

Existence of Banking Credit Agreement with Standard Clauses Related to the Implementation of Consumer Law Protection in Indonesia

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ABSTRACT

This study examines the existence of banking credit agreements with standard clauses in the context of the implementation of consumer law protection in Indonesia. Standard clauses are often used by banks to regulate the legal relationship between banks and customers. However, the use of this clause often causes problems because it is considered detrimental to consumers. An agreement made by debtors and creditors is a complex series of laws, the emergence of conditions in an agreement that is still standard made unilaterally by business actors in this case, is banking where consumers have to submit and comply with the agreement there are standards clauses contained in a contract in the future making the consumer's position disadvantaged so that The situation possessed by debtors and creditors or business actors and consumers is not equal. This legal situation makes consumer protection law take many roles against violations or unlawful acts committed by debtors or, in this case, business actors. Legal protection for consumers in Indonesia is regulated in Law Number 8 of 1999 concerning Consumer Protection and Renewal in Law Number 4 of 2023. This study aims to analyze the extent to which standard clauses in banking credit agreements affect consumer rights and how the implementation of consumer law protection in Indonesia. The research method used is juridical normative with a qualitative approach. The results showed that although standard clauses aim for efficiency, they often contain unbalanced provisions that harm consumers. Therefore, tighter supervision and clear regulation are needed to ensure better consumer legal protection in banking credit agreements.

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1. Introduction

Part of consumer law that contains standards or rules of relationship between shoppers and commerce on-screen characters may be a nonstop and nonstop relationship. The relationship happens since both of them truly need each other and have a high level of reliance. Agreeing to the Customer Security Law, customer assurance is any exertion that guarantees lawful certainty to supply

customer assurance. Shopper security law is portion of broader buyer law (Zulham, 2013). AZ Nasution argues that consumer protection law is regulatory and also contains properties to protect consumers (Siahaan, 2005). The problem that occurs in consumer protection is the application of regulations or consumer protection rules that are not comprehensive can harm consumer rights. In general, there are four basic rights Legitimate security is to supply security of human rights that are harmed by others which security is given to society can appreciate all the rights given by law (Djamali, 2006; Kamello & Lisa, 2010). In hone, lawful assurance for customers still causes different issues that are affected by different variables, counting: those related to lawful structure, legitimate substance, legitimate culture and bureaucratic device. People can presently make exchanges electronically (e-commerce) which makes it less demanding for them to purchase an thing. The advancement of innovation, business actors can post photographs and recordings within the application and offer merchandise online. Innovative progresses within the field of online exchanges have both great and awful impacts Sometimes this allows online store businesses to fool consumers by providing false information statements resulting in losses incurred by these online businesses. According to Sulasi, consumer protection in trade transactions through electronic systems cannot be carried out optimally because the regulations are still scattered in several laws that require implementing regulations. The implementation of an agreement often has one party who has a stronger position than the other party, although in the principle of freedom of contract itself the parties are considered to have a balanced position (Alfons, 2010). The party who has a stronger position often has prepared terms that have been standardized in a printed agreement format, either in the form of a form or in the form of a contract to then be given to the other party to be approved or signed. Parties in a stronger position often use the opportunity to formulate contracts aimed at freeing them from responsibility. A Bank could be a trading entity that collects stores from the open within the shape of stores and disseminates them to the open within the frame of credit and or other shapes in arrange to progress the standard of living of numerous individuals. The Bank has certain prerequisites in its capacity to supply subsidizing and financing help to its clients. These terms are contained in a collective assertion within the frame of a credit understanding concurred by the parties. The shape of the credit assertion that has been arranged by the lender can be alluded to as the standard clause within the credit understanding (Sjahdeni, 2009).

Abuse of circumstances occurs when a person in an agreement is influenced by something that prevents him from making judgments that are independent of the other party so that they cannot make independent decisions. Abuse of circumstances is often used by banks, which have a higher and superior position, and take advantage of the position of their customers. In a study, it was explained that the existence of standard clauses of bank credit agreements, there is abuse of circumstances. This can be seen from the many clauses of the credit agreement that burden the debtor. For example, in a public housing credit agreement, the inclusion of clauses in the credit agreement that has been made unilaterally by the bank in the form of a standard agreement which will give the bank unequal authority when compared to the debtor customer.

The Customer Assurance Law is ordered by the Indonesian government in arrange to guarantee an adjustment of rights and commitments between commerce-performing artists and shoppers. But in reality, there are still frequent polemics between trade on-screen characters and customers related to standard clauses indeed in spite of the fact that the control of them as of now exists.

2. Materials and Methods

This research is a type of normative juridical research, a type of legal research carried out in a normative juridical manner where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate (Ali, 2010). This normative legal research is based on primary and Second legal materials, namely research that refers to the norms contained in laws and regulations (Marzuki, 2014). Normative juridical research is legal research on the enactment or implementation of normative legal provisions in action on every particular legal event that occurs in society and has become a provision in regulatory and statutory materials. Or in other words, it is a study carried out on the actual situation or real circumstances that occur.

3. Result and Discussion

The impact of the application of standard clauses on consumers applied by banks in an agreement

Agreements containing standard clauses still often occur and continue to run now, these agreements have good standards for the interests of business actors in this case banks, and customers in this case are consumers. This determination is so that the needs of each party can run well so that each bank and customer have the same rights before the law (Mustofa, 2015).

Prioritizing equal equality between banks and customers or business actors and consumers, the application that occurs in an agreed form of agreement always contains elements of standard clauses, ranging from writing that is difficult to understand, or providing a statement letter to consumers to waive their rights if, from the consumer defaults (Asikin, 2015).

The background to the establishment of the standard agreement is social and economic conditions. Business actors enter into transactions and for this purpose, they then determine certain conditions unilaterally for consumers who generally have a weak (economic) position, both because of their position and because of ignorance only accept what is offered considering the wider use of standard contract terms, which is not limited to standard clauses that have been prepared and determined unilaterally in advance by business actors in a document and/or agreements that are binding and must be fulfilled by consumers but also include the form (Barkatullah, 2008; Siamat, 2001; Sutedi, 2008).

In practice, the creditor or bank will resolve the problem of bad loans through the litigation process of legal channels by confiscating collateral against the object of goods used as collateral by the debtor. As we know there are 2 types of legal protection, namely: (Ridwan, 2013; Shidarta, 2000)

1. The frame of preventive lawful security (avoiding issues), may be a shape of legitimate security given to buyers or clients to be able to get it the substance of the standard understanding some time recently marking or concurring to it, considering that the substance of the standard assention has been made in development by the bank, this makes it exceptionally troublesome for customers or clients to get it the concept of the substance of the standard assention (credit understanding). The form of preventive lawful security specified over may be a preventive effort so that the client or buyer isn't hurt within the future in case there's a awful credit against the question utilized as collateral to the bank.
2. The shape of severe lawful security (settling issues) is an exertion to resolve an issue or debate within the occasion of a awful credit occasion through which the parties can concur on the

endeavors to be taken to resolve the case or issue by expanding the credit or taking the question of the ensure (Fuady, 2001; Muhammad, 2006),

As a result of this, the condition of consumers or customers becomes very weak in their protection where a series of contractual agreements that have been applied become binding regulations until one of the parties is harmed. The existence of standard clauses contained in an agreement should be regulated in advance in clear laws as well as sanski that really must be applied.

4. Conclusion

The application of standard clauses is currently a big problem with an agreement made by business/banking actors because of economic interests so that the rights of customers, and consumers are not given. The regulation of consumer protection law number 8 of 1999 concerning consumer protection, has not been able to provide a definite solution to violations of the law committed by business actors, in this case is banking. The renewal of the consumer protection law may be a good solution to the problem of implementing agreements containing elements of standard clauses of law number 4 of 2023 also regulates consumer protection which in the future can be applied to rules that provide rights and protection to consumers.

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