

**ANALISIS TERHADAP TINDAK PIDANA PERBANKAN BERUPA
KREDIT FIKTIF AKIBAT PELANGGARAN PRINSIP KEHATI-HATIAN
PERBANKAN (*PRUDENTIAL BANKING PRINCIPLE*)
(Studi Putusan Nomor 146/Pid.Sus/2021/PN Bon)**

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ABSTRAK

Kredit dalam perbankan merupakan kegiatan yang rawan terjadinya suatu kecurangan, seperti merekayasa data atau laporan, menyetujui kredit tanpa menggunakan analisis mendalam terkait kemampuan debitur dan penilaian jaminan kredit. Tindakan ini digolongkan sebagai tindak pidana perbankan dalam kegiatan usaha bank. Penerbitan kredit fiktif menandakan bank telah mengabaikan salah satu prinsip perbankan yaitu prinsip kehati – hatian (*prudential banking*). Tindak pidana perbankan yang terjadi di Indonesia yaitu di PT. BPR Bontang Sejahtera yang dilakukan oleh Direksi Bank dengan menyalahgunakan 8 (delapan) data nasabah dalam Putusan Pengadilan Negeri Bontang dengan nomor: 146/Pid.Sus/2021/PN Bon.

Permasalahan dalam penelitian ini adalah bagaimana pertimbangan hukum hakim dalam memutus perkara tindak pidana perbankan berupa penerbitan kredit fiktif dalam Putusan Nomor 146/Pid.Sus/2021/PN Bon dan bagaimana bentuk pelanggaran prinsip kehati-hatian dalam penerbitan kredit fiktif. Tipe penelitian yang digunakan adalah yuridis normatif. Data yang digunakan adalah data sekunder dengan metode pengumpulan data berdasarkan studi kepustakaan kemudian disajikan dalam bentuk teks naratif serta menggunakan metode analisis normatif kualitatif.

Berdasarkan hasil penelitian dan pembahasan dapat diambil kesimpulan bahwa pertimbangan hukum hakim dalam memberikan pidana sudah tepat karena karena segala bentuk alasan dan dasar hukum dari unsur subyektif pelaku, unsur kesengajaan, hingga unsur perbuatan yang dilakukan oleh Terdakwa telah terbukti dan sesuai dengan aturan serta prinsip hukum yang berlaku. Mengenai bentuk pelanggaran prinsip kehati-hatian telah melanggar ketentuan yang diatur dalam perundang-undangan sebagaimana diatur dalam Pasal 8 UU Perbankan, Surat Edaran Bank Indonesia Nomor 14/26/DKBU Perihal Pedoman Kebijakan dan Prosedur Perkreditan bagi BPR (PKPB) dan Lampirannya serta ketentuan/SOP internal bank.

Kata Kunci: Tindak Pidana, Kredit, Perbankan, Prinsip Kehati-hatian

ANALYSIS OF BANKING CRIMINAL ACTS IN THE FORM OF FICTIVE CREDIT DUE TO VIOLATION OF PRUDENTIAL BANKING PRINCIPLES

(Verdict Study Number 146/Pid.Sus/2021/PN Bon)

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ABSTRACT

Credit in banking is an activity that is prone to fraud, such as manipulating data or reports, approving credit without using in-depth analysis regarding the ability of the debtor and evaluating credit guarantees. This action is classified as a banking crime in bank business activities. The issuance of fictitious credit indicates that the bank has neglected one of the banking principles, namely the principle of prudence (prudential banking). Banking crimes that occurred in Indonesia, namely at PT. BPR Bontang Sejahtera which was carried out by the Bank's Directors by misusing 8 (eight) customer data in the Bontang District Court Decision number: 146/Pid.Sus/2021/PN Bon.

The problem in this research is how the legal considerations of judges in deciding cases of banking crimes in the form of fictitious credit issuance in Decision Number 146/Pid.Sus/2021/PN Bon and what forms of violation of the precautionary principle in issuing fictitious credit. The type of research used is normative juridical. The data used is secondary data with data collection methods based on literature studies, presented in the form of narrative text and using qualitative normative analysis methods.

Based on the results of the research and discussion, it can be concluded that the judges legal considerations in imposing a sentence are appropriate because all forms of reason and legal basis, from the subjective element of the perpetrator, the element of intentionality, to the element of the act committed by the Defendant have been proven and in accordance with the rules and legal principles set forth apply. Regarding the form of violation of the prudential principle, it has violated the provisions stipulated in the legislation as stipulated in Article 8 of the Banking Law, Bank Indonesia Circular Letter Number 14/26/DKBU Concerning Guidelines for Policies and Credit Procedures for Rural Banks (PKPB) and their Attachments and provisions/internal bank's SOPs

Keywords: Criminal Act, Credit, Banking, Prudential Banking Principles