

BANK LIABILITY RELATED TO ERRORS IN THE IMPLEMENTATION OF CUSTOMER FUND TRANSFERS (ANALYSIS OF DECISION NUMBER 28/Pdt.G/2020/PN Btm)

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ABSTRACT

The purpose of this study uses a normative juridical legal research method with a case approach in Decision Number 28/Pdt.G/2020/PN Btm and analyzed with an evaluative method. The results of the study show that banks have the responsibility to ensure that every transaction made by customers is carried out correctly. Errors in the execution of fund transfers can cause material losses to customers and damage the bank's reputation. Court decisions regarding banks' liability for fund transfer errors provide important guidance on banks' obligations and the protection of customers' rights.

KEYWORDS Normative Jurisdiction, Electronic Banking, Bank Responsibility, Arbitration, Consumer Protection



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INTRODUCTION

The Republic of Indonesia is a democratic state of law based on Pancasila and the 1945 Constitution, upholding human rights and guaranteeing all citizens equal status in the law and government with no exceptions. Law is a rule that regulates society and determines what should be done and what should not be done. the behavior and actions of citizens must be based on the law. The rule of law is binding and there are sanctions for those who violate it.

Banks have a very important position and role in the economy of a country. This is because banking is the lifeblood of the economy and the milestone of a country's development. Indonesia is a country based on a banking financial system like the financial system of other developing countries. The contribution of the banking industry in the financial sector is quite significant where the total national banking assets account for almost most of all financial assets in Indonesia.

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The community at this time entrusts more assets that belong to a financial institution, namely the Bank. The relationship between the community and financial institutions is the community as customers and financial institutions as business actors. Regarding customers, the definition is not directly regulated in the law, but in Law No. 21 of 2011 concerning the Financial Services Authority Article 1 paragraph 15 states "Consumers are parties who place their funds and / or utilize services available at Financial Services Institutions, including customers in Banking, investors in the Capital Market, policyholders in Insurance, and participants in Pension Funds, based on laws and regulations in the financial services sector". Based on the definition of consumers, customers can be categorized as consumers.

This writing is important because banks have an important function and role in the national economy. Because everyone uses banking services from running a business, transactions and saving. If there is a disruption in the banking system in a country, it will automatically affect the country's economic mechanism. This was proven during the banking crisis that hit Indonesia in 1998. The banking crisis that occurred at that time had a significant effect on the nation's economy. One of the impacts is that the banking crisis negatively affects the operational activities of the industry and the value sector, namely production, trade, investment, and consumption activities (Mulyati, 2018).

Fund transfer errors by customers are one of the most common issues in banking transactions. This error can be in the form of entering the wrong destination account number, transfer amount, or other information. Banks as financial institutions have certain responsibilities in solving this problem. This article aims to analyze the responsibilities of banks based on the prevailing legal regulations in Indonesia, as well as present legal solutions that can be taken by customers who experience fund transfer errors.

Article 37 B number 1 of Law Number 10 of 1998 amending Law No. 7 of 1992 concerning banking which states, "Every bank is obliged to guarantee public funds deposited in the bank concerned". According to the Banking Law, the legal relationship between customers and banks is not just an ordinary contractual relationship between debtors and creditors covered by the principles of treaty law, but also a relationship of trust covered by the principle of trust (Usman, 2001).

Funds transfer is one of the most important facilities in the economic activities of society. Banks provide fund transfers to facilitate financial transactions. However, in the process of transferring funds, there are various risks, including fund transfer allocation errors that can cause losses to customers. Therefore, legal protection for bank customers in making fund transfer errors is needed.

One of the customers of PT Bank Maybank Tbk. Solo branch reported losing funds worth IDR 72 million. In the case of the alleged breach of funds, there was a suspicious transaction through mobile banking. This was also mentioned by Maybank in an information disclosure submitted to the Indonesia Stock Exchange, Thursday (11/19/2020). The management of the bank with the BNII stock code said the transactions referred to in the news were transactions made through mobile (digital) banking, and not transactions made at branches.

The search results show that there has been a transfer of funds from the customer's account to a third party that is denied by the customer and the transaction is carried out in accordance with the mechanisms and security features set by the bank," said the information submitted. Maybank ensures that it has implemented high digital banking system security standards to ensure the security of every transaction made by customers. The security standards implemented by the bank, continued management, are security standards that have received review and permission from bank supervisors and are in accordance with industry practices in general.

The Company also reminds customers to always maintain the confidentiality of User ID and password as personal data that should only be owned and known by customers. Customers also need to maintain the confidentiality of the Transaction Authorization Code (TAC) which is only sent to the mobile phone number that has been registered in the bank system. Regarding the customer's m-banking transaction, Maybank management stated that it was carried out in accordance with the mechanism and through the security features set out in mobile banking transactions.

Transactions can only be done through mobile (digital) banking by customers after using userID and password, where this information is only known by customers, and by sending Transaction Authorization Code (TAC) via SMS to the mobile number, which has been registered in the Maybank system to approve transactions. With the description above, the researcher is interested in making a paper in the form of a journal with the title "Bank Responsibility for Errors in the Implementation of Fund Transfers by Customers"

Problem Formulation

The problems in this paper include:

1. How are electronic banking services regulated in Indonesia?
2. How is the Bank's Responsibility for Errors in the Implementation of Fund Transfers by Customers?

Research Objectives

1. To find out the bank's liability for lost customer savings funds through electronic banking services.
2. To find out the Bank's Responsibility for Errors in the Implementation of Fund Transfers by Customers

Research Benefits

1. Theoretically

As theoretical input for the author to increase knowledge and understanding of the law on the loss of customer savings funds through electronic banking services.

2. Practically

To apply the author's knowledge practically so that people know the bank's responsibility for errors in the implementation of fund transfers by customers.

Theoretical Framework

To analyze the problems in this journal related to the Bank's Responsibility for Errors in the Implementation of Fund Transfers by Customers, the theoretical framework is composed of:

1. Consumer Protection Law

According to the Business English Dictionary, consumer protection is protecting consumers against unfair or illegal traders (Wahjuni & Prakoso, n.d.). Meanwhile, Black's Law Dictionary defines a statute that safe guards consumers in the use of goods and services (Garner, 2004). Consumer protection is a term used to describe the legal protection given to consumers in their efforts to meet their own needs against problems that harm consumers themselves. The purpose of law is to realize justice, Adam Smith gave birth to the teaching of justice (justice) which states the end of the justice source from the injury (Zulham, 2013).

The Consumer Protection Law Article 1 point 1 states that consumer protection is all efforts that ensure legal certainty to provide protection to consumers. This means that consumer protection is a legal device created by government agencies to provide legal protection and guarantee legal certainty for consumers from various disputes or problems because they feel harmed by business actors.

2. Legal Certainty Theory

Legal certainty itself has several theories put forward by experts. Among others:

a. According to Utrecht

Legal certainty contains two meanings, the first is the existence of regulations that have a general nature to be able to make an individual know what actions can and cannot be done. Meanwhile, the second meaning is legal security for an individual from government arbitrariness because, with the existence of general regulations, individuals can know what can be imposed and what the state can do to an individual.

b. According to Gustav Radbruch

The theory of legal certainty that he put forward has four fundamental things that have a close relationship with the meaning of legal certainty itself, namely as follows.

- Law is a positive thing which means that positive law is legislation.
- The law is based on a fact, meaning that the law is made based on reality.
- The facts contained or listed in the law must be formulated in a clear way, so that it will avoid confusion in terms of meaning or interpretation and can be easily implemented.
- Positive law should not be easily changed

c. According to Sudikno Mertokusumo

Sudikno Mertokusumo revealed that legal certainty is a guarantee that the law can run properly, meaning that with legal certainty individuals who have rights are those who have received a decision from the legal decision itself.

From the description of the theory of legal certainty according to these experts, it can be concluded that legal certainty can contain several meanings, namely that there is clarity, must not cause multiple interpretations in the law, must not be contradictory between one regulation and another and the regulation can be implemented.

According to the legal certainty theory of the experts, the law should not have a contradictory nature. Because, if it is contradictory then the law will be a source of doubt. Legal certainty itself can be a legal device for a country that has clarity, and can guarantee the rights and obligations of every citizen in accordance with the culture that exists in that society.

RESEARCH METHOD

Writing this journal requires data and information that can be used as analytical material to be able to discuss the problem. To obtain and collect data and information, the author uses the following methods:

Type of Research

The type of research used in the preparation of this writing uses normative juridical methods, namely research that prioritizes secondary data, namely data obtained from literature regarding bank responsibility for errors in the implementation of fund transfers by customers. Research is basically a planned activity carried out with scientific methods aimed at obtaining new data to prove the truth with a symptom by analyzing it.

Nature of Research

This research is Descriptive Analysis, meaning research that describes certain objects and explains things related to or describes factually and carefully. In this study, the author will describe the bank's responsibility for errors in the implementation of fund transfers by customers.

Data Source

1. Primary Data

- Decision of the Batam District Court No. 28/Pdt.G/2020/PN Btm
- Law No. 10 of 1998 on Banking
- Law No. 8 Year 1999 on Consumer Protection
- Law Number 19 of 2016 on Electronic Information and Transactions,

2. Secondary Data

Secondary materials that provide explanations of primary legal materials, such as, legal papers, opinions of legal experts, books on bank liability etc.

Data Collection Technique

Primary legal materials and secondary legal materials are collected by conducting library research or better known as literature study. Literature research is conducted by collecting data contained in literature books, laws and regulations, magazines, newspapers, seminar results, and other sources related to the issues discussed in this thesis.

Data Analysis Technique

In this research, data analysis is qualitative. The data that has been collected is then analyzed so that the relationship between the existing data and the theory used can be known so that a clear picture of the problem under study is obtained.

RESULT AND DISCUSSION

Regulation of electronic banking services in Indonesia

Electronic banking or e-banking services have become an integral part of the banking industry in Indonesia. Technological developments and demands for efficiency have encouraged banks to offer diverse e-banking services, such as internet banking, mobile banking, and other electronic services. However, to ensure security and consumer protection, e-banking services must be properly regulated by the authorities. In this article, we will discuss the regulation of e-banking services in Indonesia, supported by references from recent journals and books (Anggraeni et al., 2023).

Regulations and Policies Related to E-Banking Services

Bank Indonesia (BI) and the Financial Services Authority (OJK) play an important role in regulating e-banking services in Indonesia. Some of the key regulations and policies that govern e-banking services include (Rodrigues et al., 2016):

1. Bank Indonesia Regulation No. 9/15/PBI/2007 on the Implementation of Risk Management in the Use of Information Technology by Commercial Banks.
2. Financial Services Authority Regulation No. 38/POJK.03/2016 on the Implementation of Risk Management in the Use of Information Technology by Commercial Banks.
3. Bank Indonesia Circular Letter No. 16/11/DPNP on the Regulation and Supervision of Banks Conducting Business Activities Based on Sharia Principles.

Role of Relevant Authorities

Bank Indonesia and OJK have important roles in the supervision and regulation of electronic banking services. Bank Indonesia focuses on monetary policy and payment systems, while OJK regulates aspects of banking and consumer protection. These two institutions work together to ensure that electronic banking services run in accordance with established rules and do not pose systemic risks (Wang et al., 2017; Zvolska et al., 2019).

Challenges and Solutions

Some of the key challenges in regulating electronic banking services in Indonesia include (Ariansyah et al., 2021; Shaikh et al., 2017):

1. **Cybersecurity:** Increasingly sophisticated cyber-attacks require banks to continuously improve their security systems.
2. **Digital literacy:** There is still a lack of understanding among the public regarding the safe use of electronic banking services.
3. **Dynamic regulations:** The rapid development of technology means that regulations must be constantly updated to remain relevant.
4. **Technology Evolution:** Technology is constantly evolving so banks should always upgrade their security systems.
5. **Customer Awareness and Knowledge:** Many customers are still not aware of the risks and safe ways to use electronic banking services (Rahman et al., 2023).

Possible solutions include increased cooperation between banks, regulators, and law enforcement as well as improved customer education programs. Banks have a huge responsibility in protecting customer funds using electronic banking services. Existing regulations need to be continuously updated to adapt to technological developments. In addition, customer education and awareness also need to be improved to minimize the risk of losing funds.

The regulation of electronic banking services in Indonesia is quite comprehensive, but needs to be improved in line with technological developments and threats. Bank Indonesia and OJK must continue to work together in supervising and drafting regulations in order to provide maximum protection to consumers and ensure financial system stability.

Bank Liability for Errors in the Implementation of Fund Transfers by Customers

Bank Liability for Erroneous Fund Transfer by Customers has become a very important issue in the banking industry in Indonesia. In this article, we will discuss the liability of banks for fraudulent fund transfers and strategies to improve security and legal certainty in electronic banking services.

Bank Accountability to Customers

Bank Liability According to Banking Law No. 10 of 1998, banks are required to protect customer funds and act prudently. Banks must provide a mechanism to handle transfer errors, including procedures for returning mis-transferred funds. Also Bank Indonesia Regulation and Information Transparency PBI No. 7/6/PBI/2005 requires banks to provide accurate and clear information to customers. In the event of a transfer error, banks are obliged to provide assistance in the tracing and refund process. However, in some cases, banks are not responsible for returning customer funds that are proven to have originated from the customer.

Banks are responsible for ensuring the security of customer funds. This responsibility includes:

1. **Technology Security:** Banks are required to implement strong security systems, such as data encryption, two-factor authentication, and real-time transaction monitoring.
2. **Customer Education:** Banks should educate customers on safe ways to use electronic banking services.
3. **Grievance Handling:** Banks must have a clear and prompt mechanism for handling customer complaints regarding loss of funds.

Dispute Resolution Mechanism

Dispute resolution mechanisms that can be pursued by customers include (Wijayanti & Naâ, 2022):

1. **Mediation:** Mediation process by Bank Indonesia or OJK.
2. **Litigation:** Taking legal action if mediation does not reach an agreement.

Alternative Dispute Resolution Institutions: Utilize institutions that provide out-of-court dispute resolution services.

Analysis of the Decision of the Batam District Court No. 28/Pdt.G/2020/PN Btm

Case Chronology

The chronology of the case began when the Plaintiff on behalf of Karyalita, a BNI customer with account number 022-0-730-990, filed a lawsuit against BNI for the wrong transfer of funds amounting to USD 32,696 (Rp 474,092,000) which should have been sent to the Illinois Blower Inc. account at Chase Bank, Houston, Texas.

On April 29, 2019, Karyalita transferred the funds through BNI. After clarification with the recipient, Illinois Blower Inc, Illinois Blower Inc stated that they did not receive the funds. BNI then issued a memo requesting to amend the transaction due to an error in the recipient's name and account number.

Karyalita filed a lawsuit on January 23, 2020, demanding a refund and compensation for material losses (USD 32,696, transfer fees of IDR 534,777, and scrap fees of IDR 50,000) as well as immaterial losses of IDR 1,500,000,000 due to failed transactions and compromised health.

Legal Considerations

The legal considerations taken by the judge in the decision of this case were based on several important aspects, the plaintiff did not fill in the fund transfer form carefully, resulting in an error in the name and account number of the recipient and also the defendant had asked the plaintiff again about the correctness of the data on the fund transfer form, and the plaintiff stated that the data was correct.

The Defendant always asked for an invoice to be attached to the funds transfer form and checked the invoice. The Defendant's authority was only to match the information contained on the funds transfer form with the attached invoice, it should have been the plaintiff who clarified to the recipient of the funds to ensure the correctness of the account number and name of the account holder.

Overseas fund transfer transactions are not integrated/online so that the Defendant cannot know the correctness of the account number and name of the account holder of the recipient of funds directly, therefore verification of the correctness of the account number and name of the account holder of the recipient of funds is entirely at the recipient bank (Chase Bank) (Eriksson et al., 2017; Rajasekaran et al., 2022).

According to Article 11 paragraph (1) of Bank Indonesia Regulation Number 14/23/PBI/2012, the error that occurred was not the fault of the Defendant, but the Plaintiff's own negligence.

Verdict

The verdict of this case is as follows:

1. Rejecting the Defendants' exemptions (objections); In the main case
2. Reject the Plaintiff's claim;
3. Punish the Plaintiff to pay court costs in the amount of Rp1,276,000 (one million two hundred seventy six thousand rupiah);

Verdict Analysis

In this case, the Batam District Court decided to reject the plaintiff's lawsuit related to the wrong transfer of funds made by the plaintiff against Bank BNI Batam Branch due to the negligence of private customers.

Bank Liability

Banks' Obligation to Provide Secure Services Banks have an obligation to provide secure banking services and protect customer data and funds. According to Article 29 paragraph (4) of Law Number 10 Year 1998 on Banking, banks are obliged to maintain the confidentiality of customer data.

CONCLUSION

The Bank has an obligation to provide secure banking services and protect customer data and funds. The Bank has taken the necessary steps to trace the flow of funds and conduct internal data checks in accordance with Bank Indonesia Regulation (PBI) Number 19/12/PBI/2017 concerning Consumer Protection of Payment System Services. Customers also have the responsibility to maintain the confidentiality of personal information such as PIN and passcode. In this case, the Batam District Court decided to reject the plaintiff's lawsuit related to the wrong fund transfer made by the plaintiff to Bank BNI Batam Branch due to the negligence of a private customer.

Banks need to continuously improve the security system of electronic banking services to prevent the breach of customer funds. Implementation of the latest technology such as multi-factor authentication can be a solution to improve transaction security. Banks should provide more intensive education to customers on the importance of maintaining the confidentiality of personal information such as PIN and passcode. This education can be done through various media, including

seminars, brochures, and notifications in banking applications. In addition, effective and transparent complaint handling procedures are important to provide clear information to customers. Cooperation with cybersecurity service providers for periodic audits is also necessary. These measures are expected to increase customer confidence and minimize the risk of wrong transfers.

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