

Legal Staffing Methods in Resolving Non-Performing Loans in the Banking Industry Based on Prudential Banking Principles

Radhika Althaf Vidaro¹, Ety Mulyati², Nun Harrieti³

^{1,2,3}Universitas Padjadjaran, Bandung, Indonesia

Email: radhika_av@ymail.com

Abstract

The banking industry is often perceived as the heart and driving force of a country's economy. Given its strategic position, the role of banking as an intermediary institution in collecting and distributing funds to the public for financing economic sector activities is crucial. Based on field practices, debtors often refuse to make payments or settle the credit, which impacts one of the banking health factors, namely the non-performing loan percentage. Legal staffing is essentially a method for resolving credit with a collectibility of 5 and credits that have been written off (Write-Off). The legal staffing method emphasizes resolution principles through non-litigation mechanisms (out-of-court dispute resolution), focusing on the effectiveness and efficiency of case resolution.

Keywords: Debtor, Non-Performing Loan, Legal Staffing, Non-Litigation, Dispute.



A. INTRODUCTION

The role of banking in improving the living standards of the Indonesian population is essentially in a very strategic position. This is due to the characteristics of financing that refer to the provision of credit as a means for the public to obtain business capital, which indirectly impacts the increase in Indonesia's economic percentage.

According to data compiled by the Central Statistics Agency (BPS), Indonesia's economy in 2022 grew by 5.31 percent, higher than the 3.70 percent growth achieved in 2021, calculated based on Gross Domestic Product (GDP). Meanwhile, based on the latest statistical data, Indonesia's economic growth rate in November 2023 in the third quarter grew by 1.60 percent. The banking industry is often regarded as the heart and driving force of a country's economy. Given its strategic position, the banking sector's role as an intermediary institution in collecting and distributing public funds for the financing of economic sector activities strengthens the structure of a country's economy.

In general, banking plays a vital role in the economy by performing several key functions: First, they act as facilitators of information and fund flow (transmission function). Second, they are responsible for gathering and channeling funds (intermediation function). Third, they play a role in transforming and distributing risks in the economy (transformation and distribution of risk function). Fourth, they also function as a tool to maintain economic stability (stabilization function).

Upon further examination, there are two civil relationships between the Bank and consumers, consisting of creditor customers and debtor customers. First,

consumers as depositors are responsible for the Bank to maintain confidentiality related to customer data and deposits, as part of the Bank's confidentiality principles. At the same time, this relationship requires the Bank to provide interest earnings to the depositors. Second, consumers as debtors receiving credit facilities place the Bank as a creditor entitled to receive loan repayments.

In practice, debtors often refuse to make payments/repayments of these loans, leading to an increase in one of the banking health factors, namely the percentage of non-performing loans (NPL). This rise in NPL percentage often becomes a stumbling block for banks to win national banking competition. Non-Performing Loan (NPL) is a ratio that compares total non-performing loans to total loans disbursed in percentage form. NPL is typically used as an indicator to assess credit risk, where the lower the NPL ratio in a Bank, the lower the non-performing loans, and vice versa, the higher the NPL ratio in a Bank, the greater the credit risk borne by the Bank.

Based on previous case studies, one practical solution to reduce the NPL percentage is the use of legal staffing as a means of resolution bridging the interests of the Bank as a creditor with the debtor.

Legal staffing is essentially a procedure for resolving loans with a collectability of 5 and loans written off the books (Write-Off). Legal staffing initially resulted from a collaboration among legal practitioners, banking officials, law enforcement, prosecutors, courts, NGOs, political party leaders, and so on. This refers to a principle called interdisciplinary collaboration, involving professionals from various fields of work.

According to Laura R. Bronstein, Interdisciplinary Collaboration is a work model that involves many social workers and professionals with expertise in different fields (interdisciplinary) to achieve the work's goals.

The legal staffing method has characteristics different from most commonly used methods for resolving non-performing loans. The legal staffing method emphasizes non-litigation dispute resolution mechanisms, focusing on the effectiveness and efficiency of case resolution.

This research focuses on one problem identification: how to apply prudential principles using the legal staffing method to help resolve non-performing loans in the banking industry. The objective of this study is to examine the procedures for using the legal staffing method to assist in resolving non-performing loans in the banking industry, especially resolving non-performing loans through non-litigation mechanisms based on banking prudential principles.

B. METHOD

The research method used by the author to create this thesis is a normative juridical approach with a descriptive specification. The Descriptive Method is a method that serves to describe or give an overview of the object being studied through data or samples that have been collected as they are without analyzing and making general conclusions. The research stages consist of library research to seek secondary data using primary, secondary, and tertiary legal materials. Descriptive research takes

issues or focuses on problems as they are when the research is conducted, with the results being processed and analyzed to draw conclusions.

C. RESULTS AND DISCUSSION

Legal Staffing is a procedure that can address these issues. Legal Staffing is a method to gain a comprehensive understanding of a non-performing loan case that sometimes cannot be resolved through a quantitative approach. For example, banks often encounter non-performing loan cases with criminal implications for internal parties, even though the error was unintentional or without malicious intent to commit fraud that resulted in the non-performing loan. Additionally, there are non-performing loans that cannot be resolved using the 3R method (restructuring, rescheduling, and reconditioning).

The mechanism of mapping the chronology and issues of non-performing loans is carried out by interviewing bank employees (in this case, account officers) supported by documents and supporting files such as credit agreements, credit SOPs, and requirements like identity cards, tax identification numbers, and pay slips. This allows the service provider to obtain a holistic picture of the loan condition.

The purpose of conducting this chronological mapping and problem identification of non-performing loans is to determine what steps can be applied effectively and efficiently to resolve these loans. Legal actions such as summonses and civil lawsuits often lack the resolution effectiveness needed by banks. Civil lawsuits are often seen as a cumbersome process that consumes considerable time, money, and energy, making this method not the primary option for banks in resolving non-performing loans.

The principle of prudence is one of the important instruments in implementing the Legal Staffing method. It involves ensuring that the Legal Staffing service provider can confirm that the bank's compliance is in accordance with the applicable laws and regulations in carrying out their duties. This includes ensuring that the existing non-performing loans are not due to intentional non-compliance with internal regulations/standard operating procedures or banking regulations.

The application of the prudence principle is essential when the legal staffing service provider carries out their duties. This is because the service provider is actively involved in inventorying legal documents related to the process of providing credit facilities to debtors. The legal staffing service provider must consider the aspect of prudential banking when collecting non-performing loans from debtors.

For example, when a legal staffing service provider conducts direct field collection at the debtor's residence, the service provider first coordinates with the local community leaders (RT/RW) to assess the debtor's credibility and personality. They consider whether the debtor has many outstanding debts and whether the debtor is brave enough to face legal risks. These factors must be carefully considered by the service provider as part of implementing the prudential banking principle in handling non-performing loans.

D. CONCLUSION

The application of the prudence principle is essential in resolving non-performing loans in the banking industry, and the use of the legal staffing method becomes an important part of this process. The prudence principle requires banks to always consider security and risk aspects in every credit-related decision. In the context of resolving non-performing loans, legal staffing functions as a third party authorized by the bank to handle legal issues. They utilize various documents related to the legal relationship between the bank and the debtor to ensure that the resolution of non-performing loans is conducted in accordance with applicable laws and reduces potential risks.

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