

Dispute Resolution of Breach of Contract in Loan Agreements

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The purpose of this study is to understand and analyze the resolution of default disputes in debt agreements. This type of research is normative with a legislative approach. The data used are secondary, consisting of primary and secondary legal materials. The research specification used is analytical descriptive. The resolution of default disputes in debt agreements can be concluded that the dispute resolution mechanism can be pursued through several legal channels, whether non-litigation, litigation, or alternative dispute resolution (ADR). Each channel has characteristics, advantages, and disadvantages that need to be considered accordingly the conditions and interests of the parties. The non-litigation route emphasizes deliberation and mutual agreement, the litigation route provides legal certainty through court decisions, while APS offers a flexible, efficient, and agreement-based solution. Therefore, it is recommended that the parties execute the agreement in good faith so as not to cause a breach of contract the conditions and interests of the parties. The non-litigation route emphasizes deliberation and mutual agreement, the litigation route provides legal certainty through court decisions, while APS offers a flexible, efficient, and agreement-based solution. Therefore, it is recommended that the parties execute the agreement in good faith so as not to cause a breach of contract.

Keywords: Resolution, Dispute, Breach of Contract, Debt

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1. Introduction

Debt agreements have become an inseparable part of the socio-economic dynamics of society. Legally, debt is an agreement in which one party provides a sum of money or goods to another party to be returned at an agreed-upon time (Civil Code, Article 1754 in Sandhu et al., 2024). This phenomenon occurs not only in formal institutions such as banks but also in informal practices within the community, where such contracts are often made verbally and without written documentation, yet remain legally binding for the parties involved. The prevalence of informal debt is evident from the widespread practices known as plecit banks, mobile banks, or installment banks, which offer quick loans without complicated conditions to low-income communities (Rohmah, Sari & Aprela, 2025).

In many cases, people choose informal borrowing and lending because the process is easier and faster compared to formal financial institutions, which require collateral and lengthy procedures. According to research on borrowing and lending practices in villages, people often engage in such agreements due to urgent needs for business capital or daily living expenses (Iman, 2024). This practice reflects strong social and economic relationships, where borrowing and lending are seen as a temporary solution to meet financial needs, even though the interest or credit terms are often burdensome. Furthermore, studies show that public awareness of the legal aspects of borrowing and lending agreements is quite low, especially when the practice occurs outside the formal banking system, such as in microfinance institutions (Munawaroh in Putri, 2025). Cultural factors and Social habits also reinforce this phenomenon, making people often consider debt and borrowing as something normal and ordinary without considering legal implications or financial risks.

The practice of debt and borrowing is also inseparable from socio-cultural aspects, such as in the debt and borrowing system in rural grocery stores, where family relations and social norms often form the basis for agreements without written contracts (Meivani & Arsal, 2025). In this context, debt and borrowing are not merely economic transactions but also reflect social solidarity and mutual assistance among community members. The impact of the increasing debt and borrowing is complex. On one hand, informal debt provides quick access to funds needed by the poor who have not yet been reached by formal institutions. However, on the other hand, reliance on informal debt carries the risk of creating a heavier financial burden, especially if the interest rates are high and the ability to pay is low (Utami, 2024). Therefore, financial literacy and legal understanding continue to be key so that debt agreements can be carried out more fairly and responsibly.

Disputes in loan agreements often arise from a breach of contract, which occurs when one party fails to fulfill the obligations agreed upon in the loan agreement. This breach usually happens because the debtor is unable to pay installments on time or in the promised amount, thus triggering legal conflicts between the creditor and the debtor (Nainggolan et al., 2024). Such cases generally lead both parties to litigation because no amicable settlement was successfully reached beforehand. The difficulty in proving oral agreements also becomes a source of disputes, particularly when the loan agreement is not formally written. Research shows that although oral agreements are considered valid under Indonesian law if they meet the validity requirements. Contracts and their evidence are often difficult to be accepted in court without supporting evidence such as witnesses, transfer records, or other documents (Purnawan & Suharto, 2021; Alfathoni et al., 2024). This situation often becomes the basis for disputes regarding the existence and content of the debt agreement itself. Apart from default, disputes over loan agreements can also arise due to differing interpretations regarding the debtor's obligations, such as in cases where debtors and creditors disagree on the interest rate, term, or collateral provided. Misunderstandings of the contract clauses may lead the creditor to take legal action to enforce their rights, while the debtor feels aggrieved by such interpretations (Rusli & Djajaputra, 2024). This reflects the need for clear and explicit contract clauses from the outset.

The process of resolving disputes through litigation often becomes expensive and time-consuming, which is why many parties seek alternative dispute resolution methods such as mediation or arbitration before taking cases to court. Research shows that these alternative mechanisms can provide faster and more efficient solutions, although they still face structural and normative challenges in their implementation in Indonesia (Nugraha & Wiraguna, 2025).

The potential for unlawful actions also arises in the context of debt disputes, for example, if the execution of collateral is carried out prematurely or not in accordance with the applicable procedures, such as in the case of an execution auction of mortgaged rights that is legally flawed. Such actions not only complicate disputes but also create new legal problems that must be resolved (Siregar et al., 2025). This situation underscores the need for contract and execution practices that comply with applicable regulations.

Debt dispute issues reflect challenges in the enforcement of civil law in Indonesia, including the efficiency of the judicial system, clarity of contract evidence, and the ability of disputing parties to fully understand their rights and obligations. These obstacles often result in legal uncertainty for both creditors and debtors, making effective legal protection an issue that still needs to be strengthened (Sentosa Zalukhu & Lie, 2025). Default in loan agreements is a civil law issue that often occurs in everyday life. Default happens when the debtor fails to fulfill their obligations as agreed, whether by not paying at all, paying late, or paying in a manner that does not comply with the agreement. This situation causes losses for the creditor and has the potential to trigger prolonged conflicts if not promptly resolved through the appropriate legal mechanisms. Resolving default cases is important because loan agreements are

essentially based on the principles of legal certainty and good faith. If default is left unresolved without clear resolution, then trust in legal and economic relationships will be disrupted. Dispute resolution provides certainty regarding the rights and obligations of the parties, so that creditors obtain legal protection for their claims, while debtors gain clarity about the responsibilities they must fulfill.

In addition, the settlement of breach of contract cases serves as a means of enforcing civil law. Through court decisions or other dispute resolution mechanisms, such as mediation or arbitration, the law can be enforced fairly and objectively. This is important to prevent unilateral actions, such as illegal debt collection or the use of force by creditors, which could actually create new legal problems. The settlement of breaches of contract also has a preventive value for society. With examples of firm and fair legal resolutions, people will be more careful when making debt agreements, both in drafting contract clauses and in fulfilling agreed-upon obligations. This encourages the development of a better legal culture, where every agreement is seen as a commitment that must be honored.

From an economic perspective, the resolution of breach of contract cases plays an important role in maintaining the stability of business and financial relationships. Certainty in resolving debt disputes provides a sense of security for entrepreneurs and the public in conducting transactions. Without an effective resolution mechanism, the risk of loss will increase and can hinder economic activity, especially for creditors who rely on the repayment of funds. Therefore, the resolution of breach of contract cases in loan agreements is very important to ensure legal certainty, protect the rights of the parties, and maintain order and justice in society. Whether through litigation or non-litigation channels, proper and proportional resolution is expected to create healthy legal relationships and prevent similar disputes from arising in the future.

2. Research Methodology

The type of research in this paper is normative with a statutory and conceptual approach. Meanwhile, the research specification is analytical descriptive, which explains the problems according to the research title. The data used is secondary, consisting of primary legal materials in the form of laws and regulations, namely code of civil law (KUH Perdata), and secondary legal materials in the form of books, journals, and writings related to the research topic. The data analysis method is conducted qualitatively. The collected data is selected, organized, and systematically described so that conclusions can be drawn regarding the issues studied.

3. Results and Discussion

In the life of Indonesian society today, the phenomenon of default in loan agreements is increasingly rampant and often causes social as well as legal conflicts. Loan agreements, which were originally formed on the basis of trust, now often end with the debtor's inability to fulfill payment obligations according to the agreement. Default itself is legally defined as a debtor's failure or neglect to fulfill their obligations in an agreement, whether intentional or unintentional, thereby causing losses to the creditor (Khaira, Harahap & Akhyar, 2025). One of the important factors driving the prevalence of default is the public's lack of understanding of the content and legal implications of debt agreements, especially in agreements made orally or informally without strong written documentation. Unclear agreements make it easier for disputes to arise when the debtor fails to fulfill their obligations, as there is not enough strong evidence for the creditor to legally claim their rights (Almasari Hubi, Aloysius & Jacob, 2023).

In addition, unstable economic conditions and personal financial pressures also drive the increase in cases of default. Economic pressures such as inflation or a decline in household business income disrupt the

debtor's ability to fulfill their debt obligations, leading to frequent delays or even total non-payment. According to legal research, a debtor's inability to pay their debts is one of the causes of default in lending agreements within the community (Prasetia et al., 2025).

Another factor that exacerbates the prevalence of default is the bad faith and fraudulent actions by some debtors who deliberately fail to repay their debts. In several cases of default, there is an element of bad faith that can imply suspected fraud, especially when debtors use various illegitimate reasons to avoid payment, even though they are financially capable (Umam et al., 2025).

The widespread use of debt agreements without collateral or without adequate assessment of repayment capacity also becomes a significant cause of default. When creditors or lenders do not properly evaluate the debtor's capacity before granting a loan, the risk of default increases. In a study on unsecured defaults, it is mentioned that the lack of collateral makes resolving defaults more complicated and often requires further legal action in court (Siregar, 2024). Finally, the increasing occurrence of defaults has led to a demand for society to be more cautious in making loan agreements and to improve legal understanding as well as financial literacy. Avoid verbal agreements without written proof and ensure that the payment terms and default penalties are understood by both parties as a preventive measure so that disputes do not escalate into prolonged legal conflicts (Khaira, Harahap & Akhyar, 2025).

Default in a debt agreement occurs when the debtor fails to fulfill the obligations agreed upon in the contract, whether in the form of principal repayment, interest, or other promised performance. In the context of community practice, default often stems from the debtor's financial inability to make payments due to changes in personal or business economic conditions, such as job loss or decreased income. This inability also causes creditors to frequently face difficulties in collection, as the debtor truly does not have sufficient resources to settle their obligations. This is in line with research findings which state that economic factors are a common cause default in debt obligations (Nopiandi, 2023). In addition, negligence or lack of good faith from the debtor is a contributing factor. This negligence includes the debtor's failure to meet payment deadlines, mismanagement of finances, or deliberately delaying obligations without a valid reason. According to legal studies, default is often caused by the negligence or intentional actions of the debtor in fulfilling the obligations promised in a debt agreement (Safitri, 2018).

External factors beyond the control of the parties can also cause default, such as force majeure events in the form of natural disasters, pandemics, or other emergencies that hinder the debtor's ability to fulfill obligations under the agreement. Legal literature states that force majeure is considered one of the causes of default because the debtor is unable to perform due to conditions beyond their control (Populix, 2024). Finally, unclear communication and poor contract planning also contribute to breach of contract. Agreements that do not include provisions for the time of payment, late penalties, or tolerance limits can complicate the resolution of disputes when a breach occurs. This situation is aggravated if both parties do not have the same understanding of the contract's contents, which can then trigger disputes and breaches (Pakpahan, 2016). Agreements that do not include provisions for payment timing, late fees, or tolerance limits can complicate dispute resolution when a breach occurs. This situation is exacerbated when both parties do not have a mutual understanding of the contract's contents, which can then trigger disagreements and breaches (Pakpahan, 2016).

Wanprestasi

The resolution of disputes arising from default in debt agreements essentially aims to restore the rights of the creditor who suffers losses due to the debtor's failure to fulfill their obligations. Default occurs when the debtor does not perform as agreed, performs but not on time, or performs but not in accordance with

the terms of the agreement. According to Article 1243 of the Indonesian Civil Code, default can result in the debtor's obligation to pay compensation, costs, and interest to the creditor.

Dispute resolution for breach of contract can be pursued through:

1. Non-litigation or out-of-court settlement. This method is generally carried out through deliberation or negotiation between the creditor and the debtor to reach a mutual agreement, such as rescheduling payments, reducing interest, or granting a grace period. Settlement of disputes in loan agreements does not always have to be pursued through trial. One of the methods most commonly used in community practice is the non-litigation route or out-of-court settlement, which emphasizes deliberation and mutual agreement between the creditor and the debtor. This route is considered simpler, faster, and more economical compared to litigation processes that require considerable time and cost (Subekti, 2014). Deliberation or negotiation becomes the main form of non-litigation resolution, where the parties sit together to discuss issues of default in a familial manner. In this process, creditors and debtors strive to find a fair solution without coercion, while still taking into account the debtor's capacity and the creditor's rights. This approach aligns with the principles of freedom of contract and good faith as known in Indonesian civil law (Harahap, 2017), one form of agreement that often arises in non-litigation settlements is payment rescheduling. Rescheduling is carried out by changing the debt payment term so that the debtor has a more realistic opportunity to fulfill their obligation. According to Subekti (2014), payment rescheduling is a practical solution that can prevent disputes from escalating into more serious legal conflicts. In addition to rescheduling, non-litigation settlements can also be carried out through interest reduction or late payment penalties. This policy is usually offered by creditors as a form of tolerance towards the financial conditions of debtors experiencing difficulties.

Interest reduction aims to ease the debtor's burden while also increasing the chances of debt repayment, so that neither party is excessively disadvantaged (Harahap, 2017). Another form of non-litigation settlement is granting a grace period to the debtor before further collection or legal action is taken. This grace period allows the debtor to improve their financial condition without legal pressure. In practice, granting a grace period is often accompanied by an additional agreement that sets a new deadline and the consequences if default occurs again (Salim HS, 2015). Overall, the non-litigation route reflects an effort to resolve disputes that prioritizes the principles of justice, utility, and the harmony of the parties' relationship. Settlement through deliberation, negotiation, rescheduling, interest reduction, and grace periods is considered more suitable for the nature of debt agreements, which are often based on trust. Therefore, non-litigation routes should be prioritized before pursuing resolution through the courts (Salim HS, 2015). Non-litigation routes are chosen because they are faster, less costly, and can maintain good relations between the parties, especially in debt agreements of a familial nature or long-term business arrangements.

2. The litigation route, which involves filing a civil lawsuit in the district court. In the lawsuit, the creditor can demand fulfillment of performance, cancellation of the agreement, and compensation for breach of contract. The court will evaluate evidence of the agreement, both written and witness testimony, to determine whether a breach of contract has indeed occurred and the form of legal liability of the debtor. Dispute resolution for breaches of loan agreements can be pursued through litigation, namely by filing a civil lawsuit in the competent district court. This route is usually chosen when efforts at resolution through deliberation or non-litigation means do not yield results. Litigation aims to obtain a judge's ruling that is binding and providing legal certainty for the parties, especially creditors who suffer losses due to the debtor's failure to perform (Subekti, 2014). In the context of civil law, a breach of contract is a situation in which the debtor does not fulfill the obligations as stipulated in the agreement, whether due to complete non-performance, delayed

performance, or performance that does not comply with the terms of the agreement. According to Article 1243 of the Civil Code, a breach of contract can result in an obligation to pay damages once the debtor is declared negligent. A civil lawsuit is filed as a legal means to demand the fulfillment of performance or compensation for such negligence (Harahap, 2017). The litigation process begins with the submission of a lawsuit by the creditor to the district court, which includes the identities of the parties, *posita* (legal basis and facts), as well as *petitum* or claims. In a lawsuit for breach of debt obligations, the creditor can demand debt repayment, cancellation of an agreement, compensation, interest, and legal costs. The judge will then examine the case based on the evidence presented, such as written agreements, witnesses, and proof of payment (Salim HS, 2015). The advantage of the litigation route lies in the existence of a court decision that has permanent legal force (*inkracht*) and can be enforced compulsorily if the debtor does not voluntarily comply with the ruling. This provides strong legal protection for the creditor. According to Yahya Harahap (2017), a court decision is the main instrument in upholding civil rights when the parties can no longer resolve the dispute peacefully. Nevertheless, the litigation route also has its weaknesses, including the relatively long process, the considerable legal costs, and the potential deterioration of the relationship between creditor and debtor. Therefore, in practice, the court still encourages efforts for settlement through mediation first, as regulated in the Supreme Court Regulation on Mediation in Court (Salim HS, 2015). Although it has limitations, the litigation route remains an important means of resolving disputes over breaches of loan agreements, especially when the creditor's rights cannot be restored by other means. With a court decision, it is expected to achieve legal certainty, justice, and protection for the party harmed due to the failure to fulfill contractual obligations (Subekti, 2014).

3. In addition to civil lawsuits, the resolution of breach of contract disputes can also be carried out through alternative dispute resolution (ADR) methods such as mediation, conciliation, or arbitration, if agreed upon in the contract. Mediation, in particular, is often recommended because it places a mediator as a neutral party who helps the parties reach a fair solution without a binding decision. Thus, the resolution of breach of contract disputes in loan agreements can be conducted gradually, starting with amicable methods and proceeding to legal action, while still considering the principles of justice, legal certainty, and benefits for the parties involved.

The resolution of disputes over breaches of debt agreements can not only be carried out through simple litigation and non-litigation channels, but also through Alternative Dispute Resolution (ADR). ADR is a mechanism for resolving disputes outside of court based on the agreement of the parties and aims to achieve a fair and efficient solution. According to Takdir Rahmadi (2017), ADR emerged as a response to the weaknesses of the litigation process, which tends to be lengthy, costly, and confrontational. One of the most commonly used forms of ADR is mediation, which is a dispute resolution process with the help of a neutral third party (mediator) to assist the parties in reaching agreement. The mediator does not have the authority to make decisions, but only facilitates dialogue and negotiation between the creditor and the debtor. Mediation is considered effective because it encourages the achievement of a win-win solution and maintains good relations between the parties (Harahap, 2017).

In addition to mediation, conciliation is also a form of alternative dispute resolution (ADR) that can be used in debt default disputes. In conciliation, the conciliator plays a more active role than the mediator by providing proposals or recommendations for resolving the dispute. However, these proposals are not binding unless agreed upon by the parties. According to Salim HS (2015), conciliation is suitable when the parties need an objective perspective from a third party to find a middle ground in the dispute. Another form of ADR is arbitration, which is dispute resolution outside the court through an arbitrator or an arbitration panel chosen by the parties. Unlike mediation and

conciliation, an arbitration decision is final and binding and has the same legal force as a court ruling. Arbitration can only be used if it has been explicitly agreed upon in the debt agreement (Rahmadi, 2017).

The use of Alternative Dispute Resolution (ADR) in resolving breaches of contract offers various advantages, including a faster process, relatively lower costs, and better assurance of confidentiality in disputes. In addition, ADR provides parties with the flexibility to determine the resolution mechanism that best suits their needs. Therefore, ADR is considered more flexible compared to litigation, which is rigid and formal in its procedures (Harahap, 2017). Overall, resolving contract disputes through ADR methods such as mediation, conciliation, and arbitration is an effective and efficient alternative as long as it is agreed upon in the contract. This mechanism aligns with the principles of good faith, justice, and utility in civil law. Thus, ADR should be considered as a primary option before parties resort to the courts (Salim HS, 2015).

4. Conclusion

The resolution of disputes arising from breaches in debt agreements can be concluded that the dispute resolution mechanism can be pursued through several legal avenues, whether non-litigation, litigation, or alternative dispute resolution (ADR). Each avenue has its characteristics, advantages, and disadvantages that need to be considered according to the conditions and interests of the parties involved. The non-litigation route emphasizes deliberation and mutual agreement, the litigation route provides legal certainty through court decisions, while ADR offers flexible and efficient solutions. Gradually, starting with peaceful efforts through deliberation or APS, before resorting to litigation as a last resort (*ultimum remedium*). This approach not only reflects the principles of good faith and justice in civil law, but can also minimize prolonged conflicts and maintain legal and social relations between creditors and debtors.

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