

Legal Protection of Creditors in Non-Collected Debtors Without Collateral in *Koperasi Cahaya Abadi*, Kediri District

Sofyetin Atiana¹ 

¹ Universitas Pawayan Daha, Kediri, Indonesia

*Corresponding author: sofy.humas@gmail.com

Abstract

This study aims to explain the legal protection for creditors in bad loans Debtors without collateral in the *Koperasi Cahaya Abadi*, Kediri Regency and settlement of bad credit debtors without collateral in the *Koperasi Cahaya Abadi*, Kediri Regency. The empirical juridical research method is also called research examining law as a pattern of behavior shown in the application of legal regulations. The empirical juridical approach is carried out by collecting primary data information obtained directly in the field aimed at applying the law and/or resolving bad loans related to bad loans from debtors who have no collateral. Whereas in legally protecting creditors for bad credit from unsecured debtors, it is necessary to have preventive and repressive legal protection measures / get customers / debtors. Meanwhile, reflective legal protection for debtors without collateral, the steps taken by the Cahaya Abadi Cooperative are Rescheduling, Reconditioning Restructuring, and Execution.

Keywords: Legal Protection, Bad Credit, Unsecured, Cooperative.

History:

Received: July 29th 2023

Accepted: August 15th 2023

Published: August 20th 2023

Publisher: Universitas PGRI Madiun

Licensed: This work is licensed under

a [Creative Commons Attribution 3.0 License](https://creativecommons.org/licenses/by-sa/4.0/)



Introduction

Cooperative (*Koperasi* in Indonesia) is a financial institution business entity that aims to provide credit and services. The granting of credit is carried out either with own capital or with funds entrusted by third parties or by circulating new means of payment in the form of demand deposits.

Based on Law Number 17 of 2012 concerning Cooperatives, Cooperatives are legal entities established by individuals or cooperative legal entities, with the separation of the wealth of its members as capital to run a business, which fulfills shared aspirations and needs in the economic, social and cultural fields. in accordance with the values and principles of Cooperatives.

According to (Suyanto, 2019), the definition of credit has been regulated in the provisions of Article 1 point 11 of the Banking Law, namely the provision of money or bills with an agreement or agreement between the credit provider and the borrower to repay the debt based on a certain period of time with interest. Borrowing and borrowing was born from an agreement in which one party and the other bind themselves to do something, do some and not do at all. In the lending and borrowing agreements with cooperatives, one of the parties often commits default. Before a loan agreement is entered into, you can enter into a guarantee agreement in advance when making a loan at a cooperative, whereby a loan

agreement can give the creditor the right or authority to obtain payment for collateral items submitted by the debtor.

According to Fay (Dr. Fay: 2013), a cooperative is an association with the aim of working together which consists of those who are weak and strive for it always with a spirit of not thinking of themselves in such a way that each is able to carry out its obligations as a member and gets rewards in proportion to the utilization them to the organization.

The Cahaya Abadi Savings and Loans Cooperative is a cooperative engaged in production and savings and loans. As for the activities of the Cahaya Abadi Savings and Loans Cooperative as a Savings and Loans Cooperative (*KSP*), it is carried out by collecting cash from individuals and the community which is then diverted back to individuals who need capital for their business.

Distribution of funds back to members or the community is often referred to as a loan. Credit according to the Cahaya Abadi Savings and Loans Cooperative is a bill related to money which is based on an agreement or agreement between the Cahaya Abadi cooperative and the debtor or customer which requires the borrower to reimburse the cost of obligations with interest after a certain period of time.

To provide convenience for the community in terms of applying for credit, the Cahaya Abadi Savings and Loans Cooperative in Kediri Regency provides an Unsecured Credit facility, meaning that there is no guarantee at all that can be given to anyone, in the sense that it is not limited to certain economic sectors. , certain memberships, certain community groups, as long as the prospective customer concerned has fulfilled all the terms and conditions.

As for the implementation of savings and loans at the "Cahaya Abadi" Savings and Loans Cooperative located in the Kediri Regency area, it is carried out by providing funds from members and the community and channeling these funds back to members. The provision of this credit only applies to members belonging to the low-income category and MSMEs that belong to the members of the cooperative. Credit according to the Cahaya Abadi Savings and Loans Cooperative is a bill related to money which is based on an agreement made at the time of granting credit between the Cahaya Abadi Savings and Loans Cooperative and the customer which requires the borrower to reimburse the cost of obligations with interest.

Legal protection according to (Sukmawati, 2019), namely a protection carried out by the government for the community for people who have not received a sense of justice in the life of the nation and state. .

If in these circumstances cannot pay the debt, then the debtor is said to have violated the agreement with the creditor. There are 2 legal protections, namely preventive legal protection and repressive legal protection (Hadjon, 1987)

Unsecured loans are loans that are given without the presence of collateral, both movable and immovable objects and due to the absence of collateral provided by the borrower, the decision to approve the granting of the credit is decided based on the prospects for the ability of the debtor and the credit history of the prospective debtor personally, or in other sentences are based on the borrower's ability to repay the loan.

In its development, in order to achieve a high volume of credit in order to obtain large profits, the Cahaya Abadi Savings and Loans Cooperative offers various facilities for people around the City of Kediri area to obtain credit. So that it raises a product of credit that no longer requires collateral as a condition for granting credit. This product is collateral-free credit. *KTA* is a banking product that provides loan facilities to borrowers without collateral being used as collateral for the loan.

The rules regarding *KTA* have not been explicitly regulated in the Cooperative Law, Bank Indonesia Regulations or Financial Services Authority Regulations. The rules regarding *KTA* are regulated separately in the standard operating procedures of each cooperative.

But in practice, there are lots of bad loans with various background factors. Meanwhile, unsecured loans in the form of valuables, of course, will complicate the settlement of bad credit and legal protection with creditors.

Based on the description in the research background above, the problem can be formulated as follows:

1. How is the legal protection provided for creditors in bad credit Debtors without collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency?
2. How is the settlement of bad credit debtors without collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency?

From the above problems, the purpose of this study are:

1. To find out the legal protection provided to creditors in bad credit Debtors without collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.
2. To find out the settlement of bad credit debtors without collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.

Materials and Methods

Research is a process consisting of a series of steps that are carried out in a planned and systematic way to obtain solutions to problems or obtain answers to certain questions. In this study, the empirical juridical approach method was used (Mahmud Marzuki; 2005), namely that in analyzing the problem it was carried out by combining legal materials (which are secondary data) with primary data obtained in the field, namely legal protection given to creditors in bad loans. Debtors without buildings at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency. So this method apart from a juridical perspective, namely according to the laws and regulations that apply, also examines according to the reality that is happening to customers and cooperatives, especially the Cahaya Abadi Savings and Loans Cooperative, Blitar Regency.

Primary data is a source of data obtained directly by researchers using data collection methods, research instruments with field observations, namely the Cahaya Abadi Savings and Loans Cooperative. Interviews with Managers and officers of the Cahaya Abadi Savings and Loans Cooperative who are pleased with legal protection for creditors.

2. Secondary Data

Secondary data is data obtained by researchers from various literature studies and laws and regulations, books, literature and expert opinions related to this research problem.

The data source is in the form of secondary data which is usually used in research, including: Primary legal material, This primary legal material is binding material, namely Law Number 17 of 2012 concerning Cooperatives, and laws and regulations related to this research. Secondary legal material; books related to legal issues to be examined. Tertiary legal materials; legal materials that provide instructions and explanations of primary and secondary primary legal materials. Tertiary legal materials such as the large Indonesian language dictionary, legal dictionaries, encyclopedias and materials from internet media that are relevant to this research.

To account for the data obtained by researchers, by collecting existing data, in the form of: Observation; collecting data by direct observation and systematically recording the phenomenon under study, namely regarding the Eternal Light Savings and Loans Cooperative in the settlement of bad credit debtors who do not have collateral. Interview; questions and answers conducted by researchers for the related Eternal Light Savings and

Loans Cooperative and debtors as cooperative customers who lend without providing collateral purposive sampling (random). Literature study; by studying written materials both journals, books, scientific magazines related to the title of this research as complementary material in research

Materials or data obtained in this study were analyzed descriptively qualitatively by providing explanations by describing the results of the research obtained, then comparing the results of the research with the theories and opinions of legal experts as well as based on the applicable legal provisions and statutory regulations.

Qualitative data analysis, namely systematically describing and explaining the analysis of research problems, in accordance with the actual facts. Then conclusions are drawn with deductive techniques, namely drawing conclusions from things that are general to things that are specific, and from things that are specific to things that are general in nature (inductive).

Results and Discussion

A. Legal Protection Provided for Creditors in Debtor Bad Loans without collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.

Preventive legal protection is implemented on the basis of laws or regulations governing legal protection which acts as a limitation in carrying out activities and also to minimize violations. One of them is the Fiduciary Guarantee Law, this law acts as a fulfillment of legal needs for national development as well as a guarantor of legal certainty which functions as a provider of legal protection for the public or parties who have an interest, in article 1 of the Fiduciary Guarantee Law explains about Fiduciary, the transfer of rights ownership of goods based on trust with several provisions, for example objects with transferred ownership are still under the control of the owner of the object.

Meanwhile, the Cahaya Abadi Savings and Loans Cooperative, Blitar Regency, uses a guarantee system without collateral for customers with a loan system with installment categories every 1 (one) week. And if there is an installment system every month, this is very small. So that it is very difficult for the Cahaya Abadi Cooperative in Blitar Regency.

In Article 1239 of the Civil Code, with preventive legal protection for creditors, namely preventive or preventive legal protection, it will certainly discuss rights and obligations in order to prevent debtors and creditors from violating the rights and obligations of each party. The officers of the Cahaya Abadi Savings and Loans Cooperative at the time of disbursement had also read out the rights and obligations of each creditor and debtor prior to signing the contract. So that if the debtor defaults and/or neglects his obligations, he will be subject to sanctions/reprimands.

According to Mr. Haris Mahendra as the Manager of the Cahaya Abadi Savings and Loans Cooperative, explained that "the cooperative has appealed and notified the debtor of an appeal or notification of the overdue period of debt owned by the debtor as the owner of the debt so that before the debt passes the specified grace period, then the hope of Mr. Haris as Manager and/or creditor with this notification is that the debt can be paid immediately by the debtor." And if bad credit occurs where the debtor is unable to pay off the loan installments in accordance with the agreement, the cooperative will send the collector to the address in question.

The default itself has been regulated in Article 1243 of the Civil Code explaining that compensation for costs, losses and interest due to non-fulfillment of an agreement is obligatory, if the debtor, even though he has been declared negligent, still fails to fulfill the said agreement, or if something that must be given or done can only be given or done within the time beyond the allotted time.

Debtor mistakes that can be considered as defaults can be seen from when the debtor is said to be deliberately negligent in fulfilling his obligations. Defaults committed by debtors do not have consequences or legal consequences that apply, so it really needs to be questioned. In order to find out since when the debtor is considered in default, it can be seen in the provisions in the terms and agreements that have been mutually agreed upon. The terms and agreement must contain a grace period for implementation and fulfillment of achievements made by the debtor, whereas if it contains a grace period in the requirements and the debtor continues to default, then it can be considered violating and negligent by the time stipulated under the provisions of Article 128 of the Civil Code.

The creditor makes efforts to settle the debtor by agreeing to carry out the settlement in a non-litigation manner, namely by upholding the principle of cooperatives based on the principle of kinship for the welfare of members, especially the community in general, and also participating in building the national economy in order to create a just, advanced and prosperous society. prosperity that is in the values of Pancasila and the 1945 Constitution (Muhammad, 2010).

The rules that apply to the Cahaya Abadi Savings and Loans Cooperative are binding rules where for parties who commit violations, especially defaults on the stipulated credit agreement, will be subject to binding rules complete with legal consequences. This is in accordance with the opinion of experts (Budiarta, 2016). The legal consequences that can be accepted by the violating party can be in the form of cancellation of the agreement, compensation to fines that will be imposed. In the credit agreement which is a consensual agreement the two parties stipulate that the debtor has the obligation to make payments in accordance with the terms and conditions mutually agreed upon.

If the line cannot be fulfilled or the debtor still does not pay the debt, the Blitar Regency Cahaya Abadi Savings and Loans Cooperative will take the debtor's goods in the agreement sounded even though the previous building was not handed over to the creditor. But this is graciously stated in the statement made by the debtor at the time of signing the loan agreement at the Cahaya Abadi Savings and Loans Cooperative by enclosing a photocopy of the collateralized file. For example: motorcycle *BPKB*, then the documents that are completed for the statement are photocopies of the *BPKB*, *STINK*, debtor's *KTP* and/or the name printed on the *STNK*.

For the Cahaya Abadia Savings and Loan Cooperative, Kediri Regency, if the debtor cannot fulfill his obligations, then the creditor will go through repressive legal channels, namely protection against the law which has the aim of resolving disputes. Repressive legal protection is the last legal protection that contains sanctions. Legal protection for creditors has been regulated in the Civil Code in Articles 1131 and 1132. It can be concluded that a guarantee of certainty for the debtor is definitely given and the debtor's obligations will always be fulfilled or paid off with a guarantee. However, in reality the debtor, in the current condition, the debtor is not only related to one obligation, but the debtor will experience a feeling of insecurity about returning the money, from that the creditor asks the debtor to carry out an additional agreement to guarantee the payment of obligations owned by the debtor. In guaranteeing the repayment of the debtor's debt, the creditor will certainly no longer provide loans if there is no guarantee, in the agreement to provide guarantees it certainly does not arise by itself but must be preceded by a principal agreement that makes a debt or credit.

B. Settlement of Unsecured Debtor Bad Loans at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.

In the case of non-performing loans, the debtor has been deemed to have broken his promise to pay interest and/or main credit that was due resulting in late payments or no payments at all, thus it can be said that non-performing loans include bad loans, although not all credit the problem is bad credit.

Debtors who make loans at the Cahaya Abadi Savings and Loans Cooperative without collateral with an installment loan system every 1 (one) week must complete all the requirements provided by the creditor. The requirements include photocopies of *KTP*, *KK*, marriage book (if married), photocopy of BPKB/home/ownership certificate, and power of attorney and/or statement of surrender of the building. Even though the debtor's building is not immediately handed over at the time of disbursement, this is an alternative or preventive form of the Cahaya Abadi Cooperative if the debtor does not pay in installments with several arrears.

Efforts made by the Savings and Loans Cooperative "Cahaya Abadi" Kediri Regency when credit problems occur, namely through a summons mechanism, the summons is carried out by the cooperative as a creditor aiming to find out what factors cause the debtor to be unable to pay off his debt, by conducting dialogue and communication between the creditor and the debtor .

So that the best solution will be created in solving the problem. And for problem loans that cannot be resolved or billed again after efforts to settle them, the work unit (Accounting Officer) proposes ways to settle credits that are no longer billable to the management by way of negotiation, namely loans that were previously problematic or defaulted. new opportunities to avoid problems.

To resolve bad loans without collateral at the "Cahaya Abadi" Savings and Loans Cooperative, according to Mr. Haris as the Cooperative Manager explained that "we provide a solution by rescheduling, the conditions are also repeated as well as the arrangements and rules for the debtor without burdening the debtor." negotiations to rescue problem/bad credit at the Savings and Loans Cooperative "Cahaya Abadi" Kediri Regency, by rearranging credit terms, including:

1. Rescheduling; changes in credit terms only concern payment schedules and/or time periods including grace periods and changes in the amount of credit installments. So the creditor gives the opportunity to the debtor with the intention of giving the debtor the opportunity to pay the following week if it's a weekly credit, while for monthly it increases the time period;
2. Reconditioning; changes in part or all of the credit terms are not limited to changes in payment schedules, time periods, interest rates, delays in payment of part or all of interest and other requirements. Changes in credit terms do not include additional funds or injections and conversion of part or all of credit into cooperative equity.
3. Restructuring;
4. Liquidation; sale of goods used as collateral in the context of debt repayment. Liquidation is carried out for credit categories that really cannot be assisted anymore to be revived or customer businesses that have no prospects for development.

In cases like this, the Cahaya Abadi Savings and Loans Cooperative can make efforts as a form of legal protection for creditors and debtors who experience bad credit, including rescheduling, reconditioning restructuring, and execution/liquidation.

Conclusion

Based on the problems and discussion of the data obtained from the research, it can be concluded that:

1. Legal Protection Provided for Creditors in Bad Loans for Debtors without Collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.

In the form of legally protecting creditors for bad credit from debtors at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency, namely the existence of the

Fiduciary Law. This law acts as a fulfillment of legal needs for national development as well as a guarantor of legal certainty that functions as a provider of legal protection for the public or parties who have an interest, in article 1 of the Fiduciary Guarantee Law explains that Fiduciary is the transfer of ownership rights to goods based on trust with several provisions such as objects with transferred ownership are still under the control of the owner of the object.

So on that basis, the Cahaya Abadi Savings and Loans Cooperative protects creditors who borrow funds without collateral, by adding requirements for applying for a loan in the form of a power of attorney/statement letter submitting collateral in accordance with the statement on ownership of movable/immovable property.

There are two types of legal protection for creditors in debtor bad credit, namely preventive and repressive legal protection. For the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency, if the debtor cannot fulfill its obligations/defaults even though it has gone through several stages of helping the debtor/providing relief, the creditor will go through repressive legal channels as a form of protecting creditors in resolving disputes. Repressive legal protection is the last legal protection that contains sanctions.

2. Settlement of Debtor Bad Loans without Collateral at the Cahaya Abadi Savings and Loans Cooperative, Kediri Regency.

Settlement of bad credit, the Cahaya Abadi Savings and Loans Cooperative gives a warning letter and it is carried out 2 (two) times in a row, but if the debtor still does not have good faith in fulfilling his performance obligations, the Cahaya Abadi Savings and Loans Cooperative will make efforts to save credit. The credit rescue carried out is in the form of withdrawing collateral belonging to the debtor in the form of movable/immovable goods in accordance with the guarantee in the power of attorney/statement letter that has been carried out by the Cahaya Abadi Savings and Loans Cooperative because the debtor's debt payment period has expired so that a withdrawal is made. In the credit agreement with the Cahaya Abadi Savings and Loans Cooperative, it is rare to use legal channels to resolve cases of default or bad credit committed by debtors. In this case the Cahaya Abadi Savings and Loans Cooperative always uses family methods to resolve cases of default or bad credit.

The Cahaya Abadi Savings and Loans Cooperative, Kediri Regency, in resolving bad loans without collateral by, among others:

- a. By negotiating, coming to his house to ask why he hasn't paid for the credit borrowed; And
- b. If the cooperative is due, the cooperative has the right to take goods/vehicles according to what is guaranteed by the cooperative, for the debtor who guarantees the collateral. And if you don't guarantee collateral such as a weekly loan. So the resolution of bad loans is by: rescheduling, reconditioning, restructuring, and liquidation/execution.

This research's advice are:

1. In order for the Savings and Loans Cooperative, especially the Cahaya Abadi Savings and Loans Cooperative, not to provide loans to debtors without collateral, if they do not want to experience bad credit problems.
2. Savings and Loans Cooperatives must be more selective in finding customers as debtors for collateral-free loans.

Acknowledgments

The researcher would like to thank the parties, including:

1. Rector of the University of Pawyatan Daha Kediri who has provided opportunities for researchers to gain knowledge by conducting research as a support at the Faculty of Law.

2. Manager of the Cahaya Abadi Savings and Loans Cooperative which has given the author the opportunity to conduct research at the hospital he leads.
3. And all parties that the author cannot mention one by one, who provide support and/or support in the preparation of this research.

References

- Daryanto, 1997, Kamus Bahasa Indonesia Lengkap, Apollo, Surabaya
- Hermansyah. (2003). Hukum Perbankan Indonesia. PT. Raja Grafindo Persada, Jakarta.
- Johannes Ibrahim, 2004, Cross Default & Cross Collateral dalam Upaya Penyelesaian Kredit Bermasalah, PT Refika Aditama, Bandung
- Kartasapoetra, G dan A. G Kartasanaoetra dan kawan, 2001, Koperasi Indonesia yang Berdasarkan Pancasila dan UUD 1945, PT Rineka Cipta, Jakarta.
- Muchsin, 2003, Perlindungan dan Kepastian Hukum Bagi Investor di Indonesia, Magister ilmu hukum program Pascasarjana Universitas Sebelas Maret, Sukarta
- Peter Mahmud Marzuki, S.H., M.S., LL.M., Prof.,Dr, 2013, Metode Penelitian Hukum
- Revrison Baswir, 2013, Koperasi Indonesia, BPFE, Yogyakarta.
- Subekti dan Tjitro Sudibyo, 1992, Kitab Undang-Undang Hukum Perdata, PT. Pradnyagama, Jakarta
- Sutantyo Rahardja Hadikusuma, 2009, Hukum Koperasi Indonesia, PT. Raja Grafindo Persada, Jakarta.
- Thomas Suyatno. (2003). Dasar - Dasar Pengkreditan . Jakarta Gramedia pustaka Utama.
- Yusuf Shofie, 2009, Perlindungan Konsumen dan Instrumen-Instrumen Hukumnya, Citra Aditya Bakti, Bandung
- Journals :
- Anak Agung Intan Wulan Sari, 2018, “Pelaksanaan Perjanjian Kredit Jaminan Perorangan Terkait Debitur Wanprestasi Pada Bank Perkreditan Rakyat”, Kertha Semaya Vol.6, No. 5, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/43580> , Diakses 13 juni 2019, Pukul 18.26 WITA
- Sari, N. L. A. S. H., Indrawati, A. A. S., & Putrawan, S. (2019). Penyelesaian Kredit Macet Pada Koperasi Simpan Pinjam Karya Artha Sedana dan KSP. Wirartha Utama dikota Denpasar Selatan. Kertha Semaya, 7(8), 1–17.
- Regulation :
- Law Number 25 of 1992 concerning Cooperatives

Law Number 10 of 1998 concerning Banking.

Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises