

Legal Analysis Of The Impact Of Debtor Bankruptcy On Bank Credit Payment Performance (Research Study At Bri Batam Branch Office)

by Eder Dfrtv

Submission date: 08-Aug-2024 08:35AM (UTC+0700)

Submission ID: 2428818230

File name: IJLCJ_-_VOLUME_1,_NO._3,_SEPTEMBER_2024_Pages_245-254.pdf (811.24K)

Word count: 3983

Character count: 21943



Legal Analysis Of The Impact Of Debtor Bankruptcy On Bank Credit Payment Performance (Research Study At Bri Batam Branch Office)

Ardyansyah Yacob^{1*}, Erniyanti Erniyanti ², Bachtiar Simatupang ³, Soerya Respationo ⁴

¹⁻⁴ University of Batam, Indonesia

Corresponding author: ardyansyah@gmail.com*

Abstract, Debtor bankruptcy is a critical issue that has a significant impact on the performance of credit payments in the banking sector, especially at the BRI Batam Branch Office. This study aims to analyze the juridical impact of debtors' bankruptcy on credit payment performance in BRI Batam, focusing on the direct influence of bankruptcy on bank liquidity, asset quality, and bank operations. In the legal context, debtor bankruptcy is regulated by Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, which provides a framework for the bankruptcy process and its settlement. The research method used is normative juridical, with a case approach to collect empirical data from the BRI Batam Branch Office. Data was collected through interviews with bank management, analysis of bankruptcy documents, and literature review related to bankruptcy laws and regulations. Data analysis was carried out in a descriptive analytical way to understand the legal implications and operational impact of debtor bankruptcy on credit payment performance. The results of the study show that debtor bankruptcy significantly affects the liquidity and credit payment performance in BRI Batam, with direct consequences in the form of an increase in bad loans and a decrease in interest income. Delays in legal proceedings and asset liquidation also add to the bank's operational burden. Based on these findings, it is recommended that BRI Batam should improve its credit risk monitoring system and adopt a more effective risk management strategy to anticipate and overcome potential bankruptcy. The government is expected to accelerate the legal process related to bankruptcy to minimize the negative impact on the banking sector and the economy as a whole.

Keywords: Juridical Analysis, Bankruptcy, Bank Kredit

1. INTRODUCTION

In the current era of economic globalization, the banking industry plays a vital role in supporting economic activities in various sectors. One of the main functions of banking is to provide credit services to facilitate the financial needs of both individuals and corporations. However, in practice, the credit granting process is often faced with various risks, one of which is the risk of failure to repay or bad debts which can be caused by debtor bankruptcy. Debtor bankruptcy is a condition in which the party borrowing funds (debtor) is unable to fulfill its debt payment obligations to the creditor, which in this case is the bank. This phenomenon not only has a negative impact on the debtor's financial condition but also has the potential to disrupt the bank's financial stability and overall credit payment performance. Especially in the Batam area, which is one of the important business and trade centers in Indonesia, the impact of debtor bankruptcy on credit payment performance is an issue that needs serious attention, considering the strategic role of the banking sector in supporting the economy in the region.

Loans made between Debtors and Creditors are basically based on the principle of trust

that the Debtor can repay his/her debt/loan on time. Debt repayment by the Debtor to the Creditor does not always run smoothly, sometimes the Debtor cannot pay the debt even though it is due due to a certain reason, such as a monetary/financial crisis, a natural disaster that results in the performance of the business not running smoothly. This will certainly affect the Debtor's ability to fulfill his/her debt repayment obligations.

Article 1132 of the Civil Code also explains that every Creditor has the same position as other Creditors, unless otherwise determined by law because they have a legitimate reason to be given priority over other Creditors. Both articles are actually a guarantee for Creditors to be able to obtain payment of all their receivables. However, even though it has been expressly stated in the Civil Code regarding debt repayment guarantees, it turns out that problems related to debt and receivables, especially when the Debtor does not fulfill his obligation to pay the debt, still often occur.

There are several alternative dispute resolutions between Debtors and Creditors in money lending agreements, namely through litigation (court) and non-litigation (out-of-court) channels. The out-of-court channel that is currently in great demand by the business world is through arbitration. Choosing an arbitration forum to resolve business disputes is a tendency for the shift in interest of justice seekers from using litigation channels in court to other channels that are less formally structured.

This study aims to analyze the direct impact of debtor bankruptcy on credit payment performance at the BRI Batam Branch Office. Considering that BRI as one of the largest banks in Indonesia has an important role in financing various economic sectors, this study is expected to provide new insights into effective credit risk management strategies and mitigation steps that can be taken to minimize the negative impact of debtor bankruptcy.

By focusing the research on the case at the BRI Batam Branch Office, it is expected that the results of this study will not only be relevant and contribute to BRI in particular, but also to the banking industry in Indonesia in general in facing the challenges of debtor bankruptcy. In addition, the results of this study are expected to be a reference for policy makers in formulating more effective regulations related to credit risk management in the banking sector.

Based on the background description above, the author raises several issues that will be discussed further. The issues are as follows:

1. How does the bankruptcy law regulate debtors on credit payment performance?
2. How does debtor bankruptcy impact credit payment performance at the BRI Batam Branch Office from a legal perspective?

3. What are the obstacles and efforts of BRI Batam in dealing with debtor bankruptcy to minimize the negative impact on credit payment performance?

Based on the formulation of the problem stated above, it can be seen that the objectives of this study are:

1. To find out and analyze the legal arrangements of debtor bankruptcy on credit payment performance.
2. To find out and analyze the impact of debtor bankruptcy on credit payment performance at the BRI Batam Branch Office from a legal perspective?
3. To find out and analyze the obstacles and efforts of BRI Batam in dealing with debtor bankruptcy to minimize the negative impact on credit payment performance.

2. LITERATURE REVIEW

In Indonesia, the regulation on bankruptcy is stated in Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (PKPU). This Law is a revision and improvement of the previous Law which also regulates bankruptcy. Bankruptcy is defined as a condition where a debtor is declared unable by the Commercial Court to pay at least one debt that has matured and can be collected, and this situation can result in all of the debtor's assets being taken over by a curator to then be liquidated and distributed to creditors in accordance with applicable legal provisions.

The Bankruptcy and PKPU Law in Indonesia is designed to provide justice for all parties involved, both debtors and creditors, by offering a legal solution to the debtor's inability to pay debts. This includes mechanisms to ensure fair distribution of assets to creditors and, in some cases, allows debtors to undertake financial restructuring to avoid total liquidation. In bankruptcy cases, peacemaking is regulated in Articles 144-177 of Law Number 37 of 2004 concerning Bankruptcy and PKPU and is carried out after a verdict. After the debtor is declared bankrupt by the commercial court, the bankrupt debtor has the right to offer peacemaking to all creditors. This is different from civil cases tried in district courts. In district courts, peacemaking is carried out pre-decision, namely at the beginning of the trial until before the verdict is pronounced.

According to Article 149 paragraph (2) of Law Number 37 of 2004 concerning Bankruptcy and PKPU, with the release of rights as referred to in paragraph (1), their position changes to become concurrent creditors. Their position as concurrent creditors remains valid even if the peace is ultimately not accepted (not approved). The last sentence in Article 149 paragraph (2) determines the consequences for separatist creditors (holders of property security

rights) and creditors with special rights that are denied to become concurrent creditors if these creditors release their rights because they want to participate in voting in the peace plan meeting offered by the debtor.

The Peace Plan offered by the debtor to its creditors in bankruptcy which is discussed and decided after a verification meeting usually contains an offer by the debtor to pay part of or postpone payment of debt and interest, installment payment of debt and interest or payment of debt based on a percentage of the principal debt only. According to Article 156 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and PKPU, in the event that the peace plan is accepted (approved) before the meeting is closed, the supervising judge determines the day of the court hearing which will decide whether or not the peace plan is ratified.

Every credit that has been approved and agreed upon between the creditor and debtor must be stated in a written credit agreement (credit contract). In banking law, the term "credit agreement" is not found. The term credit agreement can be seen in government instructions addressed to the public, which states that in every form of credit, banks are required to use a credit agreement. Several legal experts are of the opinion that a credit agreement is essentially a loan agreement as regulated in the Civil Code. Subekti is of the opinion that in whatever form the credit is provided, in all of them, what essentially happens is a loan agreement as regulated in the Civil Code Articles 1754 to 1769.²⁶

Then the credit agreement in Indonesia is a contractual agreement between two parties, namely the creditor (usually a financial institution or bank) and the debtor (borrower), where the creditor provides a loan of money or other credit facilities to the debtor with certain requirements. The main purpose of the credit agreement is to provide the debtor with access to funds or credit needed for various purposes, such as business financing, purchasing a house or vehicle, education, or other consumer needs.

3. RESEARCH METHOD

The method used in a research is basically a stage to find the truth again. So that it will answer the questions that arise about a research object. Research is a means used to strengthen, foster and develop science.

The specification of this research only conducts analysis up to the level of synthesis, namely analyzing and presenting facts systematically so that they can be more easily understood and concluded. Research Specification or it can be said that the type of research is a choice of research format type in researching research objects in the field of legal science studied by the researcher.

Specifically according to the type, nature and purpose of legal research specifications by Soerjono Soekanto are distinguished, namely normative legal research and sociological or empirical legal research⁶⁶. This normative legal research is also called doctrinal legal research, also referred to as library research or document study. Researchers in conducting research on this research object have determined the specifications of Normative Legal research. The specifications and/or types of this thesis research are normative legal research while combining it with sociological (empirical) legal research using secondary data obtained directly from as the first source through field research through interviews and primary data as sources/information materials in the form of primary legal materials, secondary legal materials and tertiary legal materials.

The approach method in this study is a combination of the normative approach "legal research" with the empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics.

The location of this research is carried out in Batam City, Riau Islands Province, precisely at the BRI Batam Branch Office. This location is determined based on the data that is the object of this thesis research. Population is a population or universe is the total number of analysis units whose characteristics will be predicted. The population is all elements related to the research object.

This type of research is included in the combined research category between normative legal research (library research) and observational research, while in terms of its nature it is analytical, where the author makes efforts to explore verbal data sourced from literature obtained from libraries and data obtained in the field, then analyzed to obtain conclusions deductively. The data and data sources used in this study are primary data⁶⁹ and secondary data.

In this study, data analysis is carried out qualitatively by describing the research, then conducting a comparison between the data and legal theories, legal experts and laws and regulations, where the analysis begins with data collection, data processing and finally data presentation. While the conclusion drawing will use the deductive method, namely the author takes data, statements, opinions, which are general in nature and then draws specific conclusions.

4. RESULTS AND DISCUSSION

1. Bankruptcy Law Regulations of Debtors Regarding Credit Payment Performance

In describing the legal provisions of debtor bankruptcy and its impact on credit payment performance, we can refer to several main articles in **Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU)**. The Bankruptcy and PKPU Law defines "bankruptcy" as a legal situation in which a debtor is unable to pay his debts and is declared bankrupt by the court. Meanwhile, "Suspension of Debt Payment Obligations" (PKPU) is a mechanism that allows debtors to get additional time to restructure their debts before being declared bankrupt.

The bankruptcy process aims to settle the debtor's obligations to his creditors fairly and orderly, reduce financial losses for all parties involved, and provide an opportunity for the debtor to restart his economic activities without the burden of debts that he cannot pay. Bankruptcy is treated as a last resort, when all efforts to restructure or negotiate a debt payment suspension (PKPU) have failed to reach a satisfactory agreement between the debtor and his creditors.

The bankruptcy filing process begins with the preparation and submission of a bankruptcy petition to the commercial court. The petition must be accompanied by sufficient evidence that the debtor has failed to fulfill its financial obligations and that there are debts that are due and collectible. After the petition is filed, the court will hold a hearing to assess the validity of the claims submitted by the applicant and decide whether the bankruptcy process should be continued. If the petition is accepted, the court will appoint a curator to manage the process of liquidating the debtor's assets, the proceeds of which will be used to pay creditors in accordance with the priorities set by law. This process is carried out openly and transparently so that all interested parties can follow developments and file their rights in the bankruptcy process.

Thus, **Law Number 37 of 2004 concerning Bankruptcy and PKPU** directly affects the performance of credit payments in the economy. This law provides a framework for dealing with situations where debtors are unable to meet their financial obligations, trying to balance the need to protect creditors' rights while also providing debtors with the opportunity to restructure their debts. Despite its intention to stabilize and assist economic recovery, the practical application of this law is often complicated and depends on many factors, including the effectiveness of the courts and existing legal processes.

2. The Impact of Debtor Bankruptcy on Credit Payment Performance at the BRI Batam

Branch Office from a legal perspective

Bankruptcy proceedings often involve a lengthy period during which the assets of the defaulting borrower are liquidated to satisfy the debt, during which time the bank is unable to access funds that would otherwise help ensure its operational liquidity. This not only slows the bank's ability to make new loans but also reduces overall operational efficiency. Furthermore, an increase in the incidence of bankruptcies can trigger a chain reaction that affects market perceptions of the bank's financial health and stability, potentially affecting depositor and investor confidence. This loss of confidence can lead to a massive withdrawal of funds or a "bank run," which would dramatically drain the bank's liquidity.

In BRI Batam, this can be caused by many factors, such as a decline in local economic performance, failure in risk management, or a decrease in the value of collateral pledged in loans. The impact of increasing NPLs is not only limited to a decrease in interest income, but also to the need to increase the allocation of reserve funds to cover potential losses from bad loans. This puts pressure on bank profits and reduces the capital available for other credit provision.

This includes the use of more sophisticated credit scoring models and financial performance indicators that allow banks to intervene earlier before loans become problematic. In addition, ongoing training for credit analysts and risk managers is essential to ensure that they are equipped with the latest knowledge of best practices in risk assessment and credit portfolio management.

An effective early warning system should be integrated into the bank's operations, providing timely notification of potential credit risks so that preventive actions can be taken immediately. Other effective measures that need to be implemented are credit restructuring and more strategic handling of non-performing assets. BRI Batam needs to prepare a special team that focuses on handling non-performing assets, which has the ability to renegotiate credit terms with debtors experiencing financial difficulties, with the aim of producing a more realistic and sustainable payment scheme. In addition, the bank can increase cooperation with credit guarantee institutions and insurance to minimize the risk of losses. The implementation of these strategies will not only improve asset quality and strengthen BRI Batam's finances but will also increase trust from stakeholders and investors, which is essential for the bank's long-term growth.

2. Obstacles and Efforts of BRI Batam in Dealing with Debtor Bankruptcy to Minimize Negative Impacts on Credit Payment Performance

One of the major obstacles faced by BRI Batam is the ability to identify early signs of financial distress among its debtors. Without an effective early warning system, banks may not be aware of potential problems until debtors are already in financial distress. This makes handling the problem more complex and limits the options available for debt restructuring or other problem resolution.

Managing and recovering non-performing loans requires significant resources, including trained manpower and adequate information technology systems. BRI Batam may experience difficulties in allocating sufficient resources to focus on the recovery of non-performing assets, especially if there is a sudden increase in bankruptcy cases. This may result in suboptimal handling and delays in credit recovery.

Developing a flexible credit restructuring policy will allow BRI Batam to respond more quickly and effectively to changes in the economic and financial conditions of debtors. This approach can include adjusting payment terms, extending credit terms, or reducing interest rates, all of which can help debtors overcome temporary financial difficulties without having to face bankruptcy. By implementing these strategies, BRI Batam can reduce the financial risks associated with bad debts and improve its overall credit payment performance, while maintaining its reputation and financial stability in the market.

5. CONCLUSION AND SUGGESTION

1. CONCLUSION

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- a. It is recommended that BRI Batam can improve the application of artificial intelligence and machine learning technology in its credit risk evaluation system to detect potential problem loans early. This will allow the bank to take preventive action before the debtor experiences serious financial difficulties, thereby reducing the risk of bankruptcy and increasing the efficiency of credit recovery.
- b. It is recommended that the public, especially debtors, be more proactive in managing their personal and business finances by utilizing financial consulting services offered by many banking institutions.
- c. It is recommended that the Government should consider strengthening the regulatory framework governing the bankruptcy and debt restructuring process, with a focus on accelerating legal procedures that are often long and complex.

2. SUGGESTION

From this conclusion, the author can provide several suggestions, namely:

- a. It is recommended that BRI Batam can improve the application of artificial intelligence and machine learning technology in its credit risk evaluation system to detect potential problem loans early. This will allow the bank to take preventive action before the debtor experiences serious financial difficulties, thereby reducing the risk of bankruptcy and increasing the efficiency of credit recovery.
- b. It is recommended that the public, especially debtors, be more proactive in managing their personal and business finances by utilizing financial consulting services offered by many banking institutions.
- c. It is recommended that the Government should consider strengthening the regulatory framework governing the bankruptcy and debt restructuring process, with a focus on accelerating legal procedures that are often long and complex.

REFERENCES

- A'an Efendi, dkk, Teori Hukum, Sinar Grafika, Jakarta, 2017.
- Achmad Ali, Mengungkap Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence), Kencana Prenada Group, Jakarta, 2012.
- Andi Hamzah, Kamus Hukum, Citra Umbara, Bandung, 2018.
- Anonimous, Buku Pedoman Penyusunan Proposal dan Tesis Program Magister Ilmu Hukum Pascasarjan (S2), Universitas Batam, Batam, 2023.
- Arief Sidharta, B, Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum Dan Filsafat Hukum, Refika Aditama, Bandung, 2016.
- Bambang Sugono, Metoda Penelitian Hukum, Jakarta: Raja Grafindo Persada, 2001.
- Bernard L. Tanya, dkk, Teori Hukum, Strategi Tertib Manusia Lintas Ruang dan Generasi, Genta Publishing, Yogyakarta, 2019.
- Eman Suparman, Pilihan Forum Arbitrase Dalam Sengketa Komersial Untuk Keadilan, PT. Tata Nusa, Jakarta, 2004.
- Hartini, Rahayu, Penyelesaian Sengketa Kepailitan di Indonesia, Pranamedia, Jakarta, 2009.
- Irawan Suhartono, Metode Penelitian Sosial Suatu Teknik Penelitian Bidang Kesejahteraan Sosial lainnya, Bandung: Remaja Rosda Karya, 2009.
- Jonaedi Efendi dan Johnny Ibrahim, Metode Penelitian Hukum Normatif Dan Empiris, Prenadamedia Group, Depok, 2018.
- Jujun S. Soeryasumantri, Filsafat Ilmu Sebuah Pengantar Populer, Sinar Harapan, Jakarta,

2008.

Lawrence M. Friedman, Sistem Hukum Dalam Perspektif Ilmu Sosial, "The Legal System: A Social Science Perspective", Nusa Media, Bandung, 2009.

Legal Analysis Of The Impact Of Debtor Bankruptcy On Bank Credit Payment Performance (Research Study At Bri Batam Branch Office)

ORIGINALITY REPORT

17%
SIMILARITY INDEX

14%
INTERNET SOURCES

9%
PUBLICATIONS

5%
STUDENT PAPERS

MATCH ALL SOURCES (ONLY SELECTED SOURCE PRINTED)

4%
★ Wijaya Natalia Panjaitan, Frandy Septior Nababan.
"Legal Consequences of Amendment And/Or
Implementation of Homologation Outside Court
Authorization", Batulis Civil Law Review, 2023
Publication

Exclude quotes On
Exclude bibliography On

Exclude matches Off