

**PERBUATAN MELAWAN HUKUM ATAS KELALAIAN BANK
MANDIRI DALAM PENETAPAN STATUS KREDIT MACET
TERHADAP NON DEBITUR**

(Studi Putusan Mahkamah Agung Nomor 400 K/Pdt/2021)

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ABSTRAK

Pada permulaan suatu usaha biasanya membutuhkan modal yang didapatkan melalui pengambilan kredit di perbankan. Dalam beberapa kasus debitur sebagai yang mengajukan kredit pada akhirnya tidak dapat membayar dan bank dapat melakukan pelaporan atas perilaku gagal bayar tersebut ke OJK dan BI dengan status kredit macet. Dalam pelaporan tersebut ada kalanya bank melakukan kesalahan sebagaimana pada salah satu kasus Bank Mandiri yang melakukan kesalahan dalam pelaporan status kredit macet terhadap non debitur. Penelitian ini mengkaji mengenai pertimbangan hukum hakim dalam mengkualifisir kriteria perbuatan melawan hukum atas kelalaian Bank Mandiri dalam penetapan status kredit macet terhadap non debitur, serta pertimbangan hukum hakim dalam mengabulkan tuntutan ganti kerugian perbuatan melawan hukum pada Putusan Mahkamah Agung Nomor 400 K/Pdt/2021. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan undang-undang dan pendekatan konsep, spesifikasi penelitian deskriptif analitis, sumber data sekunder dengan metode penyajian dalam bentuk sistematis, logis, dan rasional, metode analisis data yang digunakan normatif kualitatif.

Hasil penelitian menunjukkan bahwa Majelis Hakim dalam pertimbangan hukumnya menyatakan para tergugat telah melakukan perbuatan melawan hukum tanpa mengkualifisir kriteria mana yang dilanggar. Perbuatan Tergugat telah melanggar hak subyektif berupa hak-hak atas harta kekayaan Penggugat, yaitu hak untuk mendapatkan kredit usaha dari Bank BNI dan bertentangan dengan kewajiban hukumnya sendiri, yaitu Pasal 4 dan Pasal 8 Peraturan Otoritas Jasa Keuangan Nomor 64/POJK.03/2020 tentang Perubahan atas Peraturan Otoritas Jasa Keuangan Nomor 18/POJK.03/2017 tentang Pelaporan dan Permintaan Informasi Debitur Melalui Sistem Layanan Informasi Keuangan. Majelis Hakim mengabulkan tuntutan ganti kerugian materiil para penggugat sebesar Rp100.000.000,00 (seratus juta rupiah), bentuk ganti kerugian akibat dari perbuatan melawan hukum yang dibebankan kepada Tergugat termasuk kedalam ganti rugi bunga (*Intersten*). Ganti kerugian tersebut telah memenuhi semua syarat menuntut ganti kerugian dalam Pasal 1365 KUHPdata.

Kata kunci: perbuatan melawan hukum, ganti rugi, status kredit macet

**UNLAWFUL ACTS OF BANK MANDIRI'S NEGLIGENCE
IN DETERMINING NON PERFORMING LOAN STATUS
TO A NON-DEBTORS**
(A Study of the Supreme Court's Verdict Number 400 K/Pdt/2021)
By : Yodi Pratama Putra

ABSTRACT

At the commencement of a business, it typically requires capital obtained through bank loans. In some cases, borrowers who apply for credit may ultimately fail to make payments, leading the bank to report such default behavior to the Financial Services Authority (OJK) and Bank Indonesia (BI) with a non-performing loan status. However, in these reports, there are instances where banks make errors, as illustrated in a case involving Bank Mandiri, which inaccurately reported the non-performing loan status of a non-borrower. This research examines the legal considerations of judges in qualifying the criteria for unlawful conduct regarding Bank Mandiri's negligence in determining the non-performing loan status of a non-borrower, and how judges legally consider granting compensation claims for unlawful conduct in Supreme Court Decision Number 400 K/Pdt/2021. This research employs a normative juridical method with a statutory approach and conceptual approach, utilizing a descriptive analytical research specification, secondary data sources presented systematically, logically, and rationally, and a qualitative normative data analysis method.

The research findings reveal that the Panel of Judges, in their legal considerations, stated that the defendants had committed unlawful acts without specifying which elements were violated. The actions of the defendants were deemed to infringe upon the subjective rights related to the wealth of the plaintiffs, specifically the right to obtain business credit from Bank BNI, and were in violation of their own legal obligations, breaching the written legal obligations stipulated in Article 4 and Article 8 of the Financial Services Authority Regulation Number 64/POJK.03/2020 concerning Amendments to Financial Services Authority Regulation Number 18/POJK.03/2017 regarding Reporting and Request for Information of Debtors Through the Financial Information Services System. The Panel of Judges granted the material damage compensation claims of the plaintiffs amounting to Rp100,000,000.00 (one hundred million Indonesian rupiah), as a form of compensation for the damages resulting from the unlawful act imposed on the defendants, including compensation for interest (Intersten). The compensation has fulfilled all the requirements for claiming damages under Article 1365 of the Civil Code.

Keywords: unlawful acts, compensation, non-performing loan status