Small Claim Court as the Alternative of Bad Credit Settlement for Legal Certainty of the Economic Actors

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Abstract: This article aimed to analyze the problem of legal cases accumulation, especially default on credit contracts in court. It also analyzes the effectiveness of implementing a small claim court in contract default and the independence of a single judge in handling cases through the small claim court mechanism. Small claim court also offers a breakthrough in the settlement of bad loans related to contract defaults to reduce the burden on courts in Indonesia and provide legal certainty to business actors. The sole judge also examine, resolve and decide on inheritance cases in a fast and efficient process to issue a fair decision for all parties. This normative study was carried out using statutory, case, comparative law, and analysis content approaches. The research results showed that the filing of small claim court increased 10 times from 2015 to 2020, with the plaintiffs dominated by banks in bad credit cases. A small claim court provides benefits the bank and the customer because it speeds up the settlement of the plaintiff's money in a bad credit case with a case value of not more than 500 million, especially for microloans in a maximum period of 25 days. Furthermore, the latest regulation of 2019 concerning small claim court gives judges the authority to confiscate guarantees and conduct auctions to carry out forced executions through the Court Execution Auction process.

Keywords: court; default; small claim court

How to cite:
A. Introduction

A 2019 statistics on case data at the Supreme Court, especially the general civil chamber, culminated in 4,786 cases. Furthermore, there were 1,176 cases associated with the special civil breach of contract accumulated from the remaining cases decided in previous years. Many new cases led to the postponement of examinations to provide adequate time for the resolution of prolonged cases in the Supreme Court.

Yahya Harahap on his previous research also stated that the average time needed to settle a case from the first instance to the cassation is 7 to 12 years. However, in practice, the judicial process takes a long time in resolving cases, such as when the losing party does not receive a decision and submits legal remedies in the form of an appeal or cassation. This causes the decision to have no permanent legal force (res judicata), leading to a build-up of cases. In the context of a business contract dispute, examinations that take a prolonged period negatively affect legal uncertainty, which tends to impact business certainty with economic value. Business disputes require a quick and simple resolution therefore, the court costs are relatively less with a settlement acceptable to all parties without prolonging old problems or creating new ones.

The case accumulation result is one of the biggest problems in the judicial environment. This is because it causes the ineffectiveness of judicial implementation in line with the trilogy principles of justice, including fast, simple, and low-cost justice as stated in Article 2 paragraph (4) of Law Number 48 of 2009 regarding Judicial Power. Therefore, to answer these principles, the Supreme Court issued a policy by implementing a "small claim court" adopted from the application of small claim courts in several countries, one of which is the United States. According to Supreme Court Regulation Number 4 of 2019 concerning Settlement of Small claim court, when the examination process reaches a decision for 25 days, there are no further legal remedies such as appeals and cassation.

A small claim court is the best way for businesses, such as banks, to resolve the problem of bad credits in the microcredit sector. In 2019, the

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1 LeIP, https://leip.or.id/Statistik-Data-Perkara-Mahkamah-Agung, accessed on January 10, 2021
2 M. Yahya Harahap, (2010), Beberapa Tinjauan Mengenai Sistem Peradilan Dan Penyelesaian Sengketa, Rajawali: Jakarta, p. 154
4 Sudikno Mertokusumo, (2006), Hukum Acaragi Perdata Indonesia, Edisi Keenam, Liberty, Yogyakarta, p.175

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Indonesian Banking Association stated an increase in recovery obtained in bad credit cases from 2.1% in 2018 to 3.2% in 2019 due to the Supreme Court decisions on small claim court.

However, some parties stated that the settlement of cases in trials conducted by a single judge regulated by Supreme Court Regulation Number 4 of 2019 concerning simple claims is less objective and contrary to Law Number 42 of 2009 on Judicial Power which determines the composition of the panel of judges by at least 3. However, this is certainly different from the decision made by the composition of the judges’ panel produced through deliberations, with dissenting opinions on the judge’s freedom in deciding cases. Furthermore, the position of the Supreme Court Regulation in determining the ability of a single judge to oversee a small claim court is not considered to be in the hierarchy of laws and regulations.

Based on the description above, this study aims to determine the effectiveness of the small claim court implementation in the default case on credit contracts. Secondly, this study determines the independence of a single judge in the process of examining a small claim court in the default case on credit contracts.

**B. Method**

This study uses empirical normative approach which combines normative legal approach and additional empirical elements using statutories, cases and analysis content approaches. It is qualitative research by collecting and analyzing non-numerical data in order to understand concepts, opinions, or experiences. It uses secondary data such as act, books, articles, statistics, reports, and official websites, whereas empirical data comes from problems that exist in the society through analyzing relate cases on court decisions. This paper analyzes the provisions related to the small claim court and their application in solving bad credit cases. The authors present the facts of the accumulation of cases in court. The authors also describe how the small claim court system can solve bank and customer problems, as well as its advantages when compared to the ordinary judicial process starting from the application, trial, decision, and appeal stage.
C. Result and Discussion
1. Small Claim Court as an alternative Settlement of Bad Credit Case in Indonesia

The first step for saving bad loans before going through litigation, is supervision actions, that provide advice towards improving conditions of business by helping debtor to find prospect market and client, the next step is saving credit portfolios included restructuring, reconditioning, and rescheduling. But if it can't be helped, then take the non-litigation action and the last option is litigation. The court as a place for dispute resolution is associated with numerous advantages, and it is an institution used to confiscate and carry out the execution.\(^5\) However, based on World Bank research, there are several inhibiting factors in resolving business disputes in Indonesia through the court, such as 1.) Inefficient first-level dispute resolution, 2.) Prolonged settlement period, 3.) High court costs and 4.) Exorbitant attorney fees. Handling of applications fiat execution through the judiciary take time, which is quite long, whereas the calculation of bank losses (interest) still continues and can't be deferred. The average takes up to 2 years, some even have run more for 4 years but not finished yet.\(^6\)

The inefficiency and prolonged period lead to the accumulation of case files in court. Based on the 2016 Supreme Court report, a total of 83,943 civil cases were tried by district courts throughout Indonesia in 2016. Of this number, 71,456 cases were received in 2016, and the remaining 12,487 in 2015. Furthermore, 59,993 of these cases were decided in 2016, and 6,843 were withdrawn, leading to 17,107 cases by the end of December 2016.\(^7\) As a solution, the Supreme Court Regulation No. 2 of 2015, designed to quickly and simply determine solutions to legal problems faced by parties concerning Procedures for Settlement of Small claim court, was issued. However, cases settled by this law are handled by a single judge and require a quick and short examination and settlement time with uncomplicated evidence. The following are 5 (five) main components that form the background for the establishment of the small claim court.\(^8\)

a. Reduction of court costs

b. Simplification of the litigation application process

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\(^8\) The 2016 Supreme Court Report of the Republic of Indonesia
c. The litigation procedure is largely left to the discretion of the judge and the formal rules of the evidence that have been selected
d. Judges and court clerks are expected to assist in litigation both in preparation before and during the session, thereby eliminating the need to hire the services of lawyers.
e. Judges are given the power to order instalment payments directly in their decisions (Steven Weller, John C Ruhnka 1990).9

At the beginning of the issuance of the Supreme Court Regulation, only 759 small claim court were filed, which is approximately 0.90% of the total number filed in 2015.10 However, over time, small claim court started to be known to the public, and by 2020 the total number was 8447, as shown on Figure 1.

![The growth of small claim court accepted by Indonesian county court in the period of 2017 - 2020](image)

**Figure 1.** The Growth of Small Claim Court

The figure 1 shows a significant increase in the number of small claim court that occurred in 2018 with a total of 6,464 cases, which had doubled from 3,351 cases obtained in 2017. Due to the public's enthusiasm for small claim court, in 2019, Supreme Court Regulation No. 4 of 2019 concerning Amendments to Supreme Court Regulation No. 2 of 2015 on Procedures for Settlement of Small claim court was issued. The latest regulation changed the requirements for the maximum value of a material claim from IDR 200,000,000 (two hundred million rupiahs) to IDR 500,000,000 (five hundred million rupiahs). It also provided the authority to confiscate the collateral and

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10 The 2016 Supreme Court Report of the Republic of Indonesia
provided a new policy for Plaintiffs to file a lawsuit irrespective of their jurisdictions by appointing a proxy, incidental power of attorney, or institutional representative with a letter of assignment from their institution domiciled in the same jurisdiction as the defendant, which was not set in the 2015 regulation.

In a small claim court, the accepted cases are with a maximum of 500 million provided by both the defendant and the plaintiff living in the same jurisdiction. The number of plaintiffs and defendants cannot be more than one unless they have the same legal interest, examination, and decision carried out by a single judge. Before the trial, a preliminary examination is conducted. The judge presiding judge has the ability to issue a ruling stating that a case is not simple and crosses it from the register while ordering the return of the remaining court costs to the plaintiff. However, when eligible, the Chief Justice appoints a single judge to examine a small claim court assisted by the clerk, with the mandatory attendance of the plaintiff and defendant. In the case examination process, there are only claims and answers, therefore, it is impossible to demand provisions, exceptions, reconventions, interventions, replicas, duplicates, and conclusions. The time limit for case settlement is 25 days from the first trial, which is different from the ordinary court, comprising a maximum of 5 months. Legal remedies are only in the form of objections submitted within 7 days of the judges' verdict, without appeals and cessation. In situations whereby the plaintiff is absent at the first hearing without a valid reason, the lawsuit is declared void. Furthermore, a second summons is made assuming defendant is not present at the first trial day and when this happens on the second trial day the judge is capable of deciding the case. Supposing the defendant is present at the first trial and absent in subsequent ones without valid reasons, the lawsuit is examined and decided on a contradictory basis, in which the defendant is able to file an objection.

On the first trial, the judge is still obliged to seek peace, and when this is achieved, a Deed of Peace that binds both parties are drawn. However, when the reverse is the case, no legal remedies are submitted. Recognized claims do not need to be proven against those that were denied when the judge examined the applicable procedural law. The judge reads the decision in a trial that is open to the public and is obliged to notify the parties' rights. The legal remedy in a small claim court is to file an objection to the Chief Justice by signing the associated deed before the clerk. Objections are submitted no later than 7 (seven) days after the verdict is pronounced.
2. The Effectiveness of a Small Claim Court in Bad Credit Cases

According to several studies in Supreme Court Regulation No. 4 of 2019 concerning Amendments to Supreme Court Regulation No. 2 of 2015, there are advantages and disadvantages associated with the Procedures for Settlement of Small claim court. The following describes some of the 2019 Supreme Court Regulation rules regarding small claim court against credit cases from the application, trial, decision, and implementation stages.

a. Application stage

Article 3 of the 2019 Supreme Court Regulation stated that non-performing loans are resolved through a small claim court as long as the object of the case is not more than IDR 500,000,000 (two hundred million rupiahs). Therefore, a material lawsuit above 500 million is irresolvable. In practice, commercial banks have the ability to provide larger loans as long as they do not violate the maximum credit limit rules regulated in the Financial Services Authority Regulation of the Republic of Indonesia Number 32 /Pojk.03/2018 on the Maximum Limit for Loans and Provision of Large Funds for Commercial Banks. The maximum limit for granting credit to 1 (one) debtor or a group of debtors is 10% or more of the bank's core capital (tier 1). Therefore, assuming the bank is included in the book 4 categories with a minimum core capital of 30 trillion, the maximum loan is given to customers is very large. Therefore, with this rule, a small claim court is only capable of handling a small part of bank non-performing credit disputes such as bad credit on People's Business Credit (KUR) whose loan value ranges from IDR 5 million to IDR 500 million, and consumer financing loans such as credit cards. When a lawsuit occurs, the value of the debt does not exceed IDR 500 million, and this is one of the conditions that must be met at the preliminary examination stage. This is the most crucial stage because the judges determine whether the lawsuit is included in the simple category or not by assessing the proof's simplicity. When the judges consider that the lawsuit is not in the simple category, they tend to delete it from the cash register and order the remaining court fees to be returned to the plaintiff.

The next administrative requirement is related to domicile. Article 4 paragraph (3) of the Supreme Court Regulation Number 2 of 2015 firmly stated that the Plaintiff and Defendant in a small claim court must be domiciled in the same court area. This means that in situations when there are inequalities of legal domicile, the parties are unable to use this small claim court. However, the 2019 Supreme Court Regulation provided a new policy for Plaintiffs with jurisdictions different from the defendant to ensure they are able to file a lawsuit by appointing a proxy, incidental attorney, or
institutional representative domiciled in the same jurisdiction as the defendant. The cases can be submitted remotely using electronic case administration (e-court). The previous requirement (2015) does not burden the banks because, in practice, they are very selective on applications submitted by prospective customers domiciled outside the reach of their business area. For example, a credit card is easily issued by a bank when a domicile certificate is attached according to the coverage area. An instance of this scenario is issuing a credit card by BRI Bank Waru Sidoarjo Branch, East Java. In carrying out this activity, the customers must be domiciled in Sidoarjo, and foreigners (Foreign Citizens) are not allowed to register. These rules are made for banks to easily analyze the condition of prospective customers, guarantee collaterals and anticipate the occurrence of future bad credit. Furthermore, the *actor sequitur forum rei* principle can be implemented at the lower cost.

**b. Trial Stage**

The judge in a small claim court is appointed by the chairman of the court (Article 1 paragraph 1 Perma 2019). In Indonesia, at least 3 judges are expected to examine and decide court cases. This is regulated in the Law on Judicial Power Article 11 paragraph (1) and (2) of the Law on Judicial Power.

1. The court examines, adjudicates, and decides cases with a panel of at least 3 (three) judges unless the law states otherwise.
2. The composition of the judges referred to in paragraph (1) consists of a presiding judge and two member judges.

Apart from the 2019 Supreme Court Regulation regarding small claim court, several judicial regulations authorize judges to examine and decide cases, including juvenile courts. This is in accordance with Article 11 paragraph (1), Article 14 paragraph (1), Article 18 paragraph (1) of Law Number 3 of 1997 concerning Juvenile Court, as well as Article 44 paragraph (1), Article 47 paragraph (1), and Article 50 paragraph (1) Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, where judges examine and decide on children's cases both at the first, appeal and cassation levels. Furthermore, the examination of tax dispute regulated in Article 65 to Article 68 of Law no. 14/2002 on the Tax Court is carried out by a panel or single judge. The advantage of a single judge in making decisions is that it speeds

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up the trial process by reducing deliberation by the panel of judges. On the other hand, a single judge’s decision can be subjective and rushed due to the unavailability of a question-and-answer process.

A judge is an autonomous person with individual ideology as a value system used to examine and decide a case. According to Karen Tracy\(^\text{12}\), there are several styles of small claim court judges in the trial, (a) strict (b) lawmaker (c) authoritative (d) mediator, and (e) procedural. According to Gustav Radbruch, a judge has three legal objectives, namely certainty (Rechtssicherheit), justice (Gerechtigkeit), and expediency (Zweckmaszigkeit) (Yunanto 2019).\(^\text{13}\) However, these legal objectives are not always in a harmonious relationship rather they are more often of a tension (Spannungsverhältnisse). Therefore, the principle of priority needs to be used in carrying out these three legal objectives. Gustav Radbruch stated that there is a scale of priorities that need to be implemented, where the first priority is always justice, then benefit, and finally legal certainty.

Therefore, a judge needs to properly manage these three basic values by being completely free from influence or pressure from anywhere (extrajudicial), including litigants. Judges' freedom is tested in two ways, namely impartiality and political insularity. The principle of impartiality of judges is reflected in legal arguments and decisions that have no relationship of interest to the case, while the principle of decisions on political actors is reflected in the fairness of decisions and accepted by those seeking justice.\(^\text{14}\)

Every judge’s decision must ultimately be accountable for legal considerations. The parties are expected to accept the decision, and those that feel others have violated their rights need to get it back and vice versa. The Supreme Court of Indonesia has determined that every judge’s decision must consider all aspects of a juridical, philosophical, and sociological nature therefore, the justice to be achieved, realized, and accounted for is justice-oriented to legal, moral, and social justice. According to Article 5 paragraph (1) of Law no. 48 of 2009 concerning Amendments to the Law on Judicial Power, Judges are mandated to explore the legal values that live in a society. Their opinion is the result of the struggle of mind and conscience in examining cases. Judex Facti (First Level Court and Appellate Level) expresses its opinion based on facts that appear legally at the trial. Therefore, inductive thinking methods equipped with legal skill competency standards are needed.


\(^{14}\) A. Muhammad Asrun, “Krisis Peradilan: Mahkamah Agung di bawah Suharto”, (Jakarta: ELSAM, 2004), p. 45
in order to analyze the cases based on existing facts and appropriate law. Therefore, even though it only consists of a single judge, the decision needs to be always considered correct, as the legal principle of *res judicata pro veritate habetur*.

Article 4 paragraph (4) of the Supreme Court Regulation Number 2 of 2015 stated that the plaintiff and the defendant are obliged to attend the trial process with or without being accompanied by a legal representative. Small claim court do not have to be represented by a legal representative or by employing the services of an advocate, as is the case in ordinary civil lawsuits. However, the plaintiffs and defendants need to attend the trial with or without legal counsel. The lawsuit is declared void, supposing the commercial bank as the plaintiff is not present at the first trial without a valid reason. Furthermore, when the customer is not present at the first trial, a second summons is made, and when this fails, a *verstek* presides over the case. Cases decided by *verstek* are considered formal, thereby preventing the defendant from refilling the case except by submitting a fight, also known as a *verzet*. According to article 129 HIR, the *verzet* grace period for ordinary claims can be submitted directly to the defendant within 14 days after the decision. (Darmawati and Zainuddin 2015). However, in a small claim court, the period given by the Supreme Court Regulation is shortened to only 7 days. Therefore, when the Defendant/Respondent submits a *verzet*, the examination is continued by summoning the parties back to the trial. In cases whereby the defendants are present at the first trial and absent on the next without valid reasons, they are tried in a contradictory manner.

On the first day of the trial, the judge must seek peace between the bank and the customer. Supposing this is reached, the judge makes a peace deed that binds both parties. However, there is no legal remedy when the associated parties are against the decision. This peace was once broken in the case of bad credit between PT. Rural Bank NBP 5 against Lisbon Manurung as Defendant I, and Tetty Herawati Jawak as Defendant II. The dispute ended with the decision of the peace deed because of the good faith of the parties involved. Furthermore, it contained contents of the peace agreement and the judge’s decision that strengthens it, which is not subject to ordinary or extraordinary legal remedies. This is in accordance with the agreement of both parties in court mediation, whose position is similar to the judge’s decision which has permanent legal force (*inkracht van gewijsde*). However,

16 Ibid.
this is related to Article 130 of HIR (2), which stated that "When peace occurs, at the time of the trial, a deed needs to be made that requires both parties to fulfill the agreement made, thereby making it valid and carried out by an ordinary judge's decision."17 Therefore, based on the article above, it is concluded that the peace deed is inkracht van gewijsde and has executive power. In this decision, the peace deed starts with the sentence "For Justice Based on the One Godhead" the judge is also going to include a dictum, such as "Punish both parties (plaintiff and defendant) to carry out the contents of the peace deed." This dictum is an order, which needs be carried out by the parties. Article 130 (2) HIR stated that the parties are basically obliged to obey and fulfil the contents of the peace agreement. Furthermore, paragraph (3), stated that such a decision is not permitted to use legal remedies. Therefore, the privileges of the peace decision are closed appeals and cassation proceedings, have permanent legal force, and executive power.18

However, when there is no reconciliation between the parties, an examination of the principal case is marked by reading the plaintiff's "lawsuit" followed by an answer from the defendant. Unlike ordinary lawsuits, provisions, exceptions, conventions, interventions, replicas, duplicates, and conclusions cannot be filed in the small claim court because it goes directly to the evidentiary process.

A claim that is recognized and denied by the defendant does not need to be proven. However, on the contrary, when there is a rebuttal from defendant, the examination of evidence is based on the Procedural Law. For example, in the Bad Credit Case of Bank Rakyat Indonesia Majene Branch Number: 35/Pdt.G.S/2018/PN.Mjn, the defendant admitted to having defaulted by not paying the debt instalments that had to be repaid. Therefore, the judge granted the plaintiff's arguments and mandated the defendant to pay all credit areas in full. In situations where the defendant refuses to voluntarily pay all arrears, the collateral is auctioned with the intermediary of the State Assets Service and Auction Office (Kantor Pelayanan Kekayaan Negara dan Lelang, hereinafter as KPKNL), the judge orders for an immediate evacuation of the object. Furthermore, in situations whereby the defendant fails to conduct the job properly, the plaintiff, with the assistance

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17 Lisma Resky Saputri, Kahar, Sulaeman, Legal Analysis of Bad Credit Cases at Bank Rakyat Indonesia Majene Branch Number: 35/Pdt.G.S/2018/Pn.Mjn, University of West Sulawesi
of the authorities, carries it out and mandates the defendant to pay the costs incurred.

c. Decision Stage

During the auction of debtors' assets/guarantees, banks always face lawsuits from debtors that do not want their collateral to be auctioned (Ismiyanto. 2018). Basically, after a court decision has permanent legal force, its fulfilment needs to be voluntarily carried out by the losing party. For instance, execution needs to be carried out by the winning party when their opponent fails to carry out the decision voluntarily by submitting a request for execution to the Head of the District Court. The request for execution is the basis for issuing a warning or aanmaning. Through a small claim court, Article 31 paragraph 2(a) of the Supreme Court Regulation of 2019 enables the judge to issue a security decision no later than 7 (seven) days after receiving the execution request letter. The decision is to be complied with in line with the provisions of the applicable civil procedural law. The Court Registrar examines the conservatoire confiscation first on the property of the execution defendant. This is because, based on Article 17 A of the 2019 Supreme Court Regulation, the judge is authorized to implement a security confiscation on the defendant's property, such as a credit guarantee object. In line with the provisions of Article 197 paragraph (1) of HIR, confiscation is first carried out on movable goods.

However, when these goods are unavailable or insufficient, then immovable goods are utilized. Security confiscation is carried out by order of the judge before or during the examination process, and for the confiscation, the judge makes a letter of determination. Confiscate guarantee is carried out by the Registrar or Bailiff accompanied by 2 (two) District Court employees as witnesses. Before determining the application for a confiscation guarantee, the judge is obliged to pay attention to the following matters: 1) ensure that confiscation is only carried out on the defendant's property or goods. An instance is in the case of revindicatioir confiscation of certain movable goods belonging to the plaintiff in the hands of the defendant, after first hearing the statement in accordance with Article 227 Paragraph (2) HIR and Article 261 Paragraph (2) RBg) 2). Supposing the confiscation is a plot of land with or without a house, it needs to be registered in line with the provisions in Article

20 Sri Hartini, Setiati Widiastuti, and Iffah Nurhayati, 2017, Execution of Judge’s Decision in Civil Dispute at the Sleman District Court, Journal of Civics Volume 14 Number 2, October 2017, p. 133
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227 Paragraph (3) jo. Article 198 HIR / article 261 jo. Article 213 and Article 214 RBg. 3) The confiscated land needs to be already registered (certified) at the Village office of the National Land Agency. 4) The confiscated goods must clearly belong to the plaintiff, and the process needs to be carried out in a *revindicatioir* manner and remain in possession of the Village Head or stored at the District Court Office. For further implementation, a report is made, while the Head of the District Court issues an order for an execution auction, which is addressed to the Registrar or Bailiff and in its implementation is assisted by DJKN c.q. KPKNL by following the procedures as stipulated in the auction regulations. In situations whereby the confiscation of the guarantee is not carried out, and peace is reached between the two litigants, the implementation must be lifted (Risdianto 2020).21 This is in line with the Regulation of the Director-General of State Assets Number 2/KN/2017 concerning Technical Instructions for auctioning applications originating from district court decisions and small claim court through the using Article 6 number 2, namely through Court Execution Auctions.

The existence of guarantees in credit transactions at banks is regulated in material guarantee institutions in Law Number 10 of 1998 concerning Banking in article 8 paragraph (1). The law stated that banks are required to have confidence based on in-depth analysis of the intention with the ability of the debtor customer to pay off the debt or return the financing according to the agreement. This law is in accordance with the sharia principles in providing credit or finance. The principle regulated in the article shows a theory called *"The Five C's of Credit,"* where one of the elements is collateral, which is a guarantee given by the debtor for the risk received by the creditor on issued funds (Setiono 2018).

d. Appeal Stage

According to Article 21 of the 2019 Supreme Court Regulation, the legal effort for a simple decision is to file an objection. Application Stage of Objection consists of a list submitted to the Head of the District Court no later than 7 (seven) days after the decision is read or received. This is also done by signing the Deed of Statement of Objections before the Registrar along with the reasons and filling in the form of the Application for Objection. The Registrar's Office receives and checks the completeness of the Objection Application file and is accompanied by a Memorandum of Objection made by

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the Applicant. Notice and Memorandum of Objections are submitted to the Respondent of Objection within 3 (three) days after receiving the application. The Respondent submits the Counter Memory of Objection to the Head of the District Court no later than 3 (three) days after notification of the Objection. After the Application file is declared complete, the Head of the District Court appoints a panel of judges led by a Senior Judge to examine and decide upon the application for Objection.

The Panel of Judges examines objections which are carried out based on the Decision and the lawsuit filed as well as the Application and Memorandum of Objection, and the Counter Memory of Objection. In the examination of this Objection Request, the Judges Panel did not carry out additional examinations. This is different from the appeal at the High Court, where the Judges Panel at the High Court as a judex factie carry out additional examinations despite the lack of examination at the First Level Court. The decision on the Petition for Objection is pronounced no later than 7 (seven) days after the determination date of the Panel of Judges by the Head of the District Court. The decision on the objection request is the same as the previous decision, and the parties need to be notified no later than 3 (three) days after the decision on the Objection is made. This decision on the Application for Objection, other legal remedies such as Appeal, Cassation, and Review cannot be made because it has permanent legal force, therefore, it is carried out voluntarily. The decision on a small claim court with a legal force is still carried out voluntarily by the parties. However, in situation whereby the parties do not comply, the decision is carried out based on the Civil Procedure Code, namely through the assistance of the District Court to execute.

The small claim court procedure is considered beneficial to the plaintiff because the trial time to examine a lawsuit in the First Level Court takes approximately 6 months in Indonesia. This time does not include an appeal hearing of approximately one year and a cassation of 2-3 years (Tjoneng 2017). The settlement period of this case through a small claim court is not more than 25 days. The bank greatly utilized this fast process, as evidenced by a small claim court in the Central Jakarta court. A 2018 data showed that

from a total of 58 small claim court, 55 came from the PT Bank BRI Indonesia. Meanwhile, data in June 2019 showed the additional registration of 7 small claim court registered, 4 of which were filed by PT Bank BRI Indonesia. A similar experience also occurred in Surabaya District Court, whereby 2019 data showed 84 small claim court, with 79 of them filed by PT Bank BRI Indonesia. In 2018, there were 114 small claim court, and 108 of them were filed by PT Bank BRI Indonesia (Court 2021). This fact proves that a small claim court provides solutions for banks in resolving bad credit disputes. However, it also provides a solution for the customer. This is because when compared to the usual judicial process, it takes a long time and often increases interest arrears when waiting for a decision. Therefore, the principal loan is greater and impacts the value of the collateral that is unable to cover the loan amount.  

For example, any late payment due to protracted settlement is subjected to a late penalty and interest on the remaining loan in the case of a bad credit card. Therefore, the number of bills in the following month is likely to increase assuming they are not settled, known as interest increase.

**D. Conclusion**

A small claim court provides benefits for both the bank and the customer, and this is proven in several district courts where the bank dominates the submission. This lawsuit speeds up the settlement of the plaintiff’s credit in bad credit cases with a case value of not more than 500 million. The microloans and auctions act to carry out forced executions through the Court Execution Auction process. Furthermore, the benefits are also felt by the customer because it avoids interest arrears that are increasing due to the protracted settlement of cases when using ordinary judicial procedures. However, a small claim court in Indonesia is still an option or alternative for the community. It has not become an obligation or a necessity in resolving simple cases.

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