



Negotiation: A Dispute Settlement Offer Family (Case Study of Bina Mandiri Sentausa Cooperative)

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Abstract— This study aims to determine the implementation of credit dispute resolution through negotiation as an offer for amicable settlement at the Bina Mandiri Sentausa Cooperative. The method used in this study uses empirical methods or field studies, primary data obtained by interviewing the informant as the Head of the Center Manager of the Bina Mandiri Sentausa Cooperative. The difference between this article and previous research lies in the method used in obtaining the data. In previous studies, the authors used a literature study or normative juridical with secondary data. The results of the study stated that the cause of non-performing loans in the Bina Mandiri Sentausa Cooperative was caused by 2 (two) factors, internal factors and external factors. One of them is the business run by the debtor experiencing problems and the debtor losing money which ultimately has an impact on ongoing credit payments, the debtor does not have good faith and deliberately does not want to make credit payments. The offer of negotiation between the debtor and the creditor after the debtor is declared unable to pay is the beginning of the implementation of a family dispute resolution. The negotiation was chosen by the Bina Mandiri Sentausa Cooperative as an offer to settle credit disputes because it creates a win-win solution for both creditors as lenders and debtors as borrowers. the debtor does not have good faith and deliberately does not want to make credit payments. The offer of negotiation between the debtor and creditor after the debtor is declared unable to pay is the beginning of the implementation of a family dispute resolution. The negotiation was chosen by the Bina Mandiri Sentausa Cooperative as an offer to settle credit disputes because it creates a win-win solution for both creditors as lenders and debtors as borrowers. the debtor does not have good faith and deliberately does not want to make credit payments. The offer of negotiation between the debtor and the creditor after the debtor is declared unable to pay is the beginning of the implementation of a family dispute resolution. The negotiation was chosen by the Bina Mandiri Sentausa Cooperative as an offer to settle credit disputes because it creates a win-win solution for both creditors as lenders and debtors as borrowers.

Keywords— Non-performing Loans, Negotiation, Cooperative.

INTRODUCTION

Cooperatives as part of the national economic system, their presence has a great influence on the economic potential of the people and has an influence on the economic life of the democratic society. This conception makes cooperatives a strategic business entity for members to achieve economic goals and of course have an impact on society at large (1). Recently, cooperatives have been continuously elaborating their line of business to keep up with increasingly unlimited human needs. The emergence of cooperatives is needed by the community because it provides "savings and loans" in one of its business fields. This is confirmed in Article 44 of Law Number 25 of 1992 which states that Cooperatives can collect funds and distribute them through savings and loan business activities.



Not always in lending and borrowing activities everything goes according to what is in the contents of the agreement. Not a few found the debtor breach of contract or default in fulfilling their obligations. In July 2021, the Chairman of the Board of Commissioners of the Financial Services Authority or OJK Wimboh Santoso stated that the increase in non-performing loans (NPLs) rose to 3.35 percent compared to the previous year (2). In other words, the debtor does not have good faith to return the money he has borrowed to the lender or creditor. Default of a debtor can be in the form of: 1) The debtor does not meet the performance at all; 2) The debtor fulfills the performance, but not as it should be; 3) The debtor fulfills the performance, but is not on time; 4) The debtor does something that according to the agreement cannot be done (3). Default according to Article 1238 of the Civil Code "The debtor is negligent if he with a warrant or with a similar deed has been declared negligent, or for the sake of his own engagement, if this stipulates that the debtor will have to be considered negligent with the passage of the specified time". As a result, the default by the debtor can cause a dispute between the parties involved and become a legal issue that must be resolved wisely, precisely, and carefully. is if this stipulates, that the debtor will have to be considered negligent by the lapse of the specified time. As a result, the default by the debtor can cause a dispute between the parties involved and become a legal issue that must be resolved wisely, precisely, and carefully. is if this stipulates, that the debtor will have to be considered negligent by the lapse of the specified time. As a result, the default by the debtor can cause a dispute between the parties involved and become a legal issue that must be resolved wisely, precisely, and carefully.

According to Rachmadi Usman, SH, MH, dispute resolution can be carried out non-litigation or out of court which is commonly known as ADR.(Alternative Dispute Resolution). The term ADR is better known in America, while in Indonesia it is known as APS (4). According to Article 1 Number 10 of Law 30/1999 concerning Arbitration and APS, it is stated that APS is an institution for resolving a dispute which uses procedures that have been agreed upon by both parties, such as by means of consultation, negotiation, mediation, conciliation or expert judgment (5) . One alternative that is often used in the event of a credit agreement dispute in a cooperative is negotiation. Susanti Adi Nugroho said that negotiation is a process of transaction or bargaining to reach an agreement with the other party with a process of interaction, communication that is in line with the goal in order to find a way out of the dispute being faced (6).

In the business world, the offer of amicable dispute resolution is an alternative solution that is highly considered by business people. Why is that, this is because there are advantages that are not found if the dispute is resolved through the courts. These advantages include guaranteeing the confidentiality of the dispute because it does not go through a trial process that is open to the public and published (7). In addition, the resulting decisions are based on deliberation and consensus of both parties and of course can satisfy the parties (win-win solution). Meanwhile, disputes that arise and are resolved through the courts usually give rise to a decision that is resistance, namely a win-lose solution and not necessarily the decision to protect the interests of the parties. So that, another problem can arise when the winning party is satisfied and the loser is not satisfied with the resulting decision. The implementation of dispute resolution through the courts also has several weaknesses, including the relatively more expensive handling costs and can certainly take a long time.



Practice at the Bina Mandiri Sentausa Cooperative, the main problem that is often encountered is related to non-performing loans. Thus, this research is needed to find out how the implementation of family credit dispute resolution at the Bina Mandiri Sentausa Cooperative.

METHODS/IDEAS

The type of research used to analyze is empirical research. Law in this approach is positioned as an empirical phenomenon, because law is seen as patterned community behavior in people's lives who always interact and relate to social aspects (8). Judging from the background and subject matter described above, this research is also a descriptive qualitative research. The choice of this method was done because the researcher wanted to understand the description of the phenomenon using descriptions with words and language (9). Descriptive method in this study is used to help the reader to find out what is happening in the environment under observation, balanced by the analysis and interpretation of the researcher and then written in the form of a narrative to describe what happened in the reported phenomenon in detail, complete and clear about the problem in research (10). Data collection techniques in this study used a combined technique, namely interviews and observations. Observations were made because the informant certainly could not provide straightforward information on the grounds that the data was sensitive and not for public consumption (11). The data that has been collected is analyzed interactively which consists of 3 main activities, namely: data reduction, data presentation, and drawing conclusions and verification. Data collection techniques in this study used a combined technique, namely interviews and observations. Observations were made because the informant certainly could not provide straightforward information on the grounds that the data was sensitive and not for public consumption (11). The data that has been collected is analyzed interactively which consists of 3 main activities, namely: data reduction, data presentation, and drawing conclusions and verification. Data collection techniques in this study used a combined technique, namely interviews and observations. Observations were made because the informant certainly could not provide straightforward information on the grounds that the data was sensitive and not for public consumption (11). The data that has been collected is analyzed interactively which consists of 3 main activities, namely: data reduction, data presentation, and drawing conclusions and verification.

RESULTS AND DISCUSSION

A. Factors that Cause Non-Performing Credit

The provision of credit from the savings and loan cooperatives to customers or debtors in its journey is not always in accordance with what is stated in the credit agreement. Problems arise when one of the parties, especially the debtor, breaks his promise or defaults. Default is the inability of a person to fulfill obligations based on what has been agreed in the contents of the agreement. A debtor's default may be in the form of: 1) The debtor does not meet any performance at all; 2) The debtor fulfills the performance, but not as it should be; 3) The debtor fulfills the performance, but is not on time; 4) The debtor does something that according to the agreement cannot be done.



As of February 2022, there are non-current loans of 39.16% (thirty-nine point sixteen percent) and doubtful loans of 3.85% (three point eighty-five percent). This data was obtained by the author based on the results of interviews with Mrs. Eny Yuliati, SE as the Head Manager of the Center for the Cooperative Bina Mandiri Sentausa. The high number of credit problems, according to informants, both substandard and doubtful credit, has an impact on the high value of NPL (non-performing loans) at the Bina Mandiri Sentausa Cooperative. The high value of NPL will have an impact on the health of a cooperative.

Several factors caused the emergence of non-performing loans at the Bina Mandiri Sentausa Cooperative based on the results of interviews, including:

A survey of prospective borrowers that is less in-depth. This is related to the target marketer and the target office. Marketers find it difficult to find reliable prospective borrowers, eventually marketers throw credit in an undirected way.

1. The amount of services determined by cooperatives is higher than conventional banks.
2. Disbursement value that does not match the guarantee due to excessive intervention on the basis of kinship
3. Prospective borrowers who are rejected by conventional banks end up borrowing from cooperatives because they feel that the loan disbursement process in cooperatives is faster and the requirements are easy.
4. The cooperative does not provide insurance cover if the problem debtor dies, so the debtor's debt is passed on to the heirs.
5. The existence of problems in the line of business that is being carried out makes the borrower lose money which ultimately has an impact on ongoing credit payments.
6. Misuse of credit by borrowers.
7. There is no good faith from the borrower to repay the credit so that the credit payment does not work as it should.

It can be said that the occurrence of non-performing loans in the Bina Mandiri Sentausa Cooperative is caused by internal factors and external factors. Internal factors can occur due to the lack of prudential principles in providing loans and the Bina Mandiri Sentausa Cooperative has also not fully implemented the 6C banking principles which include Character, Capacity, Capital, Condition, Collateral, Constraints and has not fully assessed based on the 7P analysis which includes Personality, Party, Purpose, Prospect, Payment, Profitability, Protection. External factors are related to the default committed by the debtor.

B. Implementation of Negotiated Dispute Resolution

In the implementation of dispute resolution through negotiation, each party is free to express what they want and there is a bargaining process in it. This bargaining process can occur many times until a consensus is reached. The negotiation process is closed and confidential because it is only attended by the disputing parties without any third party intervention. If a consensus has been reached, then the results of the agreement apply like law and are



binding on the parties who made it. From the results of interviews with informants, the efforts made by the Bina Mandiri Sentausa Cooperative as creditors in resolving cases of default by debtors include:

1. Alerts by cell phone.

The creditor as the lender, especially the marketing officer or (marketer) contacts the debtor regarding the reason why he is late in making payments and persuades the debtor to pay immediately. Usually debtors tend to be quick to respond and realize if this communication is established via cell phone.

2. Warning through warning letters and summons

The marketing officer sends a warning letter to the home address concerned, in this case the debtor's house. This warning letter usually contains a call for the debtor to come to the cooperative and the payment deadline set by the cooperative is stated. Warning letters are given a maximum of three times if the debtor is unwilling or "runs" from the summons.

3. Loan renewal or Novation

The cooperative negotiates with the debtor to make a new credit agreement or replace the old credit agreement. Making a new credit agreement is known as "rescheduling". Generally, in making new PKs, the Bina Mandiri Sentausa Cooperative offers debtors about reducing services and increasing installment time. The additional installment period is related to the debtor's ability to pay and the calculation of the installment period. The regulation regarding novation is expressly stated in Article 1415 of the Civil Code which states that "There is no renewal of debt which is suspected to be the will of a person to make it must be firmly evident from his actions". Thus, with the issuance of a new PK, it can be ascertained that the debtor has known and agreed to all the contents of the agreement.

4. Blocking, taking, controlling, and selling collateral

The cooperative takes the necessary legal actions in accordance with the applicable provisions, both those regulated in the PK and those regulated by the law related to guarantees. The legal action is in the form of blocking, taking, controlling, and selling collateral if until the specified time the debtor still has no ability to pay, of course between the cooperative and the debtor there has been an agreement on this matter. Article 1131 of the Civil Code states that "All objects of the debtor, both movable and immovable, both existing and new will exist in the future, become dependents for all individual engagements". If you look at the article,

There is a discrepancy in the negotiation process carried out by the Bina Mandiri Sentausa Cooperative with the opinion expressed by Yahya Harahap (12). Yahya Harahap said that there are several things that must be used as benchmarks so that the negotiations can run smoothly, including the parties to the dispute should listen carefully and patiently to what the other party has to say even if they disagree, explore and learn important information obtained from the other party. others, think positively, eliminate attacks that are generally personal, and focus on finding solutions. Meanwhile, based on the results of the interview with ifnorman, the Bina Mandiri Sentausa Cooperative in the process did not avoid that when negotiating regarding late payments by debtors did not heed



the principle of negotiation. One of them is marked by threats in terms of billing. Nevertheless, the cooperative has its own reasons why this needs to be done, including: 1) Actually the debtor has the ability to pay, but in character it is not good so there is no intention to pay; 2) Issues in the community, the community underestimates cooperative institutions because it is rare to find cases of cooperatives that are brought to court; 3) In contrast to conventional banks, cooperatives do not have debt collectors in charge of collection; 4) There is an idea that the debtor intentionally makes a loan and is not responsible for making payments, generally this problem is found in loans whose collateral is in the form of BPKB of a movable object. Looking at the negative side of society,

CLOSING

1. Conclusion

Based on the description of the discussion above, it can be concluded that there are two factors, namely internal factors and external factors that cause non-performing loans at the Bina Mandiri Sentausa Cooperative. One of them is that the business run by the debtor has problems and the debtor suffers losses which ultimately have an impact on ongoing credit payments, the debtor does not have good faith and deliberately does not want to make credit payments. The efforts made by the Bina Mandiri Sentausa Cooperative for credit disputes are that debtors are given warnings via cellular phones, then the cooperative goes to the debtor at his residence and invites the debtor to negotiate about the dispute that occurs with the aim of finding out what factors make the debtor not or unable to make credit payments, making new credit agreements. If the debtor has been declared due by the cooperative and the debtor still has no ability to pay, the cooperative has the right to block, take and control and then sell the debtor's collateral in accordance with what has been pledged to the cooperative.

2. Suggestion

- a. In order to minimize problems and lead to a "healthy" cooperative, it is better if Bina Mandiri Sentausa Cooperative pays attention to the 6C principles of banking and conducts a 7P analysis in providing credit loans to prospective borrowers.
- b. As a borrower, it is proper to continue to carry out the contents of the agreement properly by fulfilling the obligation to make payments on the credit that has been borrowed and it is hoped that the borrower does not violate the contents of the agreement that has been mutually agreed upon.

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