Original Article

CREDIT AGREEMENTS IN COOPERATIVES BY DEFAULTING DEBTORS

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ABSTRACT

Background. This is motivated by the existence of cooperative activities in the savings and loan unit or what is known as a credit cooperative, this credit cooperative aims to help other fellow cooperatives, cooperative members, or the community in terms of capital to develop business by getting the loans needed with light terms according to the borrower's ability. However, in the implementation of the savings and loan agreement, there are several obstacles, especially in terms of default. The purpose of this study is to determine the implementation of a credit agreement with a defaulting debtor and how the settlement of defaulting debtors in a cooperative.

Research Method. The method of this research approach is juridical-sociological, which means that research is carried out on the real situation of society with the intention and purpose of finding facts (fact-finding), which then leads to identification (problem-identification) and ultimately leads to problem-solution.

Findings. During the execution of a loan agreement within a cooperative, it's essential to evaluate the loan-repaying capability of its members. If no family principles resolve the default, the cooperative sells the collateral to repay the debt.

Conclusion. A savings and loan unit, or credit cooperative, provides loans with lenient terms to fellow cooperatives, members, or the community for business development. Defaults pose significant challenges in implementing savings and loan agreements.

Keywords: Agreement, Credit, Cooperative, Default Debtors.

BACKGROUND

Indonesia is carried out with the principle of kinship and by controlling branches of production and sectors that affect the lives of many people. This is based on the 1945 Constitution of the Republic of Indonesia, namely Article 33, which is the basis for the direction of the Indonesian economic system[1]. Article 33 of the 1945 Constitution states that: "(1) The economy shall be structured as a joint venture based on the principle of kinship; (2) The branches of production that are important for the State and that affect the livelihood of the people shall be controlled by the State; (3) The land, water, and natural resources contained therein shall be controlled by the State and used for the greatest prosperity of the people."

Indonesia is one of the developing countries. In general, development in developing countries is carried out in stages. This development is aimed at advancing the welfare and interests of society. This gradual development has obstacles faced by almost all developing countries, namely: poverty, unemployment, exploitation by the strong against the weak, and uneven ownership of natural resources. This problem arises because some groups of people are very concerned with their interests and their groups.

Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia explains that the economy is designed as a joint effort on the principle of kinship reflecting on a business, namely cooperatives. Cooperatives as a people's economic movement and as a business entity participate in realizing an advanced, just, and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia in a national economic system that is structured as a joint venture based on the principle of kinship and economic democracy[2].

By taking into account the position of the Cooperative as mentioned above, the role of the Cooperative is very important in growing and developing the economic potential of the people and in realizing the life of economic democracy which has the characteristics of democracy, togetherness, kinship, and openness. In such an economic life, cooperatives should have a wide space for movement and business opportunities that concern the interests of the people's economic life. Cooperatives reflect the principle of kinship because the cooperative itself was established because of the poor economic conditions of the community[3].

Credit cooperatives are savings and loan cooperatives that are in dire need of cash to develop their business. This credit cooperative aims to help other fellow cooperatives or the community in terms of capital to develop business by getting the loans needed with light terms according to the borrower's ability[4].

Today cooperatives continue to develop their wings in the field of business to keep up with the development of unlimited human needs. One of the areas of cooperative business that is increasingly needed by the community is the issue of savings and loans. Savings and loan cooperatives can serve non-members through the sale of goods to members or provide loans to members. In addition, it also channels capital owners with those who need capital so that capital owners benefit from investing in a business. The difference between savings and loan cooperatives and lending to banks is in the light terms provided by the cooperative in making loans then this savings and loan cooperative will provide interest compensation of 18-20 percent per year from the loan fund. Likewise, the Cooperative in promoting cooperative business for the welfare of joint Cooperative members, carries out activities in the field of savings and loans[5].

Cooperatives in their work provide services so that the welfare of members can be guaranteed and facilitate the fulfillment of the needs of their members' lives. In accordance with the nature of the Pinjam cooperative or credit cooperative, the main purpose of the operation of this cooperative is as an alternative means of borrowing money or credit. In addition, the Cooperative also seeks to prevent its members from loan sharks who provide loans with high interest, without a clear agreement that can worsen the economic situation of its members. Juridically, the definition of an agreement is regulated in the third book on agreements. The

definition of an agreement according to Article 1313 of the Civil Code is: an act by which one or more people bind themselves to one or more other people.

Non-fulfillment of obligations as agreed in the savings and loan agreement can be caused by negligence or intentionality or due to an event that occurs beyond the ability of each party[6]. Default can be in the form of: first, not doing what he promised to do. Second, doing what he promised, but not as it should be. Third, doing what he promised but late. Fourth, doing something that according to the agreement he should not do.

Research conducted by the Cooperative is intended to maintain the possibility of arrears or non-performing loans that can affect the health of the Cooperative itself by using the principle of prudence. A money loan agreement is an agreement between a person or business entity and a person where the borrower is given a certain amount of money with a certain guarantee and at a later date returns to the lender with a certain reward or interest. So in this research, the loan and borrowing agreement is the same definition as the credit agreement (borrowing). Based on the description above, this research aims to find out the implementation of the credit agreement and the settlement of debtors who default on the Cooperative.

RESEARCH METHOD

Problem Approach

This research uses the juridical-sociological approach method, which means that research is carried out on the real state of society with the intention and purpose of finding facts (fact-finding), which then leads to identification (problem-identification) and ultimately leads to problem-solution[7].

As a basis for decision-making, the following list will be used:

- 1. Primary legal materials, namely Law Number 25 of 1992 concerning Cooperatives, and the Civil Code.
- 2. Secondary legal materials, namely materials that provide explanations of primary legal materials such as opinions from legal experts (reference books on agreements, cooperatives, banking and credit law, and consumer protection). And supported by documents, and interviews from the Cooperative.
- 3. Tertiary legal materials, namely materials that provide guidance and explanations of primary and secondary legal materials, such as language dictionaries and legal dictionaries.

Materials Collection Procedure

Data collection used in this writing is through library research to obtain concepts, theories and doctrines, opinions or conceptual thoughts and previous research related to the study of this research can also be in the form of legislation and other scientific works. This study was obtained from interviews with the Cooperative.

Legal Material Processing and Analysis

In this research, the author collects data that can be used as research material. The data is obtained from the results of the literature which is then processed qualitatively. This qualitative data processing aims to understand or understand the legal symptoms studied. Primary data is collected by conducting interviews directly with the parties involved in this research. The interview is a technique of collecting data about the object of research by asking questions orally.

The secondary data is collected by means of library research or literature searches on studies laws and regulations. Then how to collect data by copying or copying documents from the cooperative that are needed according to the needs of this research. The systematization is related to how to classify the legal materials to make it easier for the author to analyze the existing data. Data analysis of data that has been obtained through primary data and secondary data is then carried out through data processing, namely activities to systematize written legal materials. Furthermore, the data obtained will be analyzed qualitatively, namely, data that is not in the form of numbers, but more in the form of narratives, stories, and written and unwritten documents. The data analysis technique used in this research is a qualitative descriptive analysis technique, which is a technique that tries to provide a description or explanation of the subject and object of research as a result of the research conducted[8].

FINDINGS

Establishing a Cooperative

This cooperative is based on Pancasila and the 1945 Constitution which is based on the principle of kinship. This cooperative conducts its activities based on cooperative principles, namely:

- a. Membership is voluntary and open;
- b. Management is done democratically;
- c. The distribution of the remaining proceeds is carried out fairly in proportion to the amount of business services of each member;
- d. Limited return on capital;
- e. Independence;
- f. Carry out cooperative education;
- g. Cooperation between cooperatives.

Cooperatives as a business entity in carrying out its activities that organize the utilization and utilization of economic resources of its members on the basis of cooperative principles[4]. The purpose of establishing a cooperative is to; a) Improve the welfare and standard of living of members in particular and the community of the working area in general; b) Become a people's economic movement and participate in building the national economic order.

To achieve its objectives, this cooperative organizes business activities related to the business activities of members, as follows: a) Savings and loan business unit b) Shop business unit c)

Goods procurement business unit d) Home industry business unit e) Catering business unit[9].

This cooperative can open branches or representatives in other places within Indonesia. The opening of branches or representatives must be approved by the members' meeting and applicable laws and regulations. The requirements to be accepted as a member of the Cooperative are as follows;

- a. Indonesian citizen;
- b. Has full capacity to perform legal actions;
- c. Residing and domiciled in East Java Province;
- d. Has expressed written ability to pay off the principal and mandatory deposits.
- e. Has agreed to the contents of the articles of association and the provisions that apply in the cooperative[10].

Cooperative membership is obtained if all requirements have been met, principal and mandatory savings have been paid and the person concerned is registered and has signed the Cooperative Member Register Book. Membership of the Cooperative is not transferable to anyone in any way. The Cooperative can openly accept other members as extraordinary members. Extraordinary members are those who intend to become members but cannot fulfill all/all the requirements as members.

Every member of the Cooperative has the following rights and obligations;

- a. Obtaining services from the cooperative;
- b. Attend and speak at member meetings;
- c. Have equal voting rights;
- d. Electing and being elected as a board member or supervisor;
- e. Submitting opinions, suggestions, and proposals for the good and progress of the cooperative;
- f. Obtaining a share of the remaining operating result.

Every member of the Cooperative has obligations:

- a. Pay compulsory savings in accordance with the provisions stipulated in the bylaws or decided at a membership meeting;
- b. Participate in business activities;
- c. Comply with the provisions of the articles of association, bylaws, decisions of member meetings, and other provisions applicable in the cooperative;
- d. Maintain and preserve the good name and togetherness of the cooperative.

For those who have paid off the principal savings payment but formally have not fully completed the administrative requirements, have not signed the member register book, or have not paid all principal savings including mandatory savings and others. As stipulated in the bylaws have the status of prospective members.

Implementation of Credit Agreement with Debtor

Loan credit in cooperative activities is the most important business activity because the largest income from the Cooperative business comes from loan credit business income in the form of interest and fees. Credit business is a business field of cooperatives that is very broad in scope and requires professional handling with high moral integrity.

The savings and loan business in each cooperative is based on a strong legal basis, namely Article 44 of Law Number 25 of 1992 concerning Cooperatives which reads in full:

- 1) Cooperatives can raise funds and channel them through savings and loan business activities from and for :
 - a. members of the Cooperative concerned;
 - b. Other cooperatives and/or their members.
- 2) Saving and loan business activities can be carried out as one of or the only business activities of the Cooperative.
- 3) The implementation of savings and loan business activities by Cooperatives is further regulated by Regulation.

Cooperatives can provide loan credit to other cooperatives and or to their members as long as it is based on a cooperation agreement between the cooperatives concerned. There are four elements of loan credit as follows:

- 1) Trust, that every loan credit is based on the belief that the loan will be repaid by the debtor in accordance with the agreed period.
- 2) Time, that between the granting of loans by cooperatives and repayment by debtors is not carried out at the same time but is separated by a grace period.
- 3) Risk, that any lending of any kind will carry a risk in the period between lending and repayment. This means that the longer the loan term, the higher the risk.
- 4) Achievement, that every agreement that occurs between the creditor (lender) and the debtor (borrower) regarding the provision of credit, at that time there will also be an achievement and counter achievement.

In general, in practice, the form of a loan agreement at the Cooperative is set out in written form and in a standard agreement. According to Ch. Gatot Wardoyo in his writing entitled 'Around the clauses of the Agreement clauses', that the credit loan agreement has several functions including:

- 1. The credit loan agreement functions as the main agreement, meaning that the agreement is something that determines whether or not other agreements that follow it are canceled.
- 2. Credit loan agreements serve as evidence of the boundaries of rights and obligations between debtors and creditors.
- 3. The loan agreement serves as a loan monitoring tool.

Credit agreements in cooperatives are standard agreements where the contents or clauses of the agreement have been standardized and set out in the form (blank). Standard agreements generally contain unequal clauses between the creditor and the debtor. Every loan is set out in a written agreement. The form and format are left to each cooperative, and the cooperative

law and implementation guidelines do not determine the format, but at least they must pay attention to the following matters:

- 1. Fulfill legal validity and requirements that can protect the interests of creditors and borrowers;
- 2. Contains the amount, term, loan repayment procedures, and other loan terms.

In cooperatives, management must be adjusted to the business activities to be carried out in order to achieve effectiveness and efficiency in cooperative management.

The business cooperative to be implemented by the cooperative must be economically viable. Economically feasible means that the business will be managed efficiently and be able to generate business profits by taking into account the factors of labor, capital, and technology. In the world of financial institutions in general and savings and loan cooperatives in particular, there is a principle that the loan funds issued/released must be received back in accordance with the agreement. Therefore, the Cooperative in granting loan applications is always selective.

In the process of implementing a loan agreement, the Cooperative needs to assess the ability of cooperative members to return loans or repay loans in a timely manner. The application of the precautionary principle in providing cooperative loans is intended to maintain the stability of the financial system and protect cooperatives and cooperative members as depositors of funds so that the Cooperative is expected to always remain in a healthy condition and can fulfill its obligations to cooperative members who save funds. Cooperatives emphasize that in providing loans and conducting other businesses, cooperatives are required to take ways that are not detrimental to the interests of the cooperative itself and cooperative members who entrust their funds to the Cooperative So in channeling a loan to members of this Cooperative must pay attention to the security aspects for the return of the loan.

After the loan is granted, the Cooperative needs to monitor the use of the loan funds, as well as the ability and compliance of the cooperative members in fulfilling their obligations. To avoid any obstacles in the repayment of a loan, the agreement states that the Cooperative always asks for collateral that is useful for the security of a loan fund released. In providing loans, the Cooperative must have confidence in the ability and ability of cooperative members to repay their debts in accordance with the agreement.

In every loan application submitted by cooperative members, the Cooperative always pays attention to matters concerning the internal situation of the cooperative and the situation of cooperative members (borrowers). After the Cooperative has considered its internal situation and is able to provide funds for loan applicants, the next step is to consider loan applications submitted by cooperative members. The things to consider when borrowing from a cooperative are:

- 1. Borrower's personal;
- 2. Business:

- 3. Ability and willingness to repay the loan
- 4. Loan collateral.

This cooperative, in order to serve its members to obtain loan facilities, has established provisions on the procedures for applying for and distributing loans.

In principle, groups of people with irregular income who become prospective Cooperative debtors are required to be able to provide collateral whose value must be able to cover the entire amount of the loan, both principal and interest. Collateral in terms of the nature of the goods or objects, can be distinguished as follows:

1. Moving Objects, which are distinguished:

- a. Tangible Movable Objects, consisting of:
- Motorized vehicles, whether on land, sea, river, or lake with proof of ownership in the form of BPKB (Bukti Pemilikan Kendaraan Bermotor) for those on land and a Certificate from the Village Head for those on water or river and or from the authorized agency.
- Merchandise inventory, with proof of ownership in the form of invoices or purchase receipts.
- Machinery, with proof of ownership in the form of invoices or purchase receipts
- Inventory or furniture, with proof of ownership in the form of invoices or purchase receipts, or a Certificate from the Village Head if the purchase receipt is no longer available/lost.
- Jewelry (Gold), with proof of ownership in the form of invoices or purchase receipts.
- b. Intangibles include:
- Time Deposit.
- Savings with proof of ownership.
- Salary or Wages
- SITU (Surat Ijin Tempat Usaha), SPTU (Surat Pemilikan Tempat Usaha), and other similar documents.

2. Immovable objects include:

- a. Land, land that is used as collateral is:
- Freehold land with proof of ownership in the form of a Certificate of Ownership (SHM) and Land Sale and Purchase Deed.
- Building rights land with proof of ownership in the form of a Building Rights Title Certificate (SHGB)
- Cultivation rights land with proof of ownership in the form of a Cultivation Rights Title Certificate (SHGU).
- Right of use land on state land with proof of ownership in the form of a Right of Use Certificate (SHP).
- Other land rights include Petok D, *Letter C*, or Girik.
- b. Buildings, which can be used as collateral are:
- Buildings on land not owned by the debtor with evidence in the form of a Building Construction Permit (IMB) or Certificate of Ownership from the Village Head / Lurah.

- Building on the debtor's own land, proven by a Building Construction Permit (IMB) or Building Ownership Certificate from the Village Head / Lurah.

For the Permanent Income Group (Golbertap), the main guarantee for the permanent income group is the salary or pension fund that applies for credit. Especially for people on fixed incomes must be attached:

- 1. photocopy of husband/wife ID card (for those who are married);
- 2. photocopy of family card;
- 3. legalized copy of Employee Card (Karpeg) / company employee
- 4. photocopy of the first appointment letter and the last letter / For retiree's Retirement Decree
- 5. legalized copy of salary slip/pension payment slip;
- 6. Statement letter of the debtor on stamp duty has no debt or the salary paid to the creditor is sufficient:
- 7. Letter of recommendation from the debtor's superior;
- 8. Salary Deduction Decree to the appointed salary deductor at the place where the debtor's salary is paid, on stamp duty;
- 9. Fill out the forms that are required to submit a loan application.

Morally, what is meant by the implementation of loan agreements in cooperatives is a necessity to carry out all actions that have been made, both within the scope of cooperative organizations and in cooperative business activities.

DISCUSSION

Settlement of Defaulting Debtors

Basically, the purpose of cooperatives in the provisions of article 3 of Law Number 25 of 1992 states, advancing the welfare of members in particular and society in general and participating in building the national economic order in order to realize an advanced, just, and prosperous society based on Pancasila and the 1945 Constitution.

The partnership relationship is set out in the form of a written agreement that at least regulates the form and scope of the partnership business, the rights, and obligations of each party, the form of guidance and development, as well as the period and settlement of disputes. A just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia must be realized through national economic development based on economic democracy. Cooperatives according to Hendrajogi, cooperatives are associations with the aim of trying together consisting of those who are weak and always cultivated with a spirit of not thinking of themselves in such a way that each is able to carry out their obligations as members and get rewards in proportion to their use of the organization.

The Cooperative conducts business activities for its members, namely the savings and loan business unit where members and the general public can carry out these activities in accordance with applicable legal rules and regulations that apply in the Cooperative, especially the savings and loan business unit is carried out separately from other business units[11].

The activities of the savings and loan business unit are intended to collect and distribute funds from and for cooperative members, prospective members, other cooperatives, or the general public by implementing a savings and loan agreement that has been established by this cooperative.

The savings and loan agreement carried out by the community, and cooperative members with the Cooperative uses procedures contained in a written agreement between the debtor and the creditor[12]. The agreement uses several procedures, one of which is by means of the debtor providing a guarantee to the creditor so that the savings and loan agreement can be carried out in good faith by the parties to the agreement. In connection with the implementation of loan distribution, in general, this cooperative has determined 2 ways, namely the applicant who actively comes to the cooperative office and the cooperative who actively visits the cooperative members. For preventive security issues, the Cooperative will ask for collateral for loans disbursed to debtors. After the loan is realized, the cooperative will usually supervise until the loan is repaid. However, in the process of repaying savings and loans, there are many obstacles experienced by the debtor, among others;

- a. Lack of understanding of the contents of the savings and loan agreement contract explained by the cooperative at the beginning of the meeting.
- b. Debtors are negligent/delayed in their obligations to repay debts to savings and loan business units managed by cooperatives.
- c. The debtor defaults on the agreement that was agreed upon at the beginning of the contract with the cooperative.

The Cooperative understands the obstacles experienced and has a solution for resolving debtors who default in a family manner in accordance with the principles that apply to cooperatives by way of consensus. The Cooperative provides effective solutions for resolving debtors in default in accordance with the obstacles they experience, including the following;

- 1. In the obstacle of the debtor's lack of understanding of the contents of the savings and loan agreement contract, the creditor, namely the Cooperative, provides direction and explanation in detail, completely, and thoroughly. The explanation is carried out cooperatively based on objective analysis so that it is easily accepted by the debtor.
- 2. The law referred to in Article 1250 of the Civil Code is the law published in the official gazette of 1948 no. 22 which sets the amount of interest at 6% a year. Because interest is what the debtor must pay because of his negligence, the interest is called "Morotoir Interest", so the Cooperative warns the debtor who is negligent and sets the amount of interest at 6% a year for the debtor to immediately pay off the debt.
- 3. The Cooperative gives an appeal to the debtor to immediately pay off the debt. And if the default occurs, the cooperative takes action, namely the goods used as collateral in the savings and loan agreement contract will be sold to repay the debt to the cooperative.

CONCLUSION

The savings and loan business in cooperatives is regulated by Article 44 of Law Number 25 of 1992 and requires professional handling with high moral integrity. The cooperative implements these activities through standard agreements, assessing members' ability to repay

loans and applying the precautionary principle to maintain financial stability. After granting loans, the cooperative monitors member compliance and funds usage. In cases of default, the cooperative provides detailed explanations, sets interest at 6% a year, and appeals to the debtor. If default occurs, the cooperative sells collateral to repay the debt.

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