

**PERLINDUNGAN HUKUM TERHADAP NASABAH DAN TANGGUNG JAWAB
BANK ATAS HILANGNYA DANA NASABAH**

(STUDI PUTUSAN NOMER 3/PDT.G/2021/PN TAR)

Oleh

Muhammad Fatkhul Fajri

E1B019019

ABSTRAK

Bank menurut Pasal 1 Angka 1 Undang-Undang Nomor 10 Tahun 1998 perubahan atas Undang-Undang Nomor 7 Tahun 1992 tentang Perbankan adalah badan usaha yang menghimpun dana dari masyarakat berbentuk simpanan dan menyalurkannya kepada masyarakat dalam bentuk kredit dan atau bentuk-bentuk lainnya dalam rangka meningkatkan taraf hidup rakyat. Berdasarkan putusan perdata nomor 3/PDT.G/2021/PN TAR Bank Bri dikenakan tanggung jawab atas hilangnya dana nasabah, yang kalah dalam persidangan di Pengadilan Negeri Tarakan, Kalimantan Utara atas kasus raibnya uang tabungan nasabah, Nurbaya (45), warga Kecamatan Tarakan Tengah, Tarakan senilai Rp 311.269.782,00. Tujuan dari penelitian ini adalah untuk mengetahui dan menganalisis perlindungan hukum nasabah terkait kehilangan dana nasabah dan tanggungjawab Bank dalam memberi ganti kerugian kepada nasabah terkait perbuatan melawan hukum oleh Bank BRI dalam Putusan Nomor 3/PDT.G/2021/PN TAR

Penelitian ini menggunakan pendekatan yuridis normative dengan spesifikasi penelitian deskriptif analisis. Sumber data yang digunakan merupakan data sekunder yang terdiri dari bahan hukum primer, sekunder, dan tersier yang dikumpulkan melalui studi kepustakaan. Data tersebut kemudian diolah serta dianalisis menggunakan metode normative kualitatif dan disajikan dalam bentuk teks naratif.

Berdasarkan hasil penelitian, perlindungan hukum terhadap nasabah dalam putusan nomor 3/PDT.G/2021/PN TAR, yang terdiri dari perlindungan hukum preventif dan represif, di mana perlindungan hukum preventif diatur dalam UU perlindungan konsumen no 8 tahun 1999 pasal 4, pasal 25 POJK No.1/POJK.07/2013, Undang-Undang no 10 tahun 1999 tentang prinsip kerahasiaan bank. Sedangkan hukum represif sesuai dalam putusan 3/PDT.G/2021/PN Tar telah terpenuhi, di mana pihak tergugat III diwajibkan mengganti kerugian materil dan immaterial kepada nasabah. Pihak tergugat III sesuai putusan hakim mengganti kerugian materil sebesar Rp 249.015.826. Pertimbangan hukum hakim dalam mengabulkan ganti kerugian yang didasarkan pada syarat-syarat mengajukan ganti kerugian berdasarkan pasal 1365 Kitab Undang-undang Hukum Perdata telah terpenuhi. Menurut Majelis Hakim Tanggung jawab bank dalam mengganti kerugian materil kepada nasabah sebesar 80% dari total kerugian yang dialami oleh penggugat dikarenakan pihak bank berperan besar atas kehilangan uang penggugat yang disebabkan bocornya username dan password yang hanya diketahui oleh admin bank dan nasabah, serta melebihi limit yang telah diperjanjikan bersama. Selain itu, tergugat III harus membayar kerugian immaterial Rp 100.000.000, sebagai kompensasi dikarenakan penggugat mengeluarkan biaya-biaya yang cukup besar dalam menelusuri sendiri penyebab peristiwa yang dialami penggugat serta mencari data data untuk menelusuri perkara ini

Kata kunci : perlindungan hukum, tanggung jawab hukum, hilangnya dana nasabah.

LEGAL PROTECTION OF CUSTOMERS AND BANK RESPONSIBILITY FOR THE LOSS OF CUSTOMER FUNDS

(STUDY OF DECISION NUMBER 3/PDT.G/2021/PN TAR)

By

Muhammad Fatkhul Fajri

E1B019019

ABSTRACT

Bank Bank according to Article 1 Number 1 of Law Number 10 of 1998 amending Law Number 7 of 1992 concerning Banking is a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit and or other forms in order to improve people's lives. Based on the civil decision number 3/PDT.G/2021/PN TAR studied, the loss of customer funds occurred to BRI Bank, which lost the trial at the Tarakan District Court, North Kalimantan for the disappearance of customer savings, Nurbaya (45), a resident of Central Tarakan District, Tarakan worth Rp 311,269,782.00. The purpose of this study is to determine and analyse the legal protection of customers related to the loss of customer funds and the Bank's responsibility in compensating customers for unlawful acts by BRI Bank in Decision Number 3/PDT.G/2021/PN TAR.

This research uses a normative juridical approach with descriptive analysis research specifications. The data sources used are secondary data consisting of primary, secondary, and tertiary legal materials collected through literature studies. The data is then processed and analysed using normative qualitative methods and presented in the form of narrative text.

Based on the results of the research, legal protection for customers in decision number 3/PDT.G/2021/PN TAR, which consists of preventive and repressive legal protection, where preventive legal protection is regulated in consumer protection law no. 8 of 1999 article 4, article 25 POJK No.1/POJK.07/2013, Law no. 10 of 1999 concerning bank confidentiality principles. Meanwhile, the repressive law in accordance with decision 3/PDT.G/2021/PN Tar has been fulfilled, where the defendant III is required to compensate material and immaterial losses to customers. According to the judge's decision, the defendant III is required to compensate material losses of IDR 249,015,826. The judge's legal considerations in granting compensation based on the conditions for applying for compensation based on Article 1365 of the Civil Code have been fulfilled. According to the Panel of Judges, the bank's responsibility in compensating material losses to customers amounted to 80% of the total losses suffered by the plaintiff because the bank played a major role in the loss of the plaintiff's money due to leaked usernames and passwords that were only known by bank admins and customers, and exceeded the limit that had been agreed upon. In addition, the third defendant must pay an immaterial loss of Rp 100,000,000, as compensation because the plaintiff incurred considerable costs in tracing the cause of the events experienced by the plaintiff and searching for data to investigate this case.

Keywords: legal protection, legal responsibility, loss of customer funds.