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ABSTRACT. This study aims to determine whether the debtor has carried out his achievements as they should and knows the legal consequences for the debtor when trying to carry out his achievements more than the specified due date. This research is a normative or doctrinal research that is descriptive in nature using secondary data types. In this research, the data collection technique used is the study of literature. The results showed that Sujono, as the debtor and PT BPR Mranggen Mitra Persada as the creditor had carried out the credit agreement. By fulfilling the legal conditions of the agreement as stipulated in Article 1320 of the Civil Code, both subjective and objective terms, the agreement credit between PT BPR Mranggen Mitra Persada as the creditor and Sujono as the debtor is a legal agreement, but in credit repayments Sujono has an arrears of credit repayments calculated from the principal debt, interest, and costs incurred due to arrears. Since PT BPR Mranggen Mitra Persada filed a lawsuit with the Blora District Court, Sujono as a defendant had no good intention to attend the trial. The Panel of Judges decided to drop the verdict without the presence of the defendant called verstek. From this decision the defendant or Sujono fought against verstek or what was called the verzet. With respect to the verzet submitted by Sujono, the judge considered that the resistance was rejected by the Panel of Judges based on the consideration that Sujono had wrongly determined his legal subject and incorrectly determined the arguments of the resistance proposed by Sujono against PT BPR Mranggen Mitra Persada. Based on the decision of the Panel of Judges, Sujono is still considered to have defaulted and must fulfil his achievements.

KEYWORDS. Tort; Defaults; Credit Agreement; Dispute Settlement; Verzet; Achievements

Defaults in Credit Agreements: How Are They Settled?

Rizky Auliandi[*], Mangatur Hadiputra Simanjuntak[†]

Introduction

One of the bank products in addition to raising funds from the public is lending. According to Article 1 paragraph (11) of the Law of the Republic of Indonesia Number 10 of 1998 concerning Banking, Credit is a provider of money or claims that can be likened to it, based on an agreement or agreement between the bank to borrow and borrow other parties that require the borrower to repay its debt after certain period of time with the amount of interest. BPR (*Bank Perkreditan Rakyat*) is a bank that conducts its business activities conventionally and/or based on sharia principles in which its activities do not provide services in payment traffic.[3]

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[3] Djoni S.Gazali and Rachmadi Usman, *Hukum Perbankan,* Jakarta, Sinar Grafika, 2010, pp. 149-150. It is also emphasized that the term breach (defaults, *wanprestasi*) of contract law is a breach of contract, Discussion of breach, both in doctrine and jurisprudence is usually associated with negligent statements from the debtor, where the debtor has not fulfilled the engagement obligations properly, and the debtor has the wrong element on it. It must be recognized that broken promises or broken promises, there are already bad intentions in people who do not fulfil their promises. Interpretation of defaults in banking law that is related to the occurrence of problem loans in banks that cause loans to become bad, usually this is because the debtor or customer pays not according to the payment date agreed in advance. The existence of a default is inseparable from the existence of a credit agreement made by the bank as a creditor as well as a customer as a debtor, in determining whether a debtor default can not necessarily be determined

The function of BPR is not only to extend credit to micro, small and medium entrepreneurs, but also to accept public deposits. Credit distribution to the public uses the 3T principle, which is Timely, Right Amount, and Target, because the credit process is relatively fast, requirements are simpler, and are very understanding of customer needs.

In lending must be based on a guarantee. The definition of collateral according to Article 1 paragraph (23) of the Law of the Republic of Indonesia Number 10 of 1998 concerning Banking, Additional collateral given by debtor customers to banks in the context of providing credit or financing facilities based on sharia principles.

The function of the guarantee is to convince the bank or creditor that the debtor has the ability to pay off the credit given to him in accordance with the agreed credit agreement. For guarantees submitted by the debtor, the bank as the creditor has an obligation to protect the debtor, because this relates to the interests of the bank as well as the recipient of the guarantee.[4]

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because there are efforts to save credit that enter the problematic stage. The beginning of a violation of an agreement or default because a debtor does not carry out his performance properly so as to make his debt not be paid, in meeting the standardization of credit rescue at the bank, efforts are usually made such as rescheduling, reconditioning, and restructuring, through the rescue, the debtor is given the opportunity to pay his debts, this is because the bank also does not want to suffer losses on its business, then the concept of default in *Burgerlijk Wetboek* and the Banking Law must be measured through the achievements provided, in both regulations, then from there can be classified the concept of problem loans in this banking regulation whether it can be said default. *See* Riesty Aqmarina, "Konsep Wanprestasi Terhadap Kredit Bermasalah Pada Perjanjian Kredit Bank", *Thesis,* Surabaya, Universitas Airlangga, 2018, pp. 35-40; I. Made Adi Dwi Pranatha, Putu Purwanti, and AA Gede Agung Dharmakusuma. "Penyelesaian Wanprestasi Dalam Perjanjian Kredit Bank Pada Pt. Bank Negara Indonesia (BNI) Kantor Cabang Unit (KCU) Singaraja." *Kertha Semaya: Journal Ilmu Hukum* 5(2), 2017, pp. 1-5; Rayhanna NP. Muhammad, "Eksekusi Hak Tanggungan Karena Wanprestasi Terhadap Perjanjian Kredit Bank." *Lex et Societatis* 6(10), 2019, pp. 14-20; Ika Dharma Citta, Rahayu, "Penyelesaian Wanprestasi Perjanjian Kredit Dengan Jaminan Hak Tanggungan oleh Debitur Dihubungkan dengan Pasal 1320 KUH Perdata dan UU No 4 Tahun 1996 Tentang UU Hak Tanggungan (Studi Kasus di Bank Perkreditan Rakyat Magga Jaya Utama Taman Cibodas Kota Tangerang)". *Dissertation*. Pamulang: Universitas Pamulang, 2017, pp. 45-52.

[4] Hermansyah, *Hukum Perbankan Nasional Indonesia,* Jakarta, Kencana, 2006, pp. 73-74. Furthermore, it was also explained that guarantees are dependents on loans received or guarantees or promises of someone to bear the debt or obligations are not fulfilled. The term collateral comes from the Dutch language *zekerheid* or *cautie*, which means that the way the creditor guarantees the fulfilment of his bills, in addition to the debtor's general liability for his goods. According to the Decree of the Board of Directors of Bank Indonesia No. 23/69 / KEP / DIR article 2 paragraph (1) concerning Guarantee in Granting Credit, Guarantee is a bank's confidence in the ability of debtors to repay loans as promised. Meanwhile, the function of collateral is to give the right and power to the bank to get repayment of the collateral if the debtor cannot repay the debt at the time agreed in the agreement. *See* also Lieshout van Peter, ed. *Sociale (on) zekerheid: de voorziene toekomst*. Amsterdam, Amsterdam University Press, 2016, pp. 114-119; Erma Defiana Putriyanti, "Legal Status of Credit Bank Guarantee in Indonesia's Legal Guarantee." *Sriwijaya Law Review* 1(2), 2017, pp. 128-141; Iwona Dorota Czechowska, "The essence of the Bank Guarantee Fund's activity and related dilemmas in the

One of the material guarantees that can be used in a bank credit agreement is a guarantee of security of the mortgage. The right of the mortgage is to guarantee the debt granted by the holder of the mortgage to the debtor. If the debtor fails the promise, the object burdened with the mortgage right is entitled to be sold by the mortgage right holder without the consent of the mortgage right and the mortgage right cannot declare an objection to the sale.[5]

Procedures undertaken by the Bank before the mortgage is sold in practice, if there are debtors who default, the Bank will usually send a warning letter to the debtor to carry out their obligations in installment payments as promised. The warning is usually submitted at least 3 (three) times to meet the conditions of the debtor's default conditions. If it has been properly commemorated but the debtor does not also pay his obligations, the Bank through the legal provisions contained in Article 6 and Article 20 of the Republic of Indonesia Law No. 4 of 1996 concerning Mortgage Rights, will conduct the Auction process for Debtor Guarantees.

Method

This research is empirical legal research, which use qualitative approach. This research examines concerning the defaults in credit agreements and how to resolve the dispute. This research analyzes the case between PT BPR Mranggen Mitra Persada *v* Sujoko et.al. Case.

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context of banking system stability." *Annales. Etyka W Życiu Gospodarczym* 21(5), 2018, pp.121-130.

5 *Hipotik* or in English is also called a mortgage is a debt instrument that is done by giving mortgage rights from the borrower to the lender as collateral for debt payment obligations. In a mortgage, the borrower can still use or use the property. Later, if the debt or obligation has been paid in full then the dependents on the property will be cancelled. Mortgages are usually used by someone or business actors to buy property when they do not have enough money. The purchase value of the property does not need to be paid in full. In return, the borrower must repay the debt for a certain period which is usually years plus interest on the loan. If the debt is paid off, then the borrower will be free and the property can be taken back entirely. Because a mortgage is included as a right or claim on property, then when borrowing money, the borrower will use the property as collateral. That is, if the borrower fails to repay his debt or stop paying the mortgage, the lender may confiscate the property which is used as collateral. *See* Keulana Erwin, and Iskandar Muda, "The Relationship of Lending, Funding, Capital, Human Resource, Asset Liability Management to Non-Financial Sustainability of Rural Banks (BPRs) in Indonesia." *Journal of Applied Economic Sciences* 13(2), 2018, pp. 520-542; Kevin A. Park, "Reverse Mortgage Collateral: Undermaintenance or Overappraisal?." *Cityscape* 19(1), 2017, pp. 7-28; Agung Cahyo Kuncoro, *Herowati Poesoko, Dyah Ochtorina Susanti, Aries Harianto*, "Characteristics of Power of Attorney for Mortgage Rights on Collateral Law System in Indonesia." *Journal of Law, Policy & Globalization* 87(1), 2019, pp. 192-206.

Definition Limitation and Literature Review

1. Overview of the Agreement

Agreement law in Indonesia is regulated in book III Burgerlijk wetboek (BW) or the Civil Code as part of the Civil Code consisting of four (IV) books. Article 1313 of the Civil Code states that the meaning of the agreement is an act with which one or more people bind themselves to one or more people.[6]

Regarding these limitations, it turns out that civil law scholars generally think that the boundaries or definitions or definitions can also be referred to as the formulation of the agreement contained in the provisions of Article 1313 of the Civil Code showing its complete shortcomings and even being said to be too broad contains many weaknesses. The weaknesses can be specified[7] : Only concerning one-sided agreements, the word action includes actions without consensus / agreement, understanding of the agreement is too

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[6] An agreement or contract is an event where one or one party promises to one or another party or where two people or two parties promise to carry out one another (Article 1313 of the Indonesian Civil Code). Article 1313 of the Civil Code (Civil Code) states that: "An agreement is an act by which one or more people commit themselves to one or more other people" [*Suatu perjanjian adalah suatu perbuatan dengan mana satu orang atau lebih mengikatkan dirinya terhadap satu orang lain atau lebih*]. Based on this formula, it can be seen, that an agreement is:

1) An act.
2) Between at least two people.
3) The act gave rise to an agreement between the parties who promised it.

The acts mentioned in the initial formulation of the provisions of Article 1313 of the Civil Code explain to all of us that an agreement is only possible if there is an actual act, both in the form of speech, or physical action, and not only in the form of mere thoughts. The provisions of Article 1313 are actually not quite right because there are some weaknesses that need to be corrected, namely as follows:

1) **Only involves one side only**. This can be seen from the formulation of the verb "*to bind*", its nature only comes from one party, not from both parties. The formulation should be "*mutually binding*", so there is consensus between the two parties.
2) **The word action also includes without consensus**. In the sense of "*deeds*" including acts of organizing interests (*zaakwaarneming*), actions against the law (*onrechtmatigedaad*) that do not contain a consensus. The term "approval" should be used.
3) **Understanding the agreement is too broad**. The meaning of the agreement includes the marriage agreement regulated in the field of family law. Even though what is meant is the relationship between the debtor and the creditor regarding assets. The agreement stipulated in book III of the Civil Code actually only covers material agreements, not personalities.
4) **Without mentioning the destination**. The formulation of the Article did not mention the purpose of entering into an agreement, so the parties to commit themselves were not clear for what.

[7] Achmad Busro, *Hukum Perikatan Berdasar Buku III KUH Perdata,* Yogyakarta, Pohon Cahaya, 2011, pp. 87-89.

broad, and without mentioning the purpose.

There are a number of important legal principles known in law in general, in addition to that in the treaty law contains several important principles as well. Following are the principles which are in agreement[8]: The principle of freedom of contract, the principle of consensuality, the principle of good faith, the principle of legal certainty and the principle of personality

There are 3 (three) forms of broken promises:[9]

a. The debtor does not fulfill the achievement at all
b. Debtor late in fulfilling achievements
c. Debtor does not perform well as it should.

If the debtor is unable to fulfill his achievement, he is included in the first form, but if the debtor is still able to fulfill the achievement, he is considered as late in fulfilling the achievement.

The third form, the debtor fulfills the achievements as they should or is wrong in fulfilling his achievements. If an achievement can still be expected to be improved, then it is considered late, but if it cannot be improved again, it is considered to be completely inadequate.

If one of the parties in the agreement does not fulfill the achievement or does not fulfill what has been promised, then he has broken the promise, or default. Defaults can be interpreted as performing obligations that are not timely and improperly performed. A debtor is called default if he carries out the achievement of the agreement has been negligent so it is too late from the specified time or the debtor in carrying out his achievement.

2. Credit Overview

Etymologically the term credit comes from Latin, credere which means trust. Suppose a debtor customer who gets credit from a bank is certainly someone who has the trust of the bank. This shows that the basis for granting credit by banks to debtor customers is trust.[10]

Article 1 paragraph (11) of Law Number 10 of 1998 Concerning Amendments to Law Number 7 of 1992 concerning Banking, defining credit is the provision of money or bills that can be equated with it, based on the agreement or agreement between the bank and other parties. which requires

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8 Frans Satriyo Wicaksono, *Panduan Lengkap Membuat Surat Surat Kontrak*, Jakarta, Visimedia, 2008, pp. 3-4.
9 Purwahid Patrik, *Dasar-Dasar Hukum Perikatan*, Bandung, Mandar Maju, 1994, pp. 11-12.
10 Hermansyah, *Op.cit*, p. 57.

the borrower to repay the debt after a certain period of time with interest. It is stated in the Law concerning financing based on sharia principles, namely the provision of money or claims equivalent to that based on an agreement or agreement between the bank and other parties that requires the financed party to return the money or claim after a certain period of time with compensation or profit sharing (article 1 paragraph 12).

Based on the credit descriptions above, it can be seen that the legal definition of credit is the provision of money or bills that can be likened to it, based on an agreement or loan agreement between the bank and another party that requires the borrower to pay off the debt at the time specified by the grant flower.

Principle 5C, can be described as follows:[11] Character, Capacity, Capital, Collateral, and Condition of Economy. Regarding the credit function of Muhamad Djumhana elaborates as follows:[12]

Credit at the beginning of its development directs its function to stimulate for both parties to help each other for the purpose of achieving needs both in the business sector and daily needs. The party who gets credit must be able to show higher achievements in the form of advancements in his business, or get fulfillment of his needs.

As for those who give credit, materially he must get profitability based on a reasonable calculation of capital used as credit objects, and spiritually get satisfaction by being able to help other parties to achieve progress

Non-performing loans are often disputed with bad loans, even though they both have different understandings. Non-performing loans are loans with non-performing loans plus loans with doubtful collectibility that have the potential to become non-performing. While bad loans are loans whose principal installments and interest cannot be repaid for more than 2 (two) installments plus 21 (twenty one) months, or the credit settlement has been submitted to the court/BUPLN or compensation has been submitted to the credit insurance company. So, bad loans are non-performing loans, but non-performing loans are not/not entirely non-performing loans.[13]

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[11] *Ibid*, p. 64.

[12] Muhamad Djumhana, *Hukum Perbankan di Indonesia*, Bandung, Citra Aditya Bakti, 2000, pp. 368-369.

[13] H.R Daeng Naja, *Hukum Kredit dan Bank Garansi*, Bandung, PT. Citra Aditya Bakti, 2005, pp.329-330.

3. Overview of Guarantees

The guarantee is a translation from Dutch, namely zekerheid or cautie. Zekerheid or cautie generally covers the ways creditors guarantee the fulfillment of their bills, in addition to the debtor's general liability for his goods.

The construction of collateral in this definition is similar to what Hartono Hadisoeprapto and M. Bahsan put forward. Hartono Hadisoeprapto argues that collateral is "something given to creditors to create confidence that the debtor will fulfill obligations that can be valued with money arising from an engagement". The two definitions of guarantees explained, are:

1) Focused on fulfilling obligations to creditors (banks).
2) The realization of this guarantee can be valued in money (material collateral).
3) The emergence of collateral is due to an agreement between the creditor and the debtor.

In principle, not all collateral objects can be guaranteed in banking institutions or nonbank financial institutions, but objects that can be guaranteed are items that meet certain conditions. Requirements for good collateral are:

1) Can easily help the credit acquisition by those who need it.
2) Does not weaken the potential (strength) of the credit seeker to do or continue his business.
3) Provide certainty to the creditor, in the sense that the collateral is available at all times to be executed, if necessary, it can be easily cashed to repay the credit recipient's debt.[14]

4. Overview of Mortgage Rights

According to Prof. Budi Harsono interpreted the mortgage rights as the control of land rights, containing the authority for creditors to do something about the land that was made a great deal. But it is not to be physically controlled and used, but to sell it if the debtor breaks an appointment and

[14] Subekti, *Aspek-Aspek Hukum Perikatan Nasional*, Bandung, Citra Aditya Bakti, 1992, pp. 73-74.

takes the results in whole or in part as a payment of the debtor's debt to him[15]

According to Article 1 paragraph (1) of Law No. 4 of 1996 concerning Mortgage Rights and Objects Related to Land. "Underwriting Right on land along with objects related to land, hereinafter referred to as mortgage, is a guarantee right which is imposed on land rights as referred to in Law Number 5 of 1960 concerning Basic Agrarian Regulations, whether or not following or not along with other objects which form an integral part of the land, to pay off certain debts, which give certain creditors a preferred position to other creditors."

From the description and explanation above, it can be stated that the characteristics of mortgage rights are:

a. Giving priority or position to the holder, known as droit de preference.
b. Always follow the object guaranteed in the hands of whoever that object is or is called droit de duite.
c. Fulfill the principle of specialty and publicity so that it can bind third parties and provide legal certainty for interested parties.
d. Easy and certain implementation of the execution

Can be encumbered with collateral rights on the land, if the object of the mortgage rights concerned must meet 4 conditions, viz[16]

a. Can be valued in money.
b. Including the rights registered in the public register.
c. Have transferable qualities.
d. Requires appointment by law

Subjects of mortgage rights other than Indonesian citizens, with the stipulation of usufructuary rights on State land as one of the objects of Mortgage, it is also possible for Foreign Citizens to become subject to mortgage rights, if they meet the conditions[17]

Implementation of Credit Agreement at PT. BPR Mranggen Mitra Persada

In the implementation of credit agreements made by PT. BPR Mranggen Mitra Persada or the so-called creditor has carried out his

[15] Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria Isi dan Pelaksanaannya*, Jakarta, Djambatan,1999, pp. 24-25.
[16] Purwahid Patrik and Kashadi, *Hukum Jaminan*, Semarang, UNDIP, 2009, p. 115.
[17] Adrian Sutedi, *Hukum dan Hak Tanggungan*, Jakarta, Sinar Grafika, 2010, pp. 39-40.

achievements in accordance with the agreement that has been determined and in accordance with Law No. 10 of 1998 concerning Banking, while Sujono hereinafter referred to as the debtor. In the principal of the credit agreement agreed upon by the parties, there remains a principal debt and interest along with other costs incurred, detailed as follows:

a. March 23, 2011 due March 23, 2013 amounting to Rp. 200,000,000 (two hundred million rupiahs) with a loan agreement numbered 03-301000094 in the amount of:

Main debt	Rp	109.943.340
Interest	Rp	14.039.619
Fine	Rp	76.415.051
Payment Penalty	Rp	2.748.583
Total	Rp	203.146.194

b. April 12, 2011, due on April 12, 2013, amounting to Rp. 200,000,000 (two hundred million rupiahs) with a loan agreement numbered 03-302000007 amounting to:

Main debt	Rp	105.597.525
Interest	Rp	52.290.650
Fine	Rp	69.545.825
Management and Confiscation Fee	Rp	14.500.000
Total	Rp	242.037.390

c. June 8, 2011 will mature on June 8, 2013 amounting to Rp. 100,000,000 (one hundred million rupiah) with a credit agreement with loan number 03-301000157, with a L300 vehicle guarantee unit in 2006 with Pol K number 1782 UA machine number 4D56CBY0991 order number: HMML300DP6R35508 as payment for credit with loan number 03-301000157 so that credit number loan 03-301000157 has been paid in full.

d. So the amount of arrears to be paid is:

Arrears, 23 March 2011	Rp	203.146.594
Arrears, 12 April 2011	Rp	242.037.000
Total	Rp	445.183.594

At the time of approaching the due date of repayment to pay off the remaining debt along with interest costs as specified above, the debtor has no good faith to pay it off. So that the debtor is considered to have defaulted.

Based on the description of the case above the settlement process in court begins with the filing of a lawsuit in writing by PT. BPR Mranggen Mitra Persada, referred to as the plaintiff and Sujono, hereinafter referred to

as the defendant. The plaintiff filed a lawsuit against the defendant in Blora District Court, according to Article 118 paragraph (1) HIR which reads:

> Article 118 paragraph (1) HIR:
> Civil litigation at the first level enters the authority to adjudicate a district court with an introductory request signed by the plaintiff or his attorney according to Article 123, to the head of the district court in the jurisdiction of whom the defendant resides (*woonplaats*) or if his place of residence is unknown, the actual place of residence (*werkelijk verblijf*).

In this case, Sujono, as the defendant, carried out the verification or resistance to the verdict from the Blora District Court. So, Sujono after submitting the *verzet* was called the plaintiff PT. BPR Mranggen Mitra Persada was named as the defendant. In the verge submitted by Sujono, who was referred to as the plaintiff, the Panel of Judges considered that:

1) That the plaintiff has wrongly attracted the legal subjects of the defendant named by the Branch Manager of PT. BPR Mranggen Mitra Persada, Blora branch office is located at Jalan arum dalu no 1 Blora, while, PT. BPR Mranggen Mitra Persada, domiciled in Jalan Bandungrejo No. 34 Mranggen District Demak Regency. Because it is mentioned in Article 1 number 5 of Company Law No. 40 of 2007 states "Directors as Company Organs are authorized to represent the company, both in and outside the court in accordance with the provisions of the Articles of Association", and Article 99 paragraph (1) "Directors represent the Company both inside and outside the Court".
2) That the plaintiff in outlining the argument of resistance is unclear and incomplete.
3) Whereas the resistance was submitted by the guarantor parties in the credit agreement placed under the right of dependents based on the provisions of Article 192 paragraphs (6) and (7).

Based on the description above, the Authors analyse that Sujono had initially carried out his achievements in accordance with the agreement, but in repaying credit, Sujono had arrears in credit repayments calculated from principal, interest and costs incurred due to the arrears. Since PT. BPR Mranggen Mitra Persada filed a lawsuit to the Blora District Court for Sujono as a defendant there was no good intention to attend the trial, the Blora

District Court could not carry out a peace process between the two parties. Based on witnesses and evidence presented at the trial, the Panel of Judges decided to drop the verdict without the presence of the defendant called *verstek.*[18]

With respect to the *verzet* submitted by Sujono, the judge considered that the resistance was rejected by the Panel of Judges on the basis that Sujono had mistakenly determined his legal subject and incorrectly determined the arguments of the resistance submitted by Sujono against PT. BPR Mranggen Mitra Persada. Based on the decision of the Panel of Judges, Sujono is still considered to have defaulted and must fulfil his achievements.

Legal Consequences When the Debtor Pays Short of Payments After the Due Date

In this case the debtor on the agreement dated March 23, 2011 in the amount of Rp. 200,000,000 (two hundred million rupiah) with a Credit Agreement with loan number 03-301000094 in the amount of:

Main debt		Rp	109.943.340
Interest		Rp	14.039.619
Fine		Rp	76.415.051
Payment Penalty		Rp	2.748.583
	Total	Rp	203.146.194

April 12, 2011, due on April 12, 2013, amounting to Rp. 200,000,000 (two hundred million rupiahs) with a loan agreement numbered 03-302000007 amounting to:

[18] Verstek means a decision on the absence of a defendant or defendant in the judicial process. How exactly does this verstek, Legal Tips, reviews the term of the verstek verdict. From various sources it can be said verstek is the authority of a judge to examine and decide on a case even though the defendant in the case was not present at the hearing on the date specified, handed down the decision without the presence of the defendant. Verstek decisions can be made if the panel of judges has properly summoned by ordering the district court bailiff to send a written letter (letter of willingness) to the defendant to be present before the trial. If the defendant is still absent or does not order another person to represent him in court, the claim from the plaintiff is accepted by the judges and the defendant is defeated by a verdict. However, the Verstek decision does not necessarily be executed before the 14 (fourteen) days after notification of the Verstek decision by the panel of judges presiding over the case. Within 14 (fourteen) days the defendant who was defeated by a verdict and did not accept the verdict, then can submit a resistance (verzet) on the verdict decision to the district court which handed down the verdict decision. If a resistance (verzet) is raised against the verdict decision, then the verdict decision will automatically become raw again, meaning that the verdict decision has no executive power. With a note as long as the party defeated with the Verstek verdict submits a verzet within the time limit of 14 days from the decision of the Verstek decision.

Main debt	Rp	105.597.525
Interest	Rp	52.290.650
Fine	Rp	69.545.825
Management and Confiscation Fee	Rp	14.500.000
Total	Rp	242.037.390

June 8, 2011 will mature on June 8, 2013 amounting to Rp. 100,000,000 (searuts million rupiah) with a credit agreement with loan number 03-301000157, with a L300 vehicle guarantee unit in 2006 with Pol K number 1782 UA machine number 4D56CBY0991 order number: HMML300DP6R35508 as payment for credit with loan number 03-301000157 so that credit number loan 03-301000157 has been paid in full. So the amount of arrears to be paid is:

Arrears, 23 March 2011	Rp	203.146.594
Arrears, 12 April 2011	Rp	242.037.000
Total	Rp	445.183.594

Based on the amount of debtor arrears detailed above, which is the basis for the creditor to bring a lawsuit to the Blora District Court regarding the confiscation of the execution submitted by the debtor to the creditor as collateral for the credit submitted in the form of a certificate of a vast land area of 2,150 m2 along with everything on it located in Patalan Village, District Blora, Blora Regency, certificate of ownership no. 00511 in the name of Sujono and a certificate of a plot of land covering an area of 1,810 m2 and everything above it is located in Patalan Village, Blora District, Blora Regency, certificate of ownership of 00510 in the name of Sujono. Whereas when the creditor submitted the application for confiscation of the loan guarantee from the debtor in the Blora District Court.

With the total repayment of Rp. 285,000,000, - each loan arrears are reduced the fines that appear and poured into a statement signed by the debtor, agreed that all remaining debts will be paid on January 3, 2013 and from the management agreed with the offer. However, when the due date reached January 3, 2013 since the statement of ability to pay was signed by the debtor, the debtor had no good faith to repay all remaining debts, such as the ability that was poured into the statement, the debtor did not keep his promise. Confiscation of the execution that has been fixed by the Blora District Court, the debtor entrusted the payment of the settlement payment as follows: Rp 50.000.000 (3 June 2013), and Rp. 50.000.000 (4 June 2013).

Debtors by depositing repayment payments do not reach Rp. 285,000,000, - so that the repayment of the ability to repayment has never

been realized, but the debtor is fighting against confiscation of execution (*Verzet*).

Based on the description of the case above in my opinion the legal consequences of the debtor making payments after the due date depends on the decision of the creditor who issued the credit to the debtor. In this case the debtor begs the creditor to be given credit settlement relief, from the results of the meeting between the two parties it has been agreed that the entire amount of the underpayment is reduced by the penalty arising from the delay in repayment of the payment. The debtor has agreed to be able to pay all the deficiencies by determining the due date,

Until the creditor makes a request for confiscation of execution to the Blora District Court, the debtor entrusts a deposit of 2 (two) times to pay off the underpayment, but of the total deposit deposited has not reached the amount of underpaid payment that has been agreed. Based on the foregoing it is assumed that the debtor has never realized the payment in accordance with the ability of the payment that has been signed, thus the debtor can be said to have defaulted.

Payment of payments made by the debtor to the creditor 2 (two) times, the creditor has the right to not receive the deposit fee entrusted to repay the lack of repayment of credit from the debtor, because the creditor refers to Article 1390 of the Civil Code which reads: "*No one owes can force the person who is against him to receive his debt partially, even though it can be divided*".

The solution to the case settlement described above can be done outside the court through the Alternative Dispute Resolution[19] process regulated in Article 1 number 10 of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which reads: "*Alternative dispute resolution is a dispute resolution agency or dissent through a procedure agreed by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation, or expert judgment*".

[19] Alternative dispute resolution (ADR) is an effort to settle disputes outside litigation (non-litigation). In ADR there are several forms of dispute resolution. The forms of ADR according to Suyud Margono are: (1) consultation; (2) negotiations; (3) mediation; (4) conciliation; (5) arbitration; (6) good offices; (7) mini trial; (8) summary jury trial; (9) rent a judge; and (10) med arb [1]. As for Jacqueline M. Nolan-Haley in her book entitled "Alternative Dispute Resolution in A Nutshell, explains that ADR" is an umbrella term which refers generally to alternatives to court adjudication of dispute such as negotiation, mediation, arbitration, mini trial and summary jury trial". *See* Jacqueline M. Nolan-Haley, "*Alternative Dispute Resolution"*, West Publishing Company, 1991, pp. 1-2; Frans Hendra Winarta, *Hukum Penyelesaian Sengketa-Arbitrase Nasional Indonesia & Internasional,* Jakarta, Sinar Grafika Offset, 2011, pp. 7-8.

Alternative Process of Dispute Resolution through several ways, namely Negotiation, Mediation, Consultation, Conciliation, and expert judgment listed in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, explained as follows:

a. Negotiation

Negotiation is a two-way communication designed to achieve agreement when both parties have the same or different interests.

b. Mediation

Mediation means mediating or resolving disputes through an intermediary (mediator). Thus the mediation system, seeks dispute resolution through mediators (mediators). At mediation, the parties to the dispute come together personally. Face to face with each other. The parties face the mediator as a neutral third party. The role and function of the mediator helps the parties find a way out of their dispute resolution.

c. Consultation

Consultation is an action that is personal between a certain party, called the client with another party who is a consultant, who gives his opinion to the client to meet the needs and needs of the client.

d. Conciliation

In Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution no explanation was found regarding the consoliation. But the words of conciliation as one of the Alternative Dispute Resolution institutions can be found in the provisions of Article 1 Number 10 and Alenia 9th general explanation of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Conciliation has something in common with mediation. Both of these ways involve a third party to settle the dispute peacefully.

Based on the Alternative Dispute Resolution process that has been explained, the creditor can carry out the settlement process in accordance with Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. However, in this case the dispute resolution process depends on the decision of the creditor to resolve the case, whether through a litigation process that is filing a lawsuit in writing to the court or through an out-of-court settlement process stipulated in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

Conclusion

Credit agreement implemented between PT. BPR Mranggen Mitra Persada as the creditor with Sujono as the debtor, in the beginning the creditor and debtor have carried out the agreement according to the agreement. The creditor has carried out his duty as a BPR to lend a sum of money to debtors who need it, in accordance with the objectives of the BPR to help and prosper the community. The debtor has also carried out his achievements by submitting a number of guarantees for the requirements for applying for the required credit and the debtor at the beginning of the loan payment installment carried out his performance according to the points contained in the credit agreement. But the debtor in the restitution of credit starts not showing bad faith by not paying the remaining installments that have been set, so it is said the debtor has carried out a default. The solution in this case is PT. BPR Mranggen Mitra Persada as the creditor filed a lawsuit request to the Blora District Court to request the implementation of the confiscation of collateral execution filed by sujono as the debtor as a condition for credit application.

The legal consequences of debtors who do not carry out their achievements until the due date there are several possibilities depending on the decision of the creditor, if the creditor gives a chance back to the debtor then the deposit payment which is deposited is received by the creditor and the creditor gives a time period for the debtor to repay the remaining shortages payment. The second possibility is that if the creditor does not provide a period of time back to the debtor to pay off the underpayment, the debtor may be deemed to have defaulted even though the debtor has deposited the payment deposit but has not reached the agreed amount between the creditor and the debtor. Then, the debtor is obliged to pay for the losses suffered by the creditor (compensation), and pay the case fee, if it is filed before the court.

This research suggests that to those who give credit must be more selective in choosing customers who will apply for credit, so that there is no arrears in payment when returning credit costs so as not to harm the creditors who provide credit. Settlement of civil cases like this should the parties solve the problem in a family way first through mediation, consultation, negotiation, conciliation as regulated in Law No.30 of 1999 Concerning Arbitration and Alternative Dispute Resolution. So in the settlement of civil

cases do not always have to go through the court. Through this familial method between the two parties not finding a common ground, for those who feel aggrieved can file a written claim to the court.

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Quote

> What can be added to the happiness of a man who is in health, out of debt, and has a clear conscience?
> **Adam Smith**