

Settlement Of Defaults In Restructuring Efforts In Credit Agreements At Bank Pasar Rembang (Case Study Decision Number: 7/Pdt.G/2021/Pn.Rbg)

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ARTICLE INFO

Primary key:
Defaults,
Restructuring,
Credit Agreement

ABSTRACT

Engagements or agreements through credit transactions carried out by banks are bound by a credit agreement, so that a legal relationship arises between the binding parties. Because there is an imbalance between creditors and debtors, the weaker party is unable to fulfil the agreement, and ends up causing problems between the two parties. For this reason, credit restructuring is carried out to resolve problem loans. However, in this case, not only debtors can default, but also creditors, who violate the restructuring agreement. Which led to the issuance of the Rembang District Court decision Number 7/PDT.G/2021/PN Rbg. Through the trial of the debtor's lawsuit whose restructuring agreement was rejected by the creditor. The method used in this case study is juridical research where this research examines the applicable legal provisions. The data source used is secondary data, both secondary and tertiary legal materials using library data collection techniques, namely document study by collecting and studying legal books, literature, laws and regulations related to the object of research and other reading related to writing. This case study and the documents examined are court decisions. Data analysis uses qualitative juridical methods. The results of this research can be concluded that in the case study of this research, bank credit restructuring is a step taken by the debtor because he is still cooperative, always maintains a relationship with the bank, and has good faith and has the opportunity to fulfil his obligations, but the bank as a creditor commits an act of default. by denying the restructuring efforts proposed by the debtor which had also been agreed upon by the creditor by referring to Bank Indonesia Regulation number 14/15/PBI/2012 and the bank's internal procedures, in the process of which the creditor conducted an auction of the collateral objects listed in the credit agreement clause without notification and agreement with the debtor. This problem resulted in a lawsuit filed by the debtor with the Rembang District Court. The judge's consideration in the decision in this case was that the judge stated that the debtor's credit restructuring was cancelled. The refusal (drop) is the correct action based on the verstek decision. However, the judge must also consider first looking at the Derivative of the credit agreement, namely credit restructuring.

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Jurnal Restorasi : Hukum dan Politik

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INTRODUCTION

Humans as legal subjects who live in groups in a certain community in a certain area are called society. In their lives as social creatures, humans cannot live alone without the presence of

other people. To survive, humans always establish relationships or interact with each other. Relationships that have legal consequences are often found in interactions between communities that occur in everyday life, giving rise to rights and obligations. Basically, humans are always confronted with all kinds of needs every day. In facing these needs, human nature in general hopes to always want to be able to fulfill all their needs. Because every human being always wants to live a decent and adequate life.

One form of relationship with other people is by entering into an agreement. The types of agreements entered into can vary, for example entering into a sale and purchase agreement, rental agreement, debt and receivables agreement, and so on. Because every human being always wants to be able to live a decent and sufficient life, therefore, in order to fulfill the needs of life and to develop business activities that are developed independently, it is necessary to develop a business. In this business, of course, you must have or need quite a lot of capital. This need for capital is often an obstacle for everyone. Where this large capital can only be obtained through loans on credit or called debt, either credit loans through banks, or loans from individuals, regardless of the risks and impacts that occur in the future.

The existence of banks in people's lives today has a very important role because banking institutions are the essence of every country's financial system. The development of the banking world in Indonesia is now increasingly improving, various financial services have been developed to provide convenience for customers. Various business expansion programs have been implemented in the banking industry, such as providing housing loans, providing insurance services, offering credit card services and even pension programs. More specifically, banks can function as agents of trust (institutions whose basis is trust), agents of development (institutions that mobilize funds for economic development) and agents of services (institutions that provide banking services).

The main function of Indonesian banking is stated in Article 3 of Law Number 10 of 1998, as a collector and channeler of public funds. Lending activities for banks in Indonesia are still the main source of income for banks, namely in the form of credit interest. Credit is the provision of money or the equivalent based on a loan agreement between the bank and the borrower. The borrower is obliged to pay off the debt after a certain period of time with a determined amount of interest. Providing credit must be carried out with the principle of prudence and maintaining the bank's soundness requirements as a trusted institution because after all, every credit given by the bank will contain the risk of failure, in accordance with Law No. 7 of 1992 concerning Banking as amended by Law No. 10 of 1998, lending by banks must be done very carefully. There are factors that cause these credit problems, problems from internal and external factors.

Credit agreements for debts and receivables are included in the type of loan and borrowing agreement, this is as regulated and determined in Article 1754 of the Civil Code which clearly states that, "A loan agreement is an agreement in which one party gives another party a certain amount. certain goods that are used up due to use, with the condition that the latter party will return the same amount of the same kind and quality again. Article 1754 of the Indonesian Civil Code has recently stated that a person who lends the same amount follows an agreement that has been agreed upon. The Law of Agreement, returns the same amount of the same kind and condition.

Credit repayment agreement with the bank, bank credit is a further agreement for re-transfer. Bank credit agreements generally use the form of a basket agreement, in practice this form of agreement has been provided by the bank as a credit card, while the credit card party only studies and understands it well. Where in a closed agreement the parties involved are only in the position of accepting or rejecting without the possibility of negotiating or bargaining which

ultimately results in an agreement that is very detrimental to one of the parties. In an agreement like this, the principal (debtor) cannot convey any suggestions or proposals at all and there are objections to the format of the agreement and the clauses contained therein. In terms of credit agreements, credit agreements, credit agreements between banks as creditors and customers as creditors have never been compared. There are times when the bank is stronger than the customer (debtor), in this case the consultant as the debtor is still in a weak position compared to the bank as the creditor, where there is an imbalance in the credit balance which results in Remembering that financing agreements must always be based on the principle of freedom of contract and can It is advantageous if the client of the party being defended is in a weak position, then the strong party will unilaterally change the contents of the proposed agreement.

The banking credit agreement ends with a basket agreement (standard contract), where in the formal agreement the debtor is only in the position of accepting or rejecting without any possibility of negotiating or bargaining. Standard clauses are rules or regulations and conditions that are drawn up and determined in advance unilaterally by the parties entering into an agreement, which are stated in a binding document or agreement and must be fulfilled. So, what is emphasized is that the settlement procedure is only one-sided, not complete. Meanwhile, the exoneration clause not only contains the settlement process, but also its contents which are in the nature of transferring the obligations of the business actor.

Standard contracts implemented in Indonesia are based on the principle of freedom of contract as regulated in Article 1338 paragraph 1 of the Civil Code, namely that an initial settlement that has been legally completed is valid as an invitation for the party entering into the agreement. he. The cases referred to by legal rounding are all sales that fulfill the legal requirements as specified in Article 1320 of the Civil Code, namely: Those who bind themselves agree; Ability to make agreement terms; A certain thing; lawful cause.

The first two conditions are the conditions that involve the object, while the last two conditions are the implementation of the object. The terms of an agreement which contains defects in its entirety do not necessarily render the agreement completely void in itself, but provide the possibility of being ultimately cancelled, whereas an agreement which is flawed in its entirety is void in its entirety.

In this case, the Republic of Indonesia is a party whose ability to protect legal matters is weak, Law Number 8 of 1999 concerning the Protection of Foreign Consuls (UUPK) is a legal tool that protects Foreign Consuls, so that their producers do not suffer harm. This has generally been resolved because in general the consultants are on the weak side and often suffer losses in consuming goods and services. If seen from the UUPK, the application of the basket clause is clearly limited as stated in Article 18 of the Law.

The credit or loan transaction process that is carried out is usually required to provide collateral, collateral for property that is often used by debtors, namely land certificates, vehicle registration, or goods that have a higher value than the nominal loan amount proposed by the party. bank there. This is also done on the basis of mutual trust and an agreement to hand over a certain amount of the debtor's assets. The purchase of collateral made above is intended as an addition to the credit agreement and is intended as a form of good faith on the part of the Debtor that he will fulfill his promise or performance to the creditor so that he can fulfill the Debtor's agreement debt.

Because in principle there is no credit that does not have collateral, as follows from Article 1131 of the Civil Code which states that every credit owned by a debtor, whether it has not been implemented or has not been issued, whether it has not been implemented or has not been issued, whether it is have not been implemented or have not been issued, whether they have not been

implemented or have not been issued, those who already exist or who will only exist in the future will be responsible for their debts. However, along the way, sometimes there are always things that do not complete the implementation of the agreement or contract, either because of negligence or because the debtor or final creditor deliberately does not fulfill the points that show that this has happened. agreed in the contract, problems like this are known as cases of default.

Legal basis for default Article 1238 "the debtor is declared negligent with a government letter, or with an official deed, or based on the validity of his own performance, namely if the action causes the debtor to be deemed negligent after the specified period has passed". And Article 1243 "Refusal of costs, losses and costs resulting from non-compliance with implementing regulations comes into effect if the obligation, even though it has been declared negligent, is still negligent in carrying out its implementation, or if the obligation that must be given or carried out can only be given or carried out within the time stated in outside the time recorded."

In this case, there are several actions that the bank can take to save the collateral from being auctioned, considering how valuable the collateral is to the bank, one of the steps is to carry out restructuring. According to Ismail (2010) Restructuring is an effort to save face by changing the financing structure. Therefore, customers can choose to fulfill their obligations to develop or pay off their loans to the bank, and customers also provide guarantees to the bank that they can pay off their debts as long as they have the opportunity.

Meanwhile, according to Bank Indonesia Regulation Number: 7/2/PBI/2005 Article 1 Financing restructuring is provided to debtors who have not been able to repay the principal and/or interest on the loan but still have good business prospects and can carry out their obligations after the financing restructuring. Financing and restructuring of sharia banks or sharia business units must follow the principle of prudence. Banks are required to maintain and create appropriate strategies to maintain the quality of post-restructuring financing in good condition. The Credit Restructuring Policy in turn can improve the banking asset side and encourage the operation of the real sector, so that the implementation of the precautionary principle must be carried out specifically by including the deadline for withdrawing bank intermediary capital participation in the context of credit restructuring.

METHOD

The approach method used is normative juridical with types of secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. The obtained data was analyzed using qualitative juridical analysis. This research is normative legal research which is carried out through a study of written legal regulations or existing legal materials. The research conducted a study of secondary data including official legal documents, previous research results, and other library materials at this stage. In connection with official legal documents, researchers carry out studies of primary legal materials that are binding and closely related to the problem being studied. This research is descriptive analytical, namely by explaining in a complete and systematic way the legal situation that applies in a certain place, at a certain time and at certain legal events, with the aim of obtaining a complete picture (description).

RESULTS AND DISCUSSION

This case began in early 2011, the plaintiff as the owner of land with SHM No. 01810/Kabongan Kidul Village owes a lawsuit to defendant I amounting to Rp. 160,000,000, - (one hundred and six million rupiah) for a period of three years with principal and monthly installments of Rp. 5,106,125, - (five million one hundred six thousand one hundred twenty-five rupiah) every month for business development activities. The plaintiff guaranteed the certificate of

ownership to defendant I. SHM No.01810/ Kabongan Kidull, Rembang Village, Rembang District/2009, Area \pm 4008 M², in the name of Sarman with the following limitations:

1. North: Jasman;
2. East: Road;
3. South: Sulripto;
4. West side: Rais, Taryono, Pulji Sulcipto.

In the credit payment process, the plaintiff always had good faith in carrying out and fulfilling his obligations to the first defendant during the credit agreement, this was proven by the plaintiff always making payments to the first debtor every month on time. I. In the end, the company's business owners experienced a drop in turnover due to shaky economic conditions which actually had an impact on people's purchasing power for their business products. This fact resulted in the plaintiff's inability to carry out its obligation to pay the monthly installments to the plaintiff in advance, making it late.

In efforts to overcome this, there are several ways that criminal justice can take to try to save administrative credit, including:

1. Rescheduling (rescheduling), namely changes to credit terms containing payment schedules and/or time periods including grace periods, whether including an increase in the number of installments or not;
2. Reconditioning, namely changes to part or all of the credit terms which are not limited to changes in the payment schedule, term and/or other terms as long as they do not affect the maximum credit balance limit and total conversion or some of them. provision. loans to equivalent banks;
3. Restructuring, namely changing credit conditions in the form of additional bank funds; and/or conversion of all or part of interest arrears into new credit principal, and/or conversion of all or part of credit into investment in the company.

Initially, the above administrative credit rescue efforts were in accordance with Bank Indonesia Circular Letter NO.26/4/BPPP dated 29 May 1993. Meanwhile, in the process of implementing the loan at Defendant I, the plaintiff did not receive his rights as a debtor, such as the plaintiff was only informed verbally regarding the due date for installment payments and credit repayment, the plaintiff was also not given a letter of credit rights and a deed of mortgage rights, then the plaintiff was not given a history of credit transactions by Defendant I while the installment payments were in progress.

The credit facility provided by Defendant I to the plaintiff was given in full immediately and will end on August 29 2017. The process of implementing the plaintiff's credit which is already underway, from the principal debt of IDR 160,000,000.00 (one hundred and sixty million rupiah) has been completed. Partially paid by the plaintiff was IDR 98,000,000.00 (ninety-eight million rupiah) to defendant I, meaning that the remainder of the plaintiff's loan to defendant I was IDR 62,000,000.00 (sixty-two million rupiah).

As the credit process progressed, the plaintiff felt that his business would experience a decline in the following month, so the plaintiff took the initiative to come to the Head of Defendant Bank I (Director of Bank Rembang) who was on Road Pemuda (in front of the Rembang city market), Rembang City with the aim of informing him directly. verbally related to his business will experience a decline, however, the plaintiff is in good faith, still able to settle his debts and receivables and ask for the return of the guaranteed Certificate of Ownership. Then the head of Defendant Bank I understood the situation being experienced by the plaintiff as his debtor, and at the same time agreed to the credit restructuring proposed by the plaintiff, provided that the plaintiff had to pay it directly and in full on the due date of 29 August 2017.

After the credit restructuring had been agreed upon by both parties, however in November 2016, precisely before the due date, Defendant I was proven to have broken his promise by violating the restructuring agreement. In this case, defendant I actually demanded that the plaintiff be able to pay off the remaining credit debt in cash, this of course made the plaintiff confused, because previously there had been a credit restructuring that had been made and agreed upon, then regarding having to pay it off in full and in cash, the plaintiff also unable to do so because at that time business and financial conditions were also declining.

Then in this case it turned out that on December 9 2016 the object of the plaintiff's credit guarantee, namely a Certificate of Ownership, had been auctioned forcefully and unilaterally by defendant I without any warning letter (SP), even to the plaintiff as debtor, based on auction No. 2092/2010, by the head of the State Property and Auction Services Office (KPKNL) as defendant II, it was found that SHM No. 01810/Kabongan Kidul Village has changed its name to Sutini as the auction buyer from the State Property and Auction Service Office (KPKNL) as defendant III at the request of defendant II as the auction seller. This means that the plaintiff must immediately vacate the land and buildings on the ownership certificate.

The presentation of the position case above shows that there is a legal problem involving several parties as a result of a forced and unilateral auction from a Rembang Bank Company as defendant I which has broken its promise or defaulted in the Credit Restructuring Agreement with Pak Agung as the Plaintiff.

In order to guarantee the legal interests of the plaintiff in this case, namely Pak Agung and based on authentic evidence, the plaintiff requests the Chairman of the Rembang District Court through the Panel of Judges Examining this Case so that the decision handed down by the Panel of Judges can be implemented first (Ulit voelrbaar bij voorrad) despite Velzelt's efforts, appeals and cassation from the defendants.

As stated in the legal considerations of the judge's decision, which in civil procedural law is known as the principle of *audi, alteram, partem*, and is also explained by the judge in his legal considerations, namely: that the parties in conflict are committing an "act against the law" then in the aquo case it is appropriate the plaintiff must prove that the defendant has indeed committed the following acts:

1. Which harms other people;
2. Violates other people's rights;
3. Contradicts the plaintiff's legal obligations;
4. Contrary to morality, and;
5. Contrary to the decency that applies in society towards oneself or other people's goods.

Regarding BI regulation No. 7/2/PBI/2005 and Bank Indonesia Circular No. 26/4/BPPP, 29 May 1993, which is interpreted by the decision of the Rembang District Court, it is considered that it is an option, where the Bank is not obliged to implement it. So, this understanding is not correct because the purpose of BI regulations is State action to regulate banking steps in order to find the fairest possible resolution, so that in banking practice it does not just have to end in firm action and confiscation which creates vulnerability, meaning that there are many parties who want to take advantage. from the customer's difficult and weak situation, because this is contrary to the principles of humanity, etiquette, equality and a sense of justice in society.

Regulations that are not accompanied by regulatory values, either explicitly or implicitly, then those who are regulated are free to decide whether to regulate them or not will eliminate the function of the rules themselves, especially if in the end parties emerge who benefit from suffering. However, in the High Court's decision, the Judge was of the opinion that the decision of the first instance Judge in handing down his decision was in accordance with the applicable civil

procedural law, there were no legal regulations that were violated by *judex factie*. The bank or creditor has the authority to accept or reject the customer/debtor's request regarding debt scheduling submitted by the appellant/plaintiff, because the bank knows the customer's credibility, ability and business prospects, whether it can help the customer recover from business difficulties or whether it actually makes things difficult for the customer.

The appeal memo from the Appellant/Plaintiff was deemed not to have sufficient legal grounds, so it could not be accepted, so the Panel of Judges at the appellate level was of the opinion that the legal considerations that had been outlined by the Panel of Judges at the first level were correct and fair in accordance with the facts obtained in the trial, because of the considerations of the Panel of Judges The first level has contained and correctly explained the circumstances and the reasons that were the basis for the decision, thus the decision of the Rembang District Court Number: 7/Pdt.G/2021/PN.Rbg, dated 2 May 2016 can be maintained and strengthened at the first level appeal.

From all the explanations above regarding the point of breach of contract which is the background of the PLAINTIFF's lawsuit against the DEFENDANTS, the author makes an analysis of the case in the final decision determined by the Rembang District Court Number: 7/PDT.G/2021/PN Rbg., the decision is to grant the PLAINTIFF's lawsuit for in its entirety, which in connection with Law 8 of 1999 concerning consumer protection, customers as users of banking services/products or final consumers, have their rights protected in the Cooperation Credit carried out by DEFENDANT I as debtor and PLAINTIFF as creditor, so that the enactment of Law Number 8 of Year Number 1999 concerning consumer protection, namely stating that the credit between the PLAINTIFF and DEFENDANT I is null and void and terminated.

When we talk about consumer protection, we are immediately questioning guarantees or certainty regarding the fulfillment of consumer rights. Consumer protection has a broad scope, including consumer protection in obtaining goods or services, starting from the activity stage to obtain goods or services, to the point of the consequences of using the goods or services.

Basically, the creditor holding the collateral has the right to sell the collateral for sale at auction in return for repayment of the debtor's debt if the debtor fails to carry out his obligations under the credit agreement or what is usually called a default. Granting the right to Creditor for to sell liability guarantees issued by debtor in the Civil Code (KUHPer) as well as several legal regulations such as Article 1155 of the Civil Code: the creditor as a pawnbroker has the right to sell the pawned goods, after the specified period of time has passed, or after a warning has been given to complete the agreement, in the event that there is no specific time period. Furthermore, Article 15 paragraph (3) jo. Article 29 Law no. 42 of 1999 concerning Fiducia Guarantees (Fiducia Guarantee Law): which gives creditors the right to sell fiduciary guarantees if the debtor breaks their promise (default), as well as Article 6 jo. Article 20 of Law Number 4 of 1996 concerning Mortgage Rights for Land and Objects Related to Land: which gives creditors the right to disburse fiduciary collateral if the debtor is in default.

If a credit default occurs because the debtor does not carry out his obligations as stated in the credit agreement, then the debtor will confiscate the collateral, then the debtor must first be declared in default, which is done through a court process. For that the creditor must sue the debtor on the basis of breach of contract. However, before the debtor is implemented, the creditor must first issue a summons containing the contents to ensure that the debtor achieves his achievements. If the debtor does not fulfill his obligations, the creditor can sue the debtor on the basis of breach of contract, where if the court determines that the debtor is declared in default, the creditor can avoid guaranteeing the goods purchased by the debtor.

Whether or not the collateral can be extracted does not only depend on whether the credit repayment period has expired or not. However, if the debtor carries out a performance that is not in accordance with what was promised, that will also constitute a form of default (misrepresentation or not carrying out as promised) and could result in the creditor not having the ultimate right to exercise his right to sell the collateral. The author assumes that the collateral can be auctioned before the credit payment period has passed in the event that the debtor commits other acts of default. However, it is a good idea to take administrative measures first to resolve problematic credit before filing a lawsuit in court and executing the collateral. Apart from solving the problem of bad credit which has been explained above, there is also prevention to minimize things like bad credit from happening in the banking system, namely by increasing legal knowledge of credit management so that there are no bad credit problems in the existing banking system.

The basis of the legal analysis that the author has outlined above is that the case originally had a correlation and was in accordance with the Plaintiff's lawsuit against the Defendants, namely DEFENDANTS I, II and III, which read: "The action of DEFENDANT I is to auction off the PLAINTIFF's guarantee through DEFENDANT II for the object of the credit mortgage and THE PLAINTIFF has clearly violated the rules such as violating the Banking Law, namely Law No. 10 of 1998 Article 8 Paragraph (2) letter e, concerning the prohibition of discrimination in granting banking credit, namely forcing the PLAINTIFF to pay off the credit in cash and conducting a forced AUCTION. towards debtors who have difficulty fulfilling their obligations, then creditors also violate Bank Indonesia Regulations (PBI), namely PBI No.7 /2005 Article 1 number 25 concerning remedial efforts made by banks in credit activities for debtors who experience difficulties in fulfilling their obligations;

1. Violates the Law of the Republic of Indonesia Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land, namely:
 - a. Execution of Mortgage Rights Article 20 paragraph (2) states that: "Under the agreement of the giver and the holder of Mortgage Rights, the sale of the object of Mortgage Rights can be carried out privately if by doing so the highest price can be obtained which benefits all parties,"
 - b. In fact, before the auction, DEFENDANT I never made an agreement with the PLAINTIFF as mandated by Article 20 paragraph (2);
2. Violating Minister of Finance Regulation Number 93/PMK.06/2010 as amended by Minister of Finance Regulation Number 106/PMK.06/2013 and most recently amended by Regulation of the Minister of Finance of the Republic of Indonesia Number 27/PMK.06/2016 Concerning Implementation Guidelines Auctions, related to procedures and rules and propriety regarding the auction price formed from the auction which is too low/below the market price which is not objective and realistic so that it is contrary to propriety and the legal obligation of the seller to optimize the auction selling price, which ultimately is contrary to propriety in society. "That in the AUCTION process for credit collateral objects/mortgage rights objects carried out by DEFENDANT I through DEFENDANT II as stated in the Auction Minutes Number: 2092/2016, December 9 2016, which was made by BUDI HARTANTO as Head of the State Property and Auction Services Office (KPKNL) Semarang is legally flawed, invalid and has no legal force and is not binding, and is void, so it has legal consequences;

Transfer of name to SHM Number: 01810 on land covering an area of 4008 M2 which has been renamed a/n SUTINI (DEFENDANT III) dated 20-01-2017 based on Auction Minutes Number: 2092/2016, dated 09 December 2016, has been completed by BUDI HARTANTO as

Head of the Semarang State Property and Auction Services Office (KPKNL) is invalid and has no legal force and is not binding;

1. Credit between the PLAINTIFF and DEFENDANT I ends;
2. DEFENDANT I has no right to fulfill the credit agreement for the PLAINTIFF's (Debtor's) obligations, and the goods in the form of credit collateral objects/mortgage objects/auction objects are returned to the status quo and must be handed over or returned to the Plaintiff. PLAINTIFF;
3. Goods/credit collateral objects/mortgaged objects/auction objects return to their original state/in the control of the Plaintiff (Debtor) and the Auction Buyer's rights to the Auction Objects end;
4. ACCUSED III as the Auction Buyer is not protected by law, namely in the form of rights attached to the rights to the auction items he purchased cannot be enjoyed;
5. As a result of this lawsuit, the execution of the vacant executor for the credit collateral object/mortgage object/auction object is carried out in accordance with the Application for Vacant Execution of the object submitted by ACCUSET III as determined by the Chairman of the Rembang District Court Number: 5/Pdt.Elks/2020/PN. Rbg) on a plot of land according to Certificate of Ownership (SHM) Number: 01810, area 4008 M2; located in Kabongan Kidul Village, Rembang District, Rembang Regency is void, has no legal force and is not binding;
6. The Plaintiff's lawsuit is based on sufficient legal reasons, so it is very natural for the Rembang District Court to accept and grant the Plaintiff's lawsuit with a decision that can be implemented first even though there are attempts at resistance, appeal or cassation (ulitvoelrbaar bij voorraad).

Even so, the final decision of the judge at the Rembang District Court decided that the PLAINTIFF's lawsuit was void only because the PLAINTIFF was not present at the trial with the following considerations, considering that on the appointed trial day the Plaintiff was not present even though he had been properly summoned based on the minutes of summons made by Amin Vitrianudin, Bailiff at the Rembang District Court Number: 7/Pdt.G/2021/PN.Rbg dated 28 May 2021 and 16 June 2021, which was read at the trial, while Defendant I and Defendant III were present on the first trial day but did not was present on the second trial day and Defendant II was not present on the first and second trial days. Considering, that because it is not evident that the Plaintiff's failure to appear was caused by a legitimate obstacle, the lawsuit must be declared dismissed. Considering, that because the Plaintiff's lawsuit was declared invalid, the Plaintiff is sentenced to pay the costs of this case.

CONCLUSION

When a restructuring effort occurs which is carried out by the debtor as a good intention to pay off its financing credit obligations, then the party's debt must form a written certificate or bulk which has authority in the eyes of the law. So that if things happen that are not expected, each party can take legal action which has a clear basis. Responding to the debtor in the Rembang District Court criminal appeal case Number: 7/Pdt.G/2021/PN. Rbg. Here the creditor actually suffered losses due to his own negligence by only trusting the bank's word as a creditor without a written approval letter for the restructuring effort. So, in this case the debtor as the plaintiff is not given priority, even though chronologically in this case the court granted the lawsuit, it's just that at the trial the debtor was not present so the court considered this case to be cancelled. by observing Article 124 HIR and stating that the existence of credit power in this case is a type of credit that can be carried out first even if there are appeals, cassation and appeals (ulitvoelrbaar bij

voorraad). In response to Defendant I (creditor) who defaulted on legitimate debt restructuring efforts and forced confiscation again for the auction of collateral due to SHM, Defendant II (KPKNL) as the party auctioning collateral assets through the creditor, and Defendant III auctioned as the buyer. That the entire process carried out by the defendants is tainted in the eyes of the law, so the debtor's rights must be restored as they should be.

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