

Banking Default Not Disburse Deposits Of Deceased Customers Analysis Of Decision No. 201/PDT.G/2018/PN MDN

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Abstract

This research examines the issue of banks refusing to disburse joint deposits by analyzing Medan District Court Decision Number 201/Pdt.G/2018/PN Mdn through a normative juridical approach. The main findings indicate that the absence of explicit regulations in legislation regarding banking authority in disbursing joint deposits causes banks to implement varied internal policies. In the case studied, the bank refused disbursement due to incomplete requirements and unclear legal relationship between the plaintiff and the deceased customer, although heirs should legally receive protection as

consumers of banking services. This research highlights the importance of clearer regulations to protect customer interests in banking transactions.

Keywords

Deposits, Banks, Customers

Introduction

Seeing the potential in the field of deposits managed by banks, it is deemed necessary to protect the parties involved in the deposit transactions. The importance of consumer protection is also shown by the inclusion of consumer protection in the sixth pillar of the Indonesian Banking Architecture. Not only that, Bank Indonesia also made several efforts to realize customer protection, one of which was by issuing provisions regarding the mechanism and procedures for customer complaints, namely Bank Indonesia Regulation Number 7/7/PBI/2005 concerning Settlement of Customer Complaints which was later amended into Bank Indonesia Regulation Number 10/10/PBI/2008 concerning Amendments to Bank Indonesia Regulation Number 7/7/PBI/2005 concerning Settlement of Customer Complaints.¹

The next legal protection is by establishing the Financial Services Authority (OJK) in 2011 which aims to protect the interests of consumers and the community as stated in Law Number 21 of 2011 concerning the Financial Services Authority. In addition to the efforts above, other efforts that must be made by banks in running their

¹ Anindya Febriana, “Perlindungan Hukum Terhadap Depositor Dalam Pelaksanaan Simpanan Deposito Terkait Dengan Prinsip Kehati-Hatian Bank”, (Semarang: Diponegoro Law Journal Volume 5, Nomor 3, Tahun 2016), hlm. 3.

businesses are to apply the principle of prudence, so that it is hoped that the high risk to the bank's business can be reduced and the bank's business can run smoothly.

Based on the provisions of the Republic of Indonesia Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking, Article 1 states that deposits are savings that can only be withdrawn at a certain time based on the agreement between the depositor and the bank. This means that if a depositor saves his money for a period of 6 (six) months, the money can only be withdrawn after the period ends and is often called the maturity date. The fact is that banks that do not withdraw and hand over their customers' savings and deposits have often occurred for various reasons. For example, in the Medan District Court Decision Number 201/Pdt.G/2018/PN Mdn. The deposit in this case is a joint deposit. A joint deposit is a type of deposit that can be made together with individuals or other entities that have deposits. Deposits are savings programs from banks that promise a fixed interest rate with a certain period of time. Deposits are considered low-risk investments because the value of the deposit is not affected by capital market movements.

This case is a case where the Plaintiff is a widow who has a deposit savings in one of the banks. The deposit savings were made in 2009 together with the Plaintiff's late husband. In 2009, the husband passed away. After the death of the Plaintiff's husband, several attempts were made to liquidate the deposit savings by the Plaintiff, but this was not done for several years by the bank..

The bank argued that in the process of disbursing the deposit savings requested by the Plaintiff, it must first obtain approval from the head office. Even without the Plaintiff's knowledge, the savings have been unilaterally locked by the Defendant. Based on the reasons above,

legally there is no reason for the Defendant not to hand over and/or disburse the money stored in the Savings Account or in the 3 (three) Deposit Accounts to the Plaintiff which was automatically extended by the Defendant as per the Bank Statement sent by the Defendant to the Plaintiff.

Atas dasar itu kemudian Penggugat melakukan gugatan yang pada pokoknya meminta agar pihak perbankan yang merupakan Tergugat menyerahkan dana di rekening tabungan dan rekening deposito milik Penggugat. On that basis, the Plaintiff then filed a lawsuit which in essence requested that the bank, which is the Defendant, hand over the funds in the Plaintiff's savings account and deposit account. The Panel in this case granted the Plaintiff's lawsuit and stated that the Plaintiff was the legal owner of all the money deposited with the Defendant. However, the Panel considered that the Defendant's actions were acts of breach of promise, not acts against the law as in the Plaintiff's lawsuit. However, the panel considered that the Defendant's actions constituted a breach of promise, not an unlawful act as claimed by the Plaintiff.

With this case, several interesting things then arose, for example regarding the procedure for withdrawing deposit funds in a joint name where one of the parties has died, then regarding the responsibility of the banking party for its negligence in not providing and disbursing the customer's deposit savings, as well as the judge's consideration which stated that the banking action of not providing and disbursing the customer's deposit savings constituted an act of breach of promise

Method

The research method used is normative juridical, with a statute approach² and case approach to study the use of e-KYC in opening new accounts online at BTN Head Office Jakarta. The research is descriptive in nature using secondary data as the main source, consisting of primary legal materials (legislation and interview results), secondary legal materials (books, research results, articles, journals), and tertiary legal materials (general dictionaries, legal dictionaries). Data collection techniques were carried out through literature studies and in-depth interviews with BTN Head Office Jakarta employees.³ Research is: "a basic means in the development of science and technology that aims to reveal the truth systematically, methodically, and consistently." Through the research process, analysis and construction are carried out on the data that has been collected and processed.⁴ Because research is a (scientific) means for the development of science and technology, the research methods applied must always be adapted to the science that is its parent.

The nature of the research in this thesis is descriptive, namely: "research that describes, examines, explains and analyzes a legal regulation." The things explained and analyzed in this thesis research are regarding the elements of banking actions that do not provide and disburse customer deposit savings.

This study uses a statute approach, namely: "conducted by examining all relevant laws and regulations." The focus of this study is

² Koto, I. (2024). The Potential Of Traditional Knowledge As An Improvement Of The Welfare Of Communal Communities. *DE LEGA LATA: Jurnal Ilmu Hukum*, 9(2), 162-169.

³ Fathin, F. J., & Koto, I. (2024). A Juridical Review of Transgender Heirs from the Perspective of Islamic Law and Civil Law. *JHR (Jurnal Hukum Replik)*, 12(2), 525-538.

⁴ Krishna Djaya Darumurti, *Diskresi Kajian Teori Hukum*, (Yogyakarta: Genta Publishing, 2016), hal. 21

banking actions that do not provide and disburse customer deposit savings.

In addition to the legal approach, this study also uses a case approach. This approach is one type of approach in normative legal research in which researchers try to build legal arguments in the perspective of concrete cases that occur, of course the case is closely related to the legal case or event that occurred. In this case, the case in question is the act of banking that does not provide and disburse customer deposit savings.

Result And Discussion

1. Regulation Of Banking Authority In Disbursing And Submitting Joint Deposits

Time deposits are term deposits whose withdrawals are in accordance with the agreed time period between the bank and the customer. Thus, time deposits can be cashed when they are due. In practice, even though the time deposit has not matured, it can be cashed if the customer wants to cash it. Cashing out time deposits before maturity will be subject to penalties according to the policies of each bank.

- a. Disbursement of Time Deposits at Maturity Time deposits will be disbursed at maturity, which is when the agreement period between the bank and the customer ends.
- b. Disbursement of Time Deposits Before Maturity In principle, time deposits are term deposits whose withdrawals can only be made according to the promised time period. However, in providing services to customers (depositors), banks allow disbursement of time deposits before maturity. Disbursement of deposits before maturity will be subject to a fine (penalty)

the amount of which is in accordance with the bank's provisions. Penalty calculations can be done in various ways as follows:

1. Penalty of a certain percentage of the interest before tax.
2. Penalty of a certain percentage of the interest after tax.
3. Penalty of a certain percentage of the nominal term deposit.
4. Penalty of a certain nominal.

Of the four penalty calculations, the most common one carried out by banks is a penalty calculated from a certain percentage of the nominal deposit, and a penalty calculated at a certain nominal amount. Thus, in discussing this penalty calculation, only a penalty calculation of a certain percentage of the nominal term deposit and a penalty of a certain nominal amount are used. The penalty is calculated at a certain percentage of the nominal term deposit.

In calculating penalties based on a percentage of the nominal deposit, the amount of the penalty is calculated from a certain percentage multiplied by the nominal term deposit. In this case, the bank does not pay interest on the remaining term that has not been paid, but directly deducts the penalty fee from the nominal term deposit. So that customers will receive the nominal deposit after being deducted by the penalty fee. The law does not specifically regulate the procedure for disbursing deposits. The provisions for disbursing deposit funds are the policy of the bank as the organizer. Disbursement of rupiah time deposits is carried out when they are due. However, there are several banks that have a policy that time deposits can be disbursed before maturity. For the procedure for disbursing

matured time deposits, first the customer must bring the matured time deposit ticket and other requirements to Customer Service. Second, Customer Service checks the files that have been submitted by the customer. Third, the Teller validates the transaction and hands over the cash to the customer. Disbursement can be made before maturity will be subject to a penalty of 0.5% of the principal.

The stages that must be passed in the process of disbursing deposit funds are as follows: ⁵

- a. Customers come to Customer Service to convey their intention to withdraw their deposits.
- b. Customer Service asks customers to fill out a multi application letter and attach it with a deposit ticket to be withdrawn.
- c. Customer service checks the contents of the multi application letter.
- d. Customer Service submits the multi application letter and the matured deposit ticket to the Deposit section.
- e. The Deposit section fills out the deposit withdrawal debit slip and inputs the slip into the system.
- f. The Deposit section stamps "DISCLOSED DATE..." on the deposit ticket.
- g. The deposit withdrawal debit slip is submitted to the Teller by the Deposit Section.
- h. The Teller receives the deposit withdrawal debit slip from the Deposit Section and then inputs it into the system.

⁵ Hasil Wawancara dengan Arfiyan, Selaku Legal Konsultan pada Bank DBS Indonesia Cabang Medan, pada tanggal 23 September 2024.

- i. The Teller receives the deposit withdrawal debit slip from the Deposit Section and then inputs it into the system.
- j. The Teller hands over cash to the customer.

Based on the description above, it can be concluded that the regulation of banking authority in disbursing and submitting joint deposits is not explicitly regulated in the law. Banks have their own policies in disbursing and submitting deposit funds. The provisions for disbursing deposit funds are the policies of the bank as the organizer. Disbursement of rupiah time deposits is carried out when they are due. When associated with the theory of legal certainty, this is certainly not relevant. Where the theory of legal certainty requires that all regulations must be written so that they can be applied. With the situation that it is not regulated in detail in the product of statutory regulations, it will open up loopholes for banks to violate the rights of deposit customers because the authority regarding the disbursement of joint customers can only be carried out by the bank itself.

2. Factors Causing Banks Not To Disburse Joint Deposits In Medan District Court Decision Case Number 201/Pdt.G/2018/Pn Mdn

It is important for customers to know the various factors that cause deposits to not be cashed. Some of the causes of deposits not being cashed are as follows ⁶:

- a. Maturity Period Not Yet Reached

⁶ Hasil Wawancara dengan Arfiyan, Selaku Legal Konsultan pada Bank DBS Indonesia Cabang Medan, pada tanggal 23 September 2024

One of the main reasons why deposits cannot be cashed is because the maturity period has not been reached. In the book *Banks and Financial Institutions* (2024) by Anis Fuad Salam, et al., it is explained that deposits have a certain period of time that has been agreed upon between the bank and the customer. The periods usually offered include, among others, 1 month, 3 months, 6 months, 12 months, up to 24 months. Withdrawals of deposit funds can only be made at maturity.

Considering this, if a customer wants to withdraw a deposit before the due date including after an automatic extension or Automatic Roll Over (ARO), it will most likely be rejected. However, if the bank approves the withdrawal of the deposit, the customer will be subject to a penalty with a certain interest rate..

b. Incomplete Requirements

Deposit withdrawals require certain requirements to be met. If the required documents are incomplete or there are requirements that have not been met, the bank will not process the deposit withdrawal. Therefore, customers must ensure that they have prepared all the required requirements such as savings books, deposit slips or certificates, and identity. The bank will also check other applicable withdrawal requirements at the bank before submitting a withdrawal request.

Based on the description above, it can be concluded that the factors that caused the bank not to disburse joint deposits in the Medan District Court decision case Number 201/Pdt.G/2018/PN Mdn, where the main cause of the non-disbursement of deposit funds was due to the failure to fulfill the requirements by the Plaintiff. The absence of a clear legal relationship between the Plaintiff and Kusuma Widjaja is the basis

for the banking party in this case to reject the claim process or the deposit fund disbursement process. In banking principles, the bank's actions in this case cannot be blamed unilaterally, because the bank is required to carry out its activities by upholding the principle of prudence. The situation which turned out to show the fact that there was an attempt to smuggle the positions of the parties made the bank refuse to disburse deposit funds. When associated with the theory of legal protection, it can be assessed that the bank's careful efforts in disbursing customer deposits are a step to protect the interests of the customers themselves. This is because there are several documents that are considered strange by the bank. For example, the customer's position is unclear, where in the document he is recorded as a nephew, whereas in fact the Plaintiff is the concubine of the deceased.

3. Legal Protection For The Interests Of Customers Rejected By Banks In The Joint Deposit Disbursement Process In Medan District Court Decision Number 201/PDT.G/2018/PN MDN

Legal protection is providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law or in other words, legal protection is various legal efforts that must be given by law enforcement officers for the rights granted by law to provide a sense of security, both mentally and physically, from disturbances and various threats from any party.⁷

⁷ Ishaq, Dasar- dasar Ilmu Hukum, (Jakarta, Sinar Grafika, 2009), hlm. 43

As stated in Nashriana's book, legal protection is an activity to protect individuals by harmonizing the relationship between values or rules that are manifested in attitudes and actions in creating order in social interactions between fellow human beings.⁸

Conclusion

Based on the research findings, it can be concluded that the regulation of banking authority in the disbursement of joint deposits has not been explicitly regulated in the law, creating legal uncertainty and potentially harming customers. This is reflected in the case of Medan District Court Decision Number 201/Pdt.G/2018/PN Mdn, where the bank refused to disburse joint deposit funds due to incomplete requirements and the unclear legal relationship between the Plaintiff and the deceased customer. Although the bank's actions can be understood from the perspective of the principle of banking prudence, legal protection for legitimate heirs must still be considered in accordance with Article 44A Paragraph (2) of the Banking Law. For this reason, clearer regulations are needed regarding the process of disbursing time deposits, the application of the appropriate principle of prudence by banks, and consistent legal protection for all parties in every banking case to prevent similar losses and disputes in the future.

⁸ Nashriana, *Perlindungan Hukum Pidana*, (Jakarta, Rajawali, 2016), hlm. 17.

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