

IMPACT OF THE LEGAL DEFAULT ON MICRO BUSINESS LOAN RECIPIENTS

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Keywords	Abstract. Micro Business Credit (KUM) is a type of soft loan which: is intended for Micro, Small and Medium Enterprises (MSMEs) with business feasibility but limited capital. It can be seen that if the credit recipient or debtor defaults into the main problem in the Micro Business Loan Agreement. Thus, the banking institution as the party providing the credit will cause an indication of default by the debtor which results in losses for the bank providing the credit. The type of research used in this study from the point of view of its nature is normative research (juridical normative) legal research conducted by examining library materials. Based on research resultsThe provision of Micro, Small and Medium Business Credit cannot be separated from the legal aspect of the assignment/agreement, namely the existence of two parties that bind themselves, namely the bank as the borrower.The rights and obligations of micro business credit recipients, namely micro business credit customers have the right to know the products offered. The debtor's default includes debtors who have wrong achievements, debtors who are slow in the process of completing presentations.
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1. INTRODUCTION

The general public has a strong desire to get credit, the Bank always tries to increase fundraising to provide more big credit. The provision of credit is the backbone of banking activities. If you look at the banking balance sheet, you will see that the bank's asset side will be dominated by the amount of credit. Likewise, if you look at the income side of the bank, it will be seen that the largest income of the bank is from interest income and the proportion of loans. dynamic developments and real contributions of the banking sector. In the midst of the economic and monetary crisis due to Covid-19, the economic and monetary sector in Indonesia provides a clear picture of how important the strategic role of the banking sector is.

Micro Business Credit (KUM) is a type of soft loan which: is intended for Micro, Small and Medium Enterprises (MSMEs) with business feasibility but limited capital. KUM is implemented by any bank that provides these products and services. KUM is not a government program, but a financial institution service program that is good for banks and cooperatives. There is no mechanism and distribution of KUM government intervention and involvement. This means that the government does not guarantee that KUM will be given to the community of MSME actors. All forms of bad credit risk that may arise are the responsibility of the bank. Therefore, to advance the economy for small and medium enterprises and improve the quality of small and medium enterprises in this regard, financial institutions issue micro-business loans through banking institutions.

Special credit for micro-enterprises is given to micro-enterprises with a maximum credit limit of 100,000,000.00 (one hundred million rupiah). Especially for the top up facility is allowed up to a limit of Rp. 200,000,000.00 (two hundred rupiah). The micro business loan process is quick and easy, the requirements are light for a period of up to 5 (five) years, collateral in the form of an object whose costs and fixed assets compete with interest rates with a flat and fixed calculation system for the term of the loan, fixed monthly installments. Moreover, it is common knowledge

that no matter how careful banks are in providing credit, even though banks provide credit to debtors (customers with the principles of trust and prudence) with the principles of trust and prudence.

Be careful in fact that some of the loans disbursed by banks have bad credit or credit recipients called micro credit debtors are late in carrying out what has been agreed upon, so that the agreed grace period exceeds the maturity limit, so it does not fulfill what has been agreed upon by both parties. result in default. It can be seen that if the credit recipient or debtor defaults into the main problem in the Micro Business Loan Agreement. Thus, the banking institution as the party providing the credit will cause an indication of default by the debtor which results in losses for the bank providing the credit.

2. METHODS

The type of research used in this study from the point of view of its nature is normative legal research, meaning that the problems discussed, then explained in this study, aim to apply the rules or norms in positive law. This normative legal research examines various kinds of formal legal rules such as laws, literature which is a theoretical concept and then connected to the problem being discussed. According to Peter Mahmud that legal research activities knowledge in law, not just knowledge. As a knowledge activity, legal research is carried out to solve legal problems, in this case it requires the ability to identify legal problems, regarding legal reasoning, analyze the problems encountered and then provide solutions to these problems. As Cohen said that legal research activities are the process of finding laws that apply to the activities of people's lives

3. RESULT AND DISCUSSION

A. Legal Basis for Business, Small and Medium Loans

The legal basis for granting Micro, Small and Medium Business Credit is that there are several interrelated jurisdictions that cannot be separated. The main legal area that provides the legal basis for granting credit to micro, small and medium enterprises is the Civil Code, in particular Book III on Agreements. The granting of Micro, Small and Medium Business Credit cannot be separated from the legal aspects of the assignment/agreement, namely the existence of two parties that bind themselves, namely the bank as the borrower. In the provision of credit to micro, small and medium enterprises, the parties are also controlled by the Banking Law, Law Number 7 of 1992 and its amendments, namely Law Number 10 of 1998, which causes uncertainty in making decisions, positions in the guarantee position. Article 6 of Law Number 7 of 1992 states that one of the bank's business activities is to provide credit. The next legal basis is SE BI No. 26/1/UKK/1993 related to small business loans. In an open agreement, both parties are controlled by the legal field as regulated in the Dutch Civil Code. As is known, the agreement is one of the things that can cause engagement. The word agreement cannot be found in the law, there is only the word agreement listed in article 1313 of the Civil Code. However, according to R. Subekti, stated that the word agreement in the word agreement are two words that have the same meaning.⁴ Prof. Mariam Darius B Zaman implicitly stated that the words of agreement in Article 1313 of the Civil Code are words of agreement.⁵ Based on the opinion According to the legal expert, the meaning of the agreement can be read in Article 1313 of the Civil Code where the term agreement is used which reads: where one or more persons bind themselves to one or more persons. If it is made in writing, it must be supported by evidence. In its development, the agreement is no longer a legal act, but a legal relationship. Rather it is a legal relationship (*rechtverhouding*). This view was put forward by Van Dunne who said that: "Agreement is a legal act is a classical theory or convention theory. *tweezijdige rechtshandeling*), namely the act of offering (*aanbod*, offer) and receiving *aanvaarding* acceptance. An agreement must consist of two legal actions where each party (*twee eenzijdige rechthandelin*) is one, namely an offer and acceptance based on an agreement between two or more people who are related to each other so as to cause legal consequences (*rechtsgevolg*).

This concept gave birth to the meaning of the agreement is a legal relationship. This is the

legal reason used why the core of the agreement is intended as the relationship between the customer and the debtor. In order for an agreement to be valid according to law, 4 (four) conditions are required as referred to in Article 1320 of the Civil Code, namely:

1. Make an agreement about those who do;
2. Ability to make commitments;
3. A certain thing;
4. And a lawful reason.

This requirement is also recognized in a legal system, such as the UK, France and Germany. The second condition is the ability of the parties to enter into an agreement. The ability of the parties is a general condition for carrying out legal actions. If banking law is defined by the Banking Law, then it is obtained that banking is a set of regulations.

If banking law is defined by banking law, then the limit is obtained that banking law is a set of laws and regulations that regulate everything related to banks, be it institutions, business activities as well as methods and processes in conducting banking business. unified, banking law is defined as a collection of statutory regulations that form a single entity, each of which is interrelated and actively cooperates to achieve the general objectives of banking law. The elements of the banking legal system in question are statutory regulations, legal principles and legal meanings contained within or outside regulations and overlapping between legal elements can be avoided. If there is a conflict related to banking, The solution lies in the legal principles contained in the banking law itself. If banking law must be changed, then the development of the banking legal system must be carried out firstly, increasing public awareness, secondly preparing legal content, thirdly conducting legal socialization to all stakeholders, fourthly preparing legal structures (legal structure), fifthly, providing facilities and infrastructure. law; sixth, the implementation of the law; seventh, create a legal culture; eighth, exercising legal control, and ninth, causing legal crystallization (legal thirdly conducting legal socialization to all stakeholders, fourthly preparing legal structures (legal structure), fifth, providing legal facilities and infrastructure; sixth, the implementation of the law; seventh, create a legal culture; eighth, exercising legal control, and ninth, causing legal crystallization (legal thirdly conducting legal socialization to all stakeholders, fourthly preparing legal structures (legal structure), fifth, providing legal facilities and infrastructure; sixth, the implementation of the law; seventh, create a legal culture; eighth, exercising legal control, and ninth, causing legal crystallization (legal value).

The existence of the Banking Law must be seen as a substance in a broader law that includes public law (criminal and administrative law) and civil law. Every legal action always has legal consequences, as well as the act of an agreement as an act will have consequences. According to Article 1338 of the Civil Code paragraph (1), all agreements made legally apply as law for those who make them.

B. Rights and Obligations of Creditors and Debtors in Giving Micro Business Credit

The creditor is a person who has receivables, in this case the guarantor can be an individual or a legal entity, a bank, a financial institution, a pawnshop, or another guarantee institution. In this case, the rights and obligations of the creditor are to provide loans to the debtor in the form of money or perhaps capital for the debtor's business or other uses that will be used from the loan. In this case, the creditor's rights have an obligation to help anyone who will receive a loan, in return the creditor has the right to keep the debtor's valuable goods or objects as a loan for the creditor to pay off his debt. The debtor is a person who has a debt of an agreement under the law, the payment of which can be collected before the court. Debtors here are bank customers. The rights and obligations of micro business credit recipients, namely micro business credit customers have the right to know the products offered by micro business loans in detail and must return the loan in the same amount under the same conditions at the time of borrowing, and at the specified time (Article 1763 of the Civil Code). This obligation is a repetition of what is stated in Article 1754, 1763 of the Civil Code. Rights and obligations are a repetition of what is stated in article 1754 of the Civil Code. The rights and obligations of the bank as a micro business grant is to receive installments

according to a routine agreement at maturity. Without realizing it, the debtor must pay to the debtor, namely in regular installments until maturity. As well as the obligation to keep the state of the customer's financial record funds confidential (duty of confidentiality).

One of the things needed by banks as creditors in providing credit is the existence of protection or protection in the form of guarantees that must be given by the debtor to guarantee the repayment of his debt for security and legal certainty, especially if after the agreed period the debtor does not pay off the debt or default. In accordance with its designation, collateral in the form of movable or immovable objects to be personally owned by the creditor, because the debt-receivable agreement or credit agreement is not a sale-purchase agreement resulting in the transfer of ownership of an item, but the collateral is used to pay off debts. in the manner as stipulated in the applicable regulations that the goods are sold by auction where the proceeds are to pay off the debtor's debt and if there is a balance, the proceeds will be returned.

The rights and obligations are regulated in CHAPTER XII of the Civil Code concerning Verbruiklening. Part 1 General provisions of Article 1745 are: borrow-to-use is an agreement, which stipulates that the first party submits a number of goods that can be used for another party on condition that the other party returns it. similar goods to another party in the same quantity and in the same condition. In the Civil Code article 1392, 1740, 1763 and Article 1755 based on the agreement the person receiving the loan becomes the absolute owner of the loan and if this item is destroyed in any way the loss will be borne by the borrower. Civil Code 1237, 1741 Section 2 concerns the obligations of the person who lends. Article 1759 The lender cannot return the borrowed goods before the period stated in the agreement expires. Article 1761, If it has been promised that the borrower of goods or money will return it if he is able to do so, then if the lender demands the return of the money or loaned goods, the court may determine the time for the return after considering the circumstances. (Civil Code. 1256, 1268.) Article 1763, the provisions of Article 1753 apply in the lease-to-use agreement. (Civil Code., 1365 ff. 1504.) Section 3 concerns the obligations of the borrower. Article 1763, whoever borrows an item is obliged to return it.

Article 1764, if it is impossible to fulfill the obligation, then he is obliged to pay the price the loaned goods, taking into account the time and place of return goods in accordance with the agreed agreement. If time and place don't agreed. If time and place are not agreed upon then a refund must be made according to the value of the loan item at the time and place of the loan. (Civil Code 1243, 1250, 1393). Chapter 4 on borrowing at interest. Article 1765, for borrowing money or used goods may apply the condition that the loan paid interest (Criminal Code 1250, 1754, 1768, 1975) article 1776 who has receive a loan and have paid the amount that has not been agreed in advance, cannot claim interest and also cannot cancel the principal loan, unless the interest paid is higher than the amount of interest determined by law, in this case the excess money can be reclaimed or deducted from the principal loan.

C. Default Debtor Settlement Process in Micro Business Credit Agreements (KUM)

The settlement process if the debtor defaults in the Micro Business Loan agreement (KUM) in banking institutions must pay attention to the precautionary principle as regulated in Article 2 of the Banking Law. To gain trust and protect banks as creditors, banks must conduct a very good and thorough assessment of prospective debtor customers, which is known as the 5C principle, namely Character (Character), Capability (Capacity), Capital (Capital), Collateral (Collateral), and economic conditions (Condition of Economy) and 7P (Personality, Party, Purpose, Prospect, Payment, Profitability, and Protection) (Personality, Party, Purpose, Prospect, Payment, Profit, and Protection) for prospective debtors, so that the credit process is approved or no. Agreed by the debtors and creditors. The parties must and comply with the contents of the agreement or the debtor and creditor. The debtor is obliged to carry out The agreement is the rights and obligations of the parties at the time of concluding the agreement to bind themselves to release, do or not do something for the benefit of each party. If something happens from a mutually agreed agreement that cannot be done by one of the parties, then this can result in a default.

The debtor's default includes debtors who have wrong achievements, debtors who are slow

in the process of completing presentations. If non-performing loans exist because the debtor does not fulfill its performance, as contained in the contents of the credit agreement, in carrying out before the execution of the collateral, the debtor is first declared negligent in fulfilling his achievements, the process is carried out through a court decision, this is in accordance with Article 1338 of the Civil Code in this case many as creditors can file a lawsuit against the debtor on the basis of default before suing the debtor, the bank as the creditor will send a subpoena so that the debtor can fulfill and not ignore his obligations or achievements. In this case if the debtor or customer also does not fulfill or comply with his obligations in completing his presentation, the creditor can file a lawsuit against the debtor on the basis of default. However, if the court decides that the debtor has defaulted, in this case the creditor can execute or confiscate the collateral, in the agreement letter given by the debtor. Therefore, whether or not the collateral can be executed does not only depend on whether the credit payment period has passed or not. However, if the debtor makes a presentation that is not in accordance with the agreement, it is a form of default and even misrepresents or does not act as intended. in the letter of agreement given by the debtor. Therefore, whether or not the collateral can be executed does not only depend on whether the credit payment period has passed or not. However, if the debtor makes a presentation that is not in accordance with the agreement, it is a form of default and even misrepresents or does not act as intended. in the letter of agreement given by the debtor. Therefore, whether or not the collateral can be executed does not only depend on whether the credit payment period has passed or not. However, if the debtor makes a presentation that is not in accordance with the agreement, it is a form of default and even misrepresents or does not act as intended. agreed upon, and may make the bank as the creditor entitled to exercise its right to confiscate the collateral.

In Article 1 number 10 of Law Number 30 of 1999 it is formulated that "alternative dispute resolution is or difference of opinion through a procedure agreed upon by the parties, namely settlement outside the court by means of negotiation, mediation, arbitration, conciliation. The principles that passed on alternative dispute resolution are as follows: 1). The principle of good faith, namely the desire of the parties to determine the settlement of disputes that they will or are currently facing; 2) The contractual principle, namely the existence of an agreement as outlined in the form of the dispute resolution procedure; 3) The principle of binding, namely the parties are obliged to comply with what has been agreed; 4) The principle of freedom of contract, namely the parties can freely determine what the parties want to regulate in the agreement as long as it does not conflict with the law and morality, this also means an agreement on the place and type of dispute resolution chosen; 5) The principle of confidentiality, namely the resolution of a dispute cannot be witnessed by other people because only the disputing parties can attend the examination of a dispute. The advantages of resolving disputes outside the court include; a). It is carried out based on the will and good faith of the parties to resolve the dispute; b) cannot be enforced because it depends on the will and good faith of the parties. Weaknesses of dispute resolution outside the court,

4. CONCLUSION

The provision of Micro, Small and Medium Business Credit cannot be separated from the legal aspect of the assignment/agreement, namely the existence of two parties that bind themselves, namely the bank as the borrower. And banking law is statutory regulations, the legal principles and legal meanings contained within or outside regulations and overlapping between legal elements can be avoided. If there is a conflict related to banking, the resolution lies in the legal principles contained in the banking law itself. The rights and obligations of micro business credit recipients, namely micro business credit customers have the right to know the products offered by micro business loans in detail and must return the loan in the same amount under the same conditions at the time of borrowing, and at the specified time (Article 1763 of the Civil Code). The debtor's default includes debtors who have wrong achievements, debtors who are slow in the process of completing presentations. If non-performing loans exist because the debtor does not fulfill its performance, as contained in the contents of the credit agreement, in carrying out before the

execution of the collateral, the debtor is first declared negligent in fulfilling his achievements, the process is carried out through a court decision, this is in accordance with Article 1338 of the Civil Code in this case many as creditors can file a lawsuit against the debtor on the basis of default before suing the debtor, the bank as the creditor will send a subpoena so that the debtor can fulfill and not ignore his obligations or achievements.

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