

CV JURIDICAL REVIEW OF LEGAL PROTECTION FOR ASPECTED CUSTOMERS

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Submitted: May 23th 2023

Revised: June 02th 2023

Accepted: June 09th 2023

Abstrak. Efforts to guarantee legal protection and certainty as well as to avoid conflicts of interest as a result of using banking services, especially in banking credit services that carry out economic functions through actions that are suspected of being a misuse of circumstances and can result in losses for consumers. The study uses an analytical method with an empirical juridical approach or legal sociology, privileges and commitments contained in Article 4 of the Shopper Security Act, as follows: 1) The option to solace, security, and wellbeing in consuming merchandise or potentially benefits; 2) The option to pick products and additionally benefits and acquire said products as well as administrations under the swapping scale and the circumstances and certifications guaranteed; 3) Right to right, self-evident and fair data in regards to the circumstances and certifications of merchandise or potentially benefits; 4) The option to have their perspectives and protests found out about the merchandise as well as administrations utilized; 5) The option to get legitimate backing, insurance, and endeavors to determine purchaser insurance debates; 6) The option to get direction and shopper schooling; 8) The option to be dealt with or served appropriately and truly and not biased; h. The option to get pay, pay, or potentially repayment if the products as well as administrations got are not by the arrangement or not as they ought to be; 9) The rights are managed in the arrangements of different guidelines and rules.

Keywords: Legal Protection; Customers; Banking.

INTRODUCTION

Financial institutions in the banking sector in Indonesia are currently experiencing rapid progress in providing services to consumers/customers. Information technology, which is increasingly advanced daily and makes it easier for people to carry out financial transactions, is the driving force behind this rapid development. The hope that is obtained from banks as financial institutions is that they can facilitate and pamper their customers in carrying out all types of financial transactions with the help of features resulting from the improvement of data innovation in the financial framework. However, the success of a bank does not only provide services that make it easier for consumers, but also maintain public trust so that the bank will still be seen as adequate for people who use banking financial services.

Banks are not only tasked with collecting public funds in direct savings and then channeling them back to the community through credit law institutions, but must maintain the confidentiality of customer data as consumers. The public will lose trust because that is the main reason people keep their money in banks if customer data is not protected, which will have a very significant impact. When banks as financial institutions no longer gain public trust, it can disrupt the wheels of the economy because people withdraw their money together (Rush Money), so many banks collapse due to public distrust. In addition, unprotected customer data will affect the comfort and safety of customers as consumers of financial services. If customer data is leaked and falls on

irresponsible persons, it can trigger unwanted crimes that it is contrary to consumers' rights to obtain comfort, security, and wellbeing in consuming merchandise and additionally benefits (Prasli & Risak, 2015).

After the issuance of PERPPU No. 1 of 2017 concerning Admittance to Monetary Data for Duty Purposes which has now been specified in Regulation Number 9 of 2017, now tax authorities/tax officers without having to obtain permission from the leadership of Bank Indonesia through a prior request from the finance minister, can already find out customer data by easy. These data include:

- a. identity of the monetary record holder;
 - b. financial account number;
 - c. identity of monetary assistance organizations;
 - d. financial account equilibrium or worth;
- And
- e. income connected with monetary records.

This guideline is a type of Indonesia's responsibility subsequent to sanctioning the Programmed Trade of Data (AEOI) plot with G-20 individuals and the Association for Monetary Co-activity and Improvement (OECD). AEOI is the transfer of certain information regarding taxpayers at a certain time, periodically, systematically, and continually from the country of source of income or place of depositing wealth, to the resident country of the taxpayer. The existence of the rule is expected to improve tax revenue for state finances. It also minimizes taxpayers who want to do tax avoidance.

Disclosure of customer data is very important for the consideration and

calculation of Income Tax (PPh) related to financial savings accounts which include interest on customer deposits. Deposits in question are deposits with any name and in any form including time deposits, certificates of deposit, and deposits on call, both in rupiah and foreign currency placed or issued by a bank. Including interest received from deposits and savings placed abroad through banks established or domiciled in Indonesia or branches of foreign banks in Indonesia (Tan, 2021).

Disclosure of customer data raises the vulnerability for tax officials to misuse this data as a tool for extortion through negotiations with customers at banks as taxpayers, embezzlement, and fraud are increasingly high, considering that so far many tax officers have been caught as a result of fictitious tax payable reports. With regulations that make it easier for tax authorities, customer data is no longer confidential. Customers as consumers of financial services should be entitled to data security and confidentiality by Article 40 passage (1) of Regulation no. 7 of 1992 as changed by Regulation no. 10 of 1998 concerning Banking jo. Article 41 Regulation no. 21 of 2008 concerning Islamic Banking. Regulation Number 8 of 1999 concerning Shopper Insurance (Gaol, 2018).

Problems will also arise considering that in this increasingly modern era with the disclosure of customer data, the more vulnerable the data will be leaked or spread due to the actions of irresponsible persons so that it can trigger cybercrimes committed by hackers to enrich themselves. Even this customer data makes it a tool for tax authorities to extort

taxpayers who are subject to income tax on deposit interest. This is very detrimental to customers as banking consumers. The mechanism for storing and using this data must be clear to avoid concerns for customers as taxpayers in the Deposit Interest Income Tax sector.

If fraud occurs, then the customer should take legal action to resolve the problem if there is a possibility of extortion, fraud, and so on by using customer data as a weapon by the tax authorities.

Efforts to guarantee legal protection and legal certainty as well as to avoid conflicts of interest as a result of acts of using banking services, especially in the field of banking credit services that carry out economic functions through actions that are suspected of being a misuse of circumstances and can result in losses for consumers can previously be found in Regulation Number 7 of 1992 concerning Banking and Regulation Number 10 of 1998 concerning Corrections to Regulation Number 7 of 1992 concerning Banking, Regulation Number 23 of 1999 related to Regulation Number 6 of 2000 related to Regulation Number 3 of 2004 concerning Bank Indonesia, the Common Code, the Commercial Code and other laws relating to banking activities.

In addition to the several laws mentioned above, the problem of consumer protection in general, also, the goal of questions that happen among purchasers and business entertainers, the Public authority of the Republic of Indonesia encapsulates in Regulation Number 8 of 1999 concerning Customer Security and a few regulations and guidelines whose material safeguards

buyers.

MATERIALS AND METHODS

The study uses an analytical method with an empirical juridical approach or legal sociology, which is an approach to the problem by reviewing the enforced regulations in society as positive law with its implementation, including the enactment in the field. (Hakim, 2017) the focus of this research is to discuss issues regarding customer protection with an analysis of law No. 8 of 1999 concerning Consumer Protection.

RESULTS AND DISCUSSION

1. Analysis of Consumer Protection Law

Legitimate assurance is to safeguard basic freedoms that are hurt by others and this security is given to the local area so they can partake in every one of the privileges allowed by regulation (Sibuea, 2010).

The initial concept of legal protection is closely related to government and governmental acts as a central point so this concept was born from the development of administrative law in western countries. With government action as the central point, two kinds of legal protection are distinguished, namely: (Ariyanti, 2019)

1) Preventive legal protection

In this preventive legal security, genuine subjects are allowed to submit objections or ends before an organization decision gets a definitive design. The goal is to hold inquiries back from occurring. Preventive authentic security is outstandingly enormous for government exercises considering chance of movement in light of the fact that, with the presence of

preventive legal affirmation, the public authority is encouraged to be careful in chasing after decisions considering respect. In Indonesia, there are no specific approaches concerning preventive legitimate security workplaces.

2) Repressive legal protection

Serious genuine protection means to decide questions. The treatment of legitimate confirmation by wide courts and administrative courts in Indonesia is associated with the characterization of harmful real security.

2. Legal Analysis of Credit Agreements as Standard Agreements

One of the agreements commonly used in everyday people's lives is the standard agreement. A standard understanding is an understanding wherein practically the provisions have been all normalized by the client and the other party has no a valuable open door to arrange or request changes (Kosasih & SH, 2021). The standard arrangement is made singularly by the business entertainer. Standard agreements are made between large companies on the one hand and their pre-consumers on the other.

At a practical level, standard agreements are widely applied in the banking world, in this case, banking credit agreements. As indicated by Sutan Remi Sjahdeini, a credit understanding is an understanding between a bank and a client as a debt holder client in regards to the arrangement of cash or bills that can be compared with that which obliges borrower clients to take care of their obligations after a specific period with how much premium, remuneration or benefit sharing (Kosasih & SH, 2021).

Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking does not specifically regulate the use of standard agreements for implementing banks so that the form of a bank credit agreement is the result of a process of bank activities handling bank credit.[7]

Credit arrangements utilized in the financial world, both in Indonesia and abroad, are always written agreements containing standard clauses. Therefore, bank credit agreements are always standard contracts.

The structure and content of the credit arrangement model are made and decided singularly by the bank as the leaser. The client as a debt holder can support or reject the credit understanding. This is on the grounds that the place of the bank as a lender has a higher monetary position so it is considered to have the power to decide the structure and content of the credit understanding, which is one of the qualities of a standard arrangement.

Credit arrangements made by the bank singularly tend not to mirror the rule of equilibrium. The standard of equilibrium or the guideline of proportionality is the rule that requires the two players to satisfy and carry out the understanding. The proportionality rule is a continuation of the guideline of uniformity where the leaser has the ability to request execution and on the off chance that essential can request installment of accomplishment through the indebted person's resources. However, the leaser bears the weight of doing the understanding with honest intentions. It very well may be seen here that the leaser's solid position is adjusted by his

commitment to focus on pure intentions so the place of the loan boss and indebted person is adjusted.

3. Legal Analysis of Abuse of Circumstances

The practice of banking credit agreements as standard agreements is closely related to the abuse of circumstances. Abuse of circumstances arises because one of the parties who has an advantage abuses the situation to limit the freedom of contract of the weak party. In the credit agreement, the abuse of circumstances can be carried out by the bank, as a party that has an economic advantage. The credit agreement is prepared and made in advance by the bank unilaterally. The debtor does not have the opportunity to negotiate related to the terms and contents of the credit agreement. The debtor only has the freedom to accept or reject the credit agreement. In urgent circumstances, the debtor is often forced to accept the credit agreement, even though the credit agreement is considered burdensome.

The lack of knowledge of customers related to contract law or banking and the weak position of customers as debtors in credit agreements provide opportunities for abuse of circumstances. The abuse of circumstances cannot be seen as justifiable. Misuse of circumstances can be included as a situation that is contrary to public order or good habits. On this basis, an agreement can be declared invalid partially or wholly.

4. Analysis of Consumer Protection Laws

Customer insurance regulation is important for purchaser regulation that contains administrative standards or rules and furthermore contains properties that

safeguard shopper interests. Customers are characterized as the whole lawful standards and rules administering connections and issues between different gatherings connected with purchaser merchandise and additionally benefits, as well as shopper administrations, in public activity (Hamid & SH, 2017).

Legal protection for consumers is directed at achieving the goal of legal protection for consumers, namely:[9]

- 1) Increasing buyer mindfulness, capacity, and autonomy to safeguard themselves
- 2) Raising the nobility of purchasers by keeping them from negative admittance to the utilization of merchandise or potentially benefits.
- 3) Increasing client fortifying in picking, choosing, and mentioning their honors as purchasers
- 4) Creating a buyer protection structure that contains parts of legal sureness and information openness alongside induction to information
- 5) Growing knowledge of business performers concerning the meaning of legitimate security for purchasers so true and careful viewpoints fill in continuing with work
- 6) Improving the idea of items and also helps that guarantee the congruity of the question of conveying stock or possibly benefits, prosperity, comfort, security, and buyer prosperity.

5. Analysis of Forms of Legal Protection for Banking Credit Customers

There are 2 (two) types of lawful security, in particular preventive legitimate assurance and abusive legitimate insurance. Legal protection for bank credit

customers from misuse of circumstances in standard agreements that take preventive forms in Law Number 8 of 1999 concerning Consumer Protection is contained in Article 18 Paragraph (1) Letter g and letter h, which regulates restrictions on the use of standard clauses in credit agreements. The regulation aims to prevent problems related to credit agreements.

Meanwhile, legal protection for bank credit customers from abuse of circumstances in standard agreements that are repressive in Law Number 8 of 1999 concerning Consumer Protection is contained in Article 18 Paragraphs (3 and 4) and Article 62 Paragraph (1). Settlement of questions that emerge for this situation can be settled through suit customer debate goal which is a debate goal through court and non-prosecution shopper question goal which is a settlement of debates outside the court, namely in the forms as stipulated in Article 52 letter (a) of the Consumer Protection Act which consists of arbitration, conciliation, and mediation. Settlement in non-litigation or dispute resolution outside the court is carried out by the Consumer Dispute Settlement Agency (BPSK).

The legal requirements for an agreement are regulated in Article 1320 of the Civil Code, including:

- 1) The understanding of the individuals who tie themselves
- 2) The capacity to make a commitment
- 3) A certain topic
- 4) A legal reason.

The initial two circumstances are called emotional circumstances since they concern individuals or subjects who concur, while the last two circumstances are called

objective circumstances since they concern the actual arrangement or the object of the legitimate activity being completed (Saputra, 2019).

Concerning objective circumstances, on the off chance that those conditions are not met, the understanding is invalid and void. Meaning: from the beginning, there was never an agreement and there was never an agreement. The purpose of the parties agreeing to give birth to a legal agreement is to fail. In the case of a subjective condition, on the off chance that the condition isn't satisfied, the understanding isn't invalid and void, yet one of the gatherings has the option to demand that the arrangement be dropped.

6. Legal Analysis of Terms of Agreement in Article 1320 of the Indonesian Civil Code

The provisions of the understanding are the first condition in quite a while of the legitimacy of the understanding. The provisions of the arrangement are abstract circumstances regarding the legitimacy of the understanding. Non-fulfillment of subjective conditions may result in requesting cancellation of the agreement. The agreement is the application of one of the principles of the agreement, namely the principle of consensuality. Freedom of contract is very important in the agreement because the agreement applies when two parties to the agreement mutually agree on an agreement. The agreement in the standard agreement is the main thing. Because in a standard agreement, the debtor only has two choices, namely agreeing to the agreement that has been offered by the creditor or rejecting the agreement.

An agreement occurs when the position of the two parties is in a balanced position. The agreement is the main basis of the agreement that must be achieved through the freedom to determine their will. To determine one's will can not be in a state of error, forced, or in a state of being deceived. However, in the development of contract law, these three conditions are not sufficient to meet current legal requirements.

In the principle of agreement or consensus, everyone is allowed to state what he feels is good for creating an agreement. This is very closely related to the principle of freedom of contract. In practice, the current bank credit agreement shows that the agreement principle which is the main basis of the agreement is being abandoned.

7. Legal Analysis of the Misuse of Circumstances Based on the Terms of the Agreement in Article 1320 of the Civil Code

Current developments in contract law ensure that abuse of circumstances is one of the factors limiting the application of the principle of freedom of contract. Misuse of circumstances arises from an agreement event in which one party misuses an opportunity that causes harm to the other party.

Abuse of circumstances is closely related to the agreement in the agreement. An unequal position between the parties in the agreement will give birth to an unequal agreement, resulting in an agreement based on a pseudo-agreement, which is made due to the compulsion of the weaker party to meet their needs. At first glance, this is protected by the principle of

freedom of contract where the parties can freely determine the contents of the agreement, and therefore have binding force, but because the agreement given is not based on free will, but because of forced circumstances, the agreement can be canceled based on misuse of circumstances. The misuse of circumstances is a limiting factor for freedom of contract.

The problem is the abuse of circumstances is about the superiority of one party over the other. Abuse of funds occurs because of an imbalance in bargaining power that cannot be avoided by the weaker party and the stronger party abuses it by imposing the contents and terms of the agreement which gives him an unequal advantage.

8. Supervision and Law Enforcement as an Effort to Protect Consumers

One of the agendas of Law No. 8 of 1999 concerning Consumer Protection is how to protect consumers, especially in standard agreements, which are always felt to be detrimental to consumers because of the position of consumers as the weak party. For this reason, there are consumer rights and obligations contained in Articles 4 and 5 of the Consumer Protection Act, as follows: (Kristiyanti, 2022)

Article 4 Consumer rights are:

- a. The right to solace, security, and wellbeing in consuming merchandise or potentially benefits;
- b. The right to pick products and additionally benefits and get said merchandise as well as administrations by the conversion scale and the circumstances and certifications guaranteed;

- c. The right to right, clear and legitimate data in regards to the circumstances and guarantees of products and additionally benefits;
- d. The right to have their perspectives and protests found out about the merchandise or potentially benefits utilized;
- e. The right to acquire appropriate support, insurance, and endeavors to determine buyer assurance questions;
- f. The right to get customer direction and instruction;
- g. The right to be dealt with or served accurately and truly and not unfair; h. The option to get remuneration, pay, as well as repayment, if the products or potentially benefits got are not by the arrangement or not as they ought to be;
- h. The privileges are directed in the arrangements of different regulations and guidelines.

Article 5 Consumer Obligations:

- a. Read or adhere to the directions for data and strategies for the utilization or use of products and additionally benefits, for security and wellbeing;
- b. Have completely honest intentions in directing products as well as administrations buy exchanges;
- c. Pay as per the concurred swapping scale;
- d. Participate in appropriate legitimate settlement of purchaser assurance questions.

The implication of legal protection for consumers is how to maintain and guarantee that the rights of consumers can be accommodated in the practice of standard agreements. David Tobing argues

that the Consumer Protection Act adopts three approaches to protect consumers from negative excesses in standard clauses. These three approaches form a system that aims to prevent harm to consumers from the inclusion of standard clauses.

The three approaches are: First, a participatory approach, namely when business actors adjust all the provisions of standard clauses that are contrary to UUPK. Second, the Preventive Approach is a series of concrete actions taken by BPSK which aims to prevent the inclusion of standard clauses that can harm consumers, with ongoing supervision, whether there are reports or no reports from consumers to BPSK. Third, the repressive approach. This approach is a series of actions taken by Civil Servant Investigators (PPNS) who have the extent of obligations and obligations in the field of shopper assurance to function criminal law because business actors ignore the prohibition on standard clauses and then decide on them by the court.

CONCLUSIONS

Efforts to guarantee legal protection and legal certainty as well as to avoid conflicts of interest as a result of acts of using banking services, especially in the field of banking credit services that carry out economic functions through actions that are suspected of being a misuse of circumstances and can result in losses for consumers can previously be found in Regulation Number 7 of 1992 concerning Banking and Regulation Number 10 of 1998 concerning Revisions to Regulation Number 7 of 1992 concerning Banking, Regulation Number 23 of 1999 related to

Regulation Number 6 of 2000 related to Regulation Number 3 of 2004 concerning Bank Indonesia, the Common Code, the Business Code and different regulations connecting with banking exercises.

Legitimate insurance for shoppers is aimed at accomplishing the objectives of lawful assurance for buyers, specifically: 1) Growing care, limit, and opportunity of clients to defend themselves; 2) Raising the admiration of buyers by holding them from negative permission to the usage of items or possibly benefits; 3) Further creating client reinforcing in picking, choosing, and mentioning their honors as buyers; 4) Making a buyer confirmation system that contains parts of legitimate conviction and information disclosure and induction to information; 5) Creating cognizance of business performers concerning the meaning of legitimate protection for clients, so fair and trustworthy mindsets fill in continuing with work; 6) Dealing with the idea of product as well as organizations that guarantee the movement of the issue of conveying stock as well as organizations, prosperity, comfort, security, and client prosperity.

One of the agendas of Law No. 8 of 1999 concerning Consumer Protection is how to protect consumers, especially in standard agreements, which are always detrimental to consumers because of the position of consumers as the weak party. Consequently, there are purchaser privileges and commitments contained in Article 4 of the Shopper Assurance Act, as follows: 1) The option to solace, security, and wellbeing in consuming merchandise or potentially benefits; 2) The option to pick products and additionally benefits and

acquire said products and additionally benefits by the conversion standard and the circumstances and certifications guaranteed; 3) Right to right, clear and legitimate data in regards to the circumstances and assurances of merchandise and additionally benefits; 4) The option to have their viewpoints and objections caught wind of the products or potentially benefits utilized; 5) The option to get appropriate support, security, and endeavors to determine buyer insurance debates; 6) The option to get direction and customer schooling; 8) The option to be dealt with or served appropriately and truly and not prejudicial; h. The option to get remuneration, pay, or potentially repayment, if the products and additionally benefits got are not by the understanding or not as they ought to be; 9) The freedoms oversaw in the courses of action of various guidelines and rules.

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