



Transfer Of Receivables On Behalf Of The Savings And Loan Cooperative Sahabat Mitra Sejati Rantau Prapat Branch Office

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ABSTRACT

In the business world capital turnover is an indication for it's a good effort. Based on this often entrepreneurs need capital in a short period of time in order to ensure the liquidity of its business, so no longer wait for a fall due on receivables to be collected later the payment. The method generally used to obtain fresh funds in the near future on outstanding receivables is by way of selling its receivables to others who are willing to buy it, generally at a price lower than the value of the bill to be paid by the debtor at maturity. Regarding the high and low prices as well depending on the illiquid receivables and whether there is a guarantee that accompanies the debt. Problems arise when procedure or process of selling the receivables do not meet existing legal provisions, so as to harm the seller this itself in this case the savings and loan cooperative sahabat mitra sejati branch rantau prapat

INTRODUCTION

Cooperatives keep a very honorable position in the Indonesian economy. This is not only seen in the firmness of the attitude of Article 33 of the 1945 Constitution, but also in Article 4 of law no. 25 Of 1992 On Cooperatives. In the explanation of Article 33 of the 1945 Constitution, for example, cooperatives are clearly stated as a form of company that is in accordance with the economic system to be built in Indonesia. While in Article 4 of Law No. 25 of 1992 on cooperatives, among others, it is said that the function of cooperatives is 4 to realize and develop the national economy which is a joint effort based on the principle of kinship and economic democracy (Revrisond Baswir, 2013).

Assertiveness of Article 33 of the 1945 Constitution and Article 4 of Law No. 25 of 1992 on Cooperatives was certainly not without reason. On

the one hand, Indonesia's economic condition has long been marked by the occurrence of deliberate economic. Intentionality does not only occur between the agricultural and industrial sectors, or between rural and urban economies, but also between the poor and the rich. On the other hand, people who do not know the intentional structure.

Elucidation of Article 33 of the 1945 Constitution places Cooperatives both in a position as a pillar of the national economy and as an integral part of the national economic system. By taking into account the position of cooperatives as above, the existence of cooperatives is very influential in the development of the economic potential of the people and also in the economic life of a democratic society.

Such a conception positions the cooperative as a business entity that is strategic enough for its members to achieve economic goals which in turn

have an impact on society at large. In addition to other institutions such as banks or courts, cooperatives as the lifeblood of the Indonesian economy (Kartasapoetra, 2001).

Cooperative which etymologically is an association or economic organization consisting of people or entities that provide freedom of entry and exit as members according to existing regulations in Indonesia regulated in the law of the Republic of Indonesia number 25 of 1992 concerning cooperatives, with family cooperation, running a business, with the aim of improving the physical welfare of its members (Sutantyo, 2009).

Today, cooperatives continue to develop their wings in the field of business to follow the development of unlimited human needs. One area of cooperative business that is increasingly felt semankin day needed by the community is the problem of savings and loans. In the provision of credit is required because the guarantee guarantee is one of the conditions for granting request for credit, based on Law No. 10 of 1998 on amendments to Law No. 7 of 1992 on banking, as stated in Article 11 which stipulates a guarantee in lending which reads, " Bank Indonesia stipulates provisions regarding the maximum limit for lending or financing based on sharia principles, the provision of guarantees, the determination of securities investments or other similar matters, which may be made borrower or a group of related borrowers, including to companies in the same group as the bank concerned".

A savings and loan cooperative is a non-bank financial institution with business activities of accepting deposits and lending money to its members. that savings and loan cooperatives must also be subject to the rules of the law, namely Law No. 17 of 2012 on cooperatives which is a substitute for Law No. 25 of 1992 on cooperatives. Savings and loan cooperatives are often referred to by the abbreviation KSP and Kospin Jasa. In running its business, the savings and loan cooperative manages capital derived from the principal deposits of cooperative members, mandatory deposits, and voluntary deposits. In addition, savings and loan cooperatives also receive funds from the reserve fund scheme from the rest of the results of operations (SHU), loan capital from cooperative administrators, and grants.

The function of savings and loan cooperatives rather than other financial institutions such as banking or leasing, the procedure for disbursing funds from savings and loan cooperatives is simpler and faster. In terms of money storage, savings and loan cooperatives also often offer higher interest

rates than bank interest. Currently, many savings and loan cooperatives also offer products with Sharia contracts (POJK,2014).

One of the savings and loan cooperatives that exist to the far reaches of the country is sahabat mitra sejati is a legal entity engaged in the savings and loan business, Sahabat Mitra Sejati savings and loan cooperative or in short with Sahabat Mitra Sejati KSP established in 2003 at Sampoerna Strategic Square Building, North Tower, 17th floor Street. Gen. Sudirman Kav. 45, Jakarta 12930 phone: 0895-3348-10717 with the legal basis for the establishment of the decree of the Minister of Cooperatives and small and medium enterprises of the Republic of Indonesia number 307/BH/MENEG.I / IX / 2003, on the ratification of the cooperative Establishment Act. And decree of the Minister of Cooperatives and small and Medium Enterprises number : 218/PAD/M.KUKM.2/XII / 2015 dated December 17, 2015 on the approval of the amendment of the Articles of Association of the true partner Cooperative into a savings and loan Cooperative Sahabat Mitra Sejati. Where the Articles of Association are recorded and contained in the deed of Statement of meeting Decision No. 42 of 2008 dated December 9, 2008 made before the notary Rizul Sudarmadi, SH. M.kn South Jakarta and has been reported and recorded based on the decree of the Minister of Cooperatives and small and medium enterprises of the Republic of Indonesia number 267 / Dep.1.1/XII / 2008 dated December 16, 2008.

Sahabat Mitra Sejati savings and loan cooperative which is currently spread across 28 provinces in accordance with providing and conducting mentoring programs and sustainable financing for cooperative members, which is currently Sahabat Mitra Sejati savings and loan Cooperative has a profit of Rp.516.000.000, - (five hundred sixteen million rupiah) seindonesia in the previous year's report and has a total of 386 (three hundred eighty six) cooperative branches located in 28 provinces and several districts. In running the lending financing business, KSP Sahabat Mitra Sejati has a program that is very helpful for all cooperative members who need disbursement funds, which funds can be used to run businesses, especially the MSME sector in every province. Programs that can be offered by members of the MSME sector cooperatives include business loans, investment loans, working capital loans, consumptive, and term savings and loans.

KSP Sahabat Mitra Sejati which is a business entity that collects funds from the community in the form of deposits and distributes them to the community in improving the living standards of many

people, KSP Sahabat Mitra Sejati is one of the group companies of Sampoerna Financial Group (SFG) with partner relationships with Bank Sahabat Sampoerna located in 21 provinces in Indonesia. With its head office located at ampoerna Strategic Square North Tower, Mezzanine Floor Jalan. General. Sudirman Kav. 45-46 Jakarta 12930.

One of the branches of KSP Mitra Sejati is KSP Sahabat Mitra Sejati Prapat Rantau branch where during the covid 19 period and when the price of oil dropped many customers experienced financial difficulties so that in making payments they could not make payments as usual. In cooperative guarantee is very important in the purchase of credit and also a necessity in an effort to avoid factors that cause obstacles or problems that are not desirable in the implementation of credit provision, therefore the necessary element of security in its return. In practice in KSP. Sahabat Mitra Sejati Rantau Prapat Utama Branch one of the problems faced is the problem of bad loans. Avoid the problem of bad credit. If there is bad credit, the settlement is required including collateral.

Guarantee is an agreement between the creditor and the debtor, where the debtor pledged a number of his property for debt repayment according to the provisions of the applicable law if within the specified time there is a congestion in the debtor's debt repayment. Collateral is an asset of the lending party that is pledged to the lender if the borrower is unable to repay the loan. guarantee is one element in the analysis of financing. Common understanding in the community, the guarantee is used to "just in case " if the debtor or the debtor does not return the money borrowed, then the guarantee can be taken by the creditor as a form of repayment of the debtor's debt.

The usefulness of guarantees to banking institutions as lenders to customers referred to above, among others ; 1. Provide the right and power to the bank to obtain repayment of the collateral if the debtor makes a promise, namely to repay the debt at the time stipulated in the agreement. 2. Ensure that the debtor participates in the transaction to finance his business, so that the possibility of abandoning his business or project to the detriment of himself or his company can be prevented or at least minimized. 3. Provide encouragement to the debtor to fulfill its promises, especially regarding repayment in accordance with the agreed terms so that the debtor and / or third parties who participate in guaranteeing do not lose the assets that have been pledged to the bank.

So basically a surrender of property or a statement of one's ability to bear the repayment of a

debt under Articles 1131-1132 of the Civil Code, the Guarantee obtained guaranteed by a financial institution has a specific type that can be accepted is called a material guarantee.

The transfer of debt accompanied by debtor guarantees by the Sahabat Mitra Sejati savings and loan cooperative through cessie is carried out by creditors with prospective new creditors through the cessie mechanism (Hermansyah, 2006)

Settlement of problem loans is generally taken by 2 (two) ways, namely credit rescue and credit settlement. Credit rescue in question is a langkah settlement of non-performing loans through renegotiation between the bank as a creditor and the borrower's customer as a debtor, while the credit settlement is a step settlement of non-performing loans through legal institutions.

The state of liquidation of each bank and non-bank financing institution is not always the same. Developments in the social and economic sectors, both on a national and international scale, can directly and indirectly affect lending policies. In order for the funding activities received by the debtor does not stop just like that, and one way to solve problem loans or bad debts is known as the receivables transfer institution which is carried out by means of cessie.

The transfer of receivables made by creditors must be carried out in accordance with Article 613 of the Civil Code (Civil Code). Article 613 paragraph 1 of the Civil Code confirms : "the delivery of receivables in the name and other immaterial material is carried out by making an authentic deed or deed under hand, by which the rights to the material are transferred to another person"(Yulfasni & Hamler,2023).

Receivables transferred in cessie is a bill owned by the creditor for the debtor. The bill is a bill in the name. In principle, the bill on behalf shows clearly and definitely about the creditor who is entitled to receive payment.

A debt bill involves two parties, the creditor and the debtor. Bills have a personal nature however, the personal nature of a bill is more emphasized on the personality of the debtor as a creditor. This also happens in the course of lending disbursed by the Sahabat Mitra Sejati savings and loan Cooperative, where the transfer of receivables from the Sahabat Mitra Sejati savings and loan cooperative to the Sahabat Mitra Sejati finance financing institution which is one of the Sahabat Mitra Sejati group of companies. Savings and loan cooperatives are one type of cooperative business form. Savings and loan cooperatives have been considered a form of popular economy in Indonesia.

METHOD

The method of approach used in this study is empirical juridical method, in the sense of reviewing the legislation relating to the issues to be discussed, and also conducted a field approach to obtain information as supporting material. The research specification that will be used is descriptive analytical, this method aims to provide an overview and data as thorough as possible about the process of settlement of bad debts tied to the mortgage on the savings and loan Cooperative Sahabat Mitra Sejati Finance Group. The analysis was also carried out using qualitative methods from legal theory to solve problems related to bad debts and mortgage rights by attaching customer data that has been carried out the Cessie process.

RESULTS AND DISCUSSION

In Indonesia, the definition of cessie is one of them proposed by Subekti. In Subekti's opinion, cessie is: "a way of transferring receivables on behalf of which the receivables are sold by the old creditor to the person who will become the new creditor, but the legal relationship of the receivables and receivables is not deleted at all, but in its entirety transferred to the new creditor (Subekti, 1998).

Cessie is a way of transfer and / or delivery of receivables on behalf of as referred to in Article 613 of the Civil Code (Soeharnoko, 2008). However, the word Cessie is not contained in the laws in force in Indonesia, Cessie is only known from the doctrine of legal doctrine and jurisprudence.

"Cessie is a transfer of bills. With the cessie, the payment made by the debtor is made not to the original creditor but to the person of the substitute creditor or cessionaris who has replaced the original creditor position. The payment made to the cessionaris is as correct as having made the payment in person to the creditor himself (M. Yahya Harahap, 1986).

One of the definitions of Cessie known in legal science is the definition proposed by Vollmar. The definition of Cessie is translated by Tan Thong Kie as a term commonly used for the delivery of a receivable (Tan Thong Kie, 2017).

In Indonesia, the regulation regarding the transfer of receivables on behalf of is regulated in Article 613 of the Civil Code. However, the definition of cessie is not stated and / or spelled out clearly and clearly in the legislation. This can be seen from Article 613 paragraph 1 of the Civil Code which reads as follows : "the delivery of receivables and receivables on behalf of other intangible assets is carried out by

making an authentic deed or under hand, with which the rights of the material assets are delegated to others" (C. Asser's, 1991)

Strictly speaking, article 613 of the Civil Code states that the receivables regulated in Article 613 of the Civil Code are receivables or bills on behalf of. In a bill on behalf, the debtor knows exactly who the creditor is. One of the characteristics that a bill in the name has is that a bill in the name is that it does not have a being. If a debt is made, then the debt is only valid as evidence only. This is because the existence of a debt in any form is not an important part of a bill in the name. Thus, if the bill on behalf of poured in the form of debt securities, the physical delivery of the debt securities has not transferred the right of collection as evidenced by the letter in question. To transfer bills on behalf, a deed of assignment of bills on behalf is required, which in doctrine and jurisprudence is called a cessie deed. on cessie, ownership shifted and with the creation of the cessie deed, levering was completed (J. Satrio, tt).

The receivables referred to in Article 613 of the Civil Code are Collection rights arising from the legal relationship between the borrowing party (cyberpiutang) and the borrowing party (the debtor) or from an activity of distributing credit facilities between banks or non-bank financial institutions as creditors and debtors. Receivables or collection rights arising from the legal relationship of borrowing and borrowing money or from the bank's lending activities may be transferred to third parties, by way of cessie. Although the provisions of Article 613 of the Civil Code also apply to the transfer of other intangible goods, but as already submitted in the background of the author only focuses on the transfer of receivables or bills on behalf of only.

If you pay attention to the provisions of Article 613 of the Civil Code, the arrangements in Article 613 of the Civil Code are regarding the delivery of receivables on behalf of and other intangible assets. In relation to the word "receivable" in Article 613 of the Civil Code, this indicates that what can be transferred is a receivable and not a debt. Therefore, only the creditor can transfer the receivable while the debtor is not entitled to transfer the debt. The provision provided for in Article 613 of the Civil Code can only be made to carry out the reimbursement of the debtor.

The provisions of psal 613 of the Civil Code regulate the manner of delivery (levering) of an receivable on behalf of. How to make the delivery of receivables in the name of cessie. Receivables that can be handed over or transferred by means of cessie are only receivables on behalf of the creditor. With the delivery of receivables by cessie, the third party

becomes a new creditor who replaces the old creditor followed by the transfer of all rights and obligations of the old creditor to the debtor to a third party as a new creditor. This is because the transfer of receivables by cessie does not result in the termination of the existing engagement made between the creditor and the debtor. The legal relationship between the debtor and the creditor based on the existing credit agreement is not broken so that there is no new legal relationship that replaces the old legal relationship. The Old Covenant still exists and is valid and binding on the debtor and creditor who received the transfer of the receivables in question. Thus, what happens is the transfer of all rights and obligations of creditors based on existing credit agreements to third parties who then become new creditors.

Article 613 of the Civil Code states that " the delivery of receivables in the name and other intangible assets is carried out by making an authentic deed or under hand, by which the rights to the assets are transferred to another person. Such a surrender shall have no effect on the debtor except after such surrender has been notified to him or in writing approved and acknowledged by him.

Cessie is a way of transfer and / or delivery of receivables on behalf of as referred to in Article 613 of the Civil Code (Civil Code). 51 the delivery of each receivable due to the letter carried by hand is carried out by the delivery of the letter , the delivery of each of the receivables due to the letter appointed is carried out by the delivery of the letter disetai with endosment. The elements that can be concluded under Article 613 of the Civil Code in an act of cessie, they are : 1. Made authentic certificate or certificate under hand 2. The rights granted to receivables on behalf of the transferee are transferred to the transferee. 3. Cessie only has legal effect on the debtor if it has been notified to him or in writing approved and acknowledged by him (Soeharnoko dan Endah Hartati,2008).

As for what is meant by disembodied material contained in Article 511 of the Civil Code which reads : 1. Right of Use and right of use of movable property 2. The right to the promised interest, whether the interest is enshrined, or the interest of the living collateral 3. Encumbrances of encumbrances and demands concerning collectable sums of money or concerning movable things. 4. Sero sero or share in a trade union or a partnership of companies, even if the objects of the partnership in question and the company is a movable property, but only to its participants during the fellowship. 5. Share in the financing at the expense of the state of Indonesia, either share due to registration in the

general ledger, as well as certificates, letters of acknowledgment of debt, bonds or other valuable papers , along with coupon coupons or letters of interest, which are included therein. 6. Sero-sero or coupon bonds in peutangan conducted foreign countries.

From the description of the description above, it appears that cessie is a way to transfer receivables on behalf without resulting in a credit agreement / money lending agreement that resulted in the onset of the receivable being deleted.

Cessie is a way of transfer / transfer of property rights where the object of transfer referred to herein is receivable on behalf of. The transfer of receivables on behalf of cessie may occur in addition to the principal agreement. If there is a legal event that precedes it and can also occur without a legal event in advance so that cessie becomes the perpetrator of himself because it is a legal event itself. Regarding the presence or absence of a legal event in advance to be able to transfer a receivable in the name or other intangible asset is not provided for in Article 613 of the Civil Code . Then without any legal event that precedes the deed of cessie can still be done and the transfer of receivables in cessie can still be done by the creditor to a third party who will be the new creditor.

Cessie can occur as an accesoir of a legal event such as the sale and purchase of receivables made between banks or other financial institutions such as cooperatives (as creditors) with third parties who then become new creditors. The sale and purchase of receivables referred to in this case , the sale and purchase of receivables where the object is the receivable on behalf of the creditor. In this case the sale and purchase agreement of receivables is carried out by KSP Sahabat Mitra Sejati with a third party as the buyer who then becomes the new creditor with a separate sale and purchase agreement of receivables from the cessie agreement. In practice, the sale and purchase of receivables is indeed possible to be made separate from the cessie agreement. The reason is because the selling price of the receivable on behalf of the agreed by the creditor as the seller with a third party as the buyer wants to be kept secret from the debtor because it is considered that the debtor does not need to know about it. Therefore, what is stated in the cessie agreement is only the amount of receivables or bills that can be demanded for payment by the recipient of the cessie as the new creditor of the debtor. The amount of debt which must be paid by the debtor to the creditor as agreed in the credit agreement . If the cessie agreement is made as a surrender (levering) in connection with the sale and purchase agreement

of receivables, then the cessie agreement is an accessoir agreement of the sale and purchase agreement of the receivables. In the sale and purchase of receivables, the seller can sell the receivables at a price below the value of the receivables. This implies that there is a risk that must be borne by the buyer of the receivables or a new creditor if it turns out that the buyer of the receivables also wants to benefit from the sale and purchase of the receivables. The value of receivables / collection rights transferred to the new creditor must be in accordance with the collection rights owned by the old creditor. So that the value of the receivable becomes the basis for the new creditor to demand payment from the debtor.

As part of the cessie delivery method, in addition to being subject to the law of agreements, it is also subject to the law of objects, especially those that regulate the delivery of receivables on behalf of. In the law of objects, the definition of objects (Zaak) includes tangible objects commonly known as goods (Goed) and intangible objects or commonly called rights (Recht). The law of objects is regulated in the second book of the Civil Code. The law of property and the law of covenants together constitute the law of property he character is on the one hand personal (Badruzaman,2015).

In property law (veremogensrecht) there are two important properties, namely individual rights (persoonlijke rechten) and material rights (zakelijke rechten) material rights are regulated in Book II of the Civil Code and individual law is regulated in Book III of the Civil Code.Both tangible and intangible objects in legal terminology are again distinguished between movable and immovable objects. The distinction, in particular the distinction between movable and immovable objects has several important meanings according to the law. The importance of distinguishing these objects is as follows:

1. In the case of bezit or position of power does not apply to immovable objects, so whoever controls the immovable object cannot be considered the owner before it is proven based on evidence of legitimate ownership. This is different from movable property where anyone who owns a movable object must be considered the owner without having to prove the existence of valid proof of ownership. If anyone claims to have a moving object that is owned by someone else, then the person who claims that he is entitled to it is the one who must prove it.
2. In the case of encumbrances or guarantees, guarantees that use movable objects are also

differentiated from guarantees that use fixed objects. For moving objects such as cars, those who want to pledge the object can use a pledge or fiduciary guarantee, while those who want to pledge fixed objects such as land and buildings, then use a mortgage guarantee, while specifically for aircraft or ships with a weight of 20 cubic meters and above use mortgages.

3. The way of handing over between movable and immovable objects is also different. For moving objects, it is generally enough to submit physically, the juridical property rights have been switched, while for immovable objects, it is not enough to submit physically but must be submitted judicially, which is generally done by registration or behind the name. Receivables belong to the category of intangible movable or movable objects due to the provisions of the law. This category is considering that physically we cannot distinguish whether receivables include moving objects or not, this is considering that these objects include intangible objects.

Thus, we know that receivables are included in movable objects because it is the law that categorizes receivables as movable objects (article 511 of the Civil Code). In relation to the cessie agreement as a form of delivery of receivables, the receivables submitted are receivables on behalf of. Receivables on behalf of is the right to collect from creditors against a particular debtor, based on an engagement.

In principle, receivables on behalf of showing who the creditor is, although in principle it does not have to be stated in written form or a letter stating the name of the creditor.

Although the name of the creditor is not mentioned, the parties know each other's identity, so the bill can only be charged against those who bind themselves based on the engagement made. Included in the category of receivables on behalf of Are shares on behalf of, certificates of deposit, Interbank Bills, promissory notes and others. In addition to receivables on behalf of we know also receivables on Bring and receivables on show. Receivables on carry are receivables that allow their payment to anyone who holds and can present a letter of receivables as proof of the existence of a bill, while receivables on point are receivables whose payment is made to whom the designated person is. The appointment is made by making a back note commonly known as an endossement. Including examples of receivables on Carry is a check, while

including receivables on point is a bill of exchange. Thus, the receivables for carrying or appointing must be in the form of a letter or written. This is considering that the payment is made to the party carrying the debt securities or the designated party.

From the descriptions above, it appears that cessie is a way to divert receivables on behalf of without resulting in a credit agreement/ borrow money that resulted in the onset of the receivables being deleted. Cessie is a means of transfer and / or assignment of property rights where the object of transfer referred to herein is receivable on behalf of. The transfer of receivables on behalf of the cessie can occur as an *accessoir* of a principal agreement when there is a legal event that precedes it and can also occur without a legal event in advance so that the cessie is *obligatoir* on its own because it is a legal event itself. An *Obligatoir* agreement is an agreement that gives rise to an engagement, meaning that from the moment the agreement occurs the rights and obligations of the parties arise. The buyer has the right to demand the delivery of the goods, the seller is entitled to payment of the price. Because the matter of whether or not there is a legal event in advance to be able to transfer a receivable on behalf of or other intangible assets is not regulated in Article 613 of the Civil Code, without a legal event that precedes it, the cessie deed can still be made and the transfer of the cessie receivable can still be done by the creditor to a third party who will become the new creditor.

CONCLUSION

The transfer of receivables (Cessie) between the old creditor and the New Creditor secured by the mortgage causes the mortgage to also switch. The law states that if the receivables secured by the mortgage are transferred because of cessie, the subrogation of the mortgage is also transferred because of the law. The transfer of the mortgage holder must be registered at the Land Agency office where the mortgage is registered by submitting and showing a deed proving the transfer of receivables secured by the mortgage in question from the old creditor to the new creditor.

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