to debtor customers in accordance with article 2 paragraph 1.

Based on article 2 paragraph (2) of the POJK, stipulates that, policies that support economic growth stimulus include: a. asset quality determination policy; and b. credit restructuring and financing policies.

Referring to the rules above, the steps taken by bank BTN in the event of non-performing financing are:

- a. Bank BTN will conduct a financing inventory based on the collectibility quality of each financing customer.
- b. Followed by making a list of non-performing financing customers, namely financing customers classified into the collectability of the less current, doubtful, and non-performing groups, accompanied by the status of the latest payment assessment, as well as matters relating to the financing process or the provision of bank facilities to customers. financing.
- c. Then the bank will examine the existing problems of each non-performing financing customer and proceed with detailing the efforts that have been made in the context of restructuring the non-performing financing and the results.
- d. The Bank will conduct an identification assessment of all non-performing financing on a regular basis at least once a month in written and letter form, focusing on identifying the symptoms of the problem, determining the location of the problem and the settlement strategy that is considered the most appropriate. Problem identification produces a diagnosis which is then communicated to the customer by the bank regarding the pattern of settlement offered which is adjusted to the projected ability to pay the customer.
- e. Based on the information and identification submitted by bank BTN, a rescue strategy is set for each problematic financing.
- f. The implementation of the strategy to resolve each non-performing financing must be monitored to see the effectiveness of the implementation of the strategy and the selection of strategic targets consists of 2 (two) options, namely continuing the relationship with the customer or terminating the relationship with the customer. Other factors that also influence the selection of strategic targets include the level of cooperation with customers; clear and rational determination of the length of the process; the costs and benefits of implementing the strategy; bank supervision, such as geographic location, communication media and so on.
- g. PT KPR BTN carried out this financing restructuring process so that customers could fulfill their obligations in this pandemic era. Restructuring of financing based on banking principles, including: 1. Extension of the term of credit financing; 2. Addition of financing facilities; 3. Elimination of interest rates during the restructuring program. Bank BTN can only restructure financing to customers who meet the following criteria: 1. Customers experience a decrease in their ability to pay; 2. The customer has the desire to be responsible for his obligations as a debtor.

Based on the sample data obtained by researchers on bank BTN customers affected by COVID-19 who carried out the process of submitting a restructuring program in June 2021 as follows:

| No. | Housing | Block | Old Month | Problems | Follow-up |
|-----|-------------------|-------|-----------|------------------|-------------|
| 1 | Prm. Villa Ijen G | G-21 | 6 | Restructuring of | Central ACC |
| 2 | Prm. Villa Ijen G | H-24 | 6 | Restructuring of | Central ACC |

| | | | | | |
|----|-------------------|------|----|------------------|-------------|
| 3 | Prm. Adimas Sobo | A-15 | 12 | Restructuring of | Central ACC |
| 4 | Prm. Adimas Sobo | C-11 | 6 | Restructuring of | Central ACC |
| 5 | Prm. BTN Curing | A-05 | 6 | Restructuring | Process |
| 6 | Prm. BTN Curing | A-08 | 12 | Restructuring of | Central ACC |
| 7 | Prm. Puri Brawi | A-17 | 12 | Restructuring of | Central ACC |
| 8 | Prm. Puri Brawi | D-7 | 6 | Restructuring | Process |
| 9 | Prm. Griya Sobo 1 | B-9 | 12 | Restructuring of | Central ACC |
| 10 | Prm. Griya Sobo 2 | C-1 | 12 | Restructuring of | Central ACC |

(Source: PT. Bank Tabungan Negara Banyuwangi Branch Office, Postponement of installment payments)

The data above shows that there are 10 housing estates that have proposed restructuring of KPR BTN financing, and the payment delay period is 6 months until 1 year. Of the 10 housing estates, no one has submitted a phase 2 restructuring program or it can be said that all debtors who have already implemented the restructuring program can fulfill their obligations to BTN. If debtor customers still need restructuring, BTN opens a second phase of restructuring proposal in August 2021.

Based on POJK 11/2020, the stimulus for the impact of COVID-19, explains the restructuring of financing by:

1. Lower lending rates;
2. Extension of credit period;
3. Reduction of loan interest arrears;
4. Reduction of loan principal arrears;
5. Addition of credit/financing facilities; and/or
6. Conversion of credit/financing into temporary equity participation.

The implementation of the restructuring of financing is stated in the addendum to the financing contract and/or entering into a new financing contract following the characteristics of each form of financing. But in this case, BTN uses a program of extending credit terms and reducing loan interest arrears, according to the addendum made between creditors and debtor customers, which is between 3 months to 1 year.

Based on all the descriptions above, PT BTN KC Banyuwangi, before making an addendum to the financing contract in an effort to save financing problems due to being affected by COVID-19, must continue to pay attention to the quality group of productive assets from customers; there is good faith from the customer; selecting the right target rescue strategy and restructuring financing.

3.2 Legal Consequences of Restructured Credit Agreements

In order to save non-performing financing, Bank BTN will undertake restructuring efforts in accordance with the terms and conditions contained in the financing agreement. For changes to the financing agreement that has been signed by the bank with the debtor customer, a method called an addendum is needed (interview with Mr. Emha Fathoni, loan service Bank BTN KC Banyuwangi, 20 July 2021).

The term addendum in banking is usually used to make changes to the financing contract which is intended to change the terms and conditions of the financing contract that has been signed and applies to the parties. However, such changes must be made in writing and can be made with an agreement between the bank and the customer.

Addendum is an easy solution to make changes to a contract. The changes made are in the articles that have been agreed to be changed, while the articles that are not changed or are still being maintained are considered still valid for the customer's obligations to his dependents.

The term addendum in a contract/agreement can be interpreted as an additional clause or article that is physically separated from the main contract but is legally attached to the main contract. In general, an addendum contains provisions that amend, improve, or further detail the contents of an agreement or as an additional clause of a main agreement. Addendums usually arise because of changes or there are things that have not been regulated from a main agreement.

Prior to implementing the addendum, Bank BTN evaluates financing deemed problematic. From the results of the evaluation, a discussion with the debtor customer will be held, if the debtor customer is considered cooperative and his business still has good prospects, then a revitalization process will be held which is outlined in an addendum.

Changes that often occur in banking practice are changes to the content of financing contracts in the form of objective changes. Objective changes regarding changes in this pandemic era, Bank BTN uses terms and conditions that include payment schedules, installment amounts and time periods, because the form of addendum applied is the principle of saving non-performing financing.

The position of guarantees in the financing addendum, guarantees in financing at Bank BTN have a very important meaning, because guarantees are the last bastion when customers default or fail to fulfill their obligations to the bank. The existence of a guarantee can provide psychological pressure on debtor customers to fulfill their obligations, namely being able to manage their investment business well, so that the profits obtained can be optimal. Along with that, the risk of loss due to management errors, negligence or deviations from debtor customers can be reduced.

From the results of interviews with Bank BTN, explained that if a debtor customer who has carried out a restructuring program but until the restructuring process is completed but the customer does not have good faith to make payments, then the bank as the creditor will conduct an auction process according to what has been regulated in the addendum.

IV. Conclusion

Based on the explanation above, the following conclusions can be drawn:

1. The basis for PT BTN's considerations in accordance with POJK 11/2020 is to restructure housing financing contracts in an effort to rescue customers affected by the COVID-19 pandemic by paying attention to the quality group of debtor customers' productive assets; the existence of good faith from debtor customers and choosing the right target of rescue strategies, namely the period of delaying payments for 6 months to 1 year.

In addition, Bank BTN also considers the costs that must be incurred by non-performing financing customers if they have to make a new contract, so that this addendum can reduce the costs incurred when carrying out the restructuring program.

2. The legal consequence of restructuring the financing contract at BTN is the existence of the financing contract. The legal relationship that occurs in the addendum to the

financing contract is a legal relationship based on the financing contract itself. The existence of this addendum is in addition to the initial financing contract, so that what is the basic provision in the initial financing agreement is still applied as a binding condition between the parties, in its legal relationship in the contract and the addendum is inseparable from the financing. The position of the guarantee in the financing contract remains valid, because the collateral object by the bank has been charged to a guarantee institution which has the nature of always following the object of the guarantee in the hands of whoever is in the hands. If the debtor customer has carried out a restructuring program but until the restructuring program ends but the debtor customer does not have good faith to make payments, then the bank as the creditor will conduct the auction process according to what has been regulated in the addendum.

The suggestions that need to be put forward are:

1. To bank BTN, in order to provide information to all troubled customers regarding the implementation of POJK Number 11/2020 because not all debtor customers are aware of the enactment of these rules, so they can provide a little peace of mind in making financing credit payments due to the impact of the covid-19 pandemic.
2. The government should be able to provide certainty to all banks to implement a credit restructuring policy based on POJK Number 11/2020, with clear requirements taking into account the bank's ability to provide convenience/relief for debtor customers who have problems due to the impact of the COVID-19 pandemic.

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