



Insurance Company's Responsibility for Bank Loan Installment Payments in the Event of Debtor's Death (Study of Court Decision Number 613/Pdt.G/2023/PN Smg)

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Abstract

Credit agreements between banks and debtors are generally supplemented with credit life insurance to minimize the risk of default due to the death of the debtor. In practice, if the debtor dies, the insurance company is obliged to pay the remaining credit to the bank in accordance with the provisions in the policy. However, in Court Decision Number 613/Pdt.G/2023/PN.Smg, a legal problem was found where the insurance company and the bank did not fulfill their obligations to pay life insurance claims to the debtor's heirs. The issues in this study include how the insurance company's responsibility is regulated in relation to the debtor's life insurance claim and how the judge's considerations and decisions relate to the rejection of claim payments. The research method used in this study is normative, descriptive legal research with a legislative approach and a case study of court decisions, using secondary data with primary and secondary legal materials. The data collection method was conducted through literature study and deductive conclusions were drawn. The results of the study show that the regulation of the insurance company's responsibility in paying debtor life insurance claims as collateral for bank loan repayment is based on Article 246 of the Commercial Code concerning risk transfer agreements with premium payments, as well as Articles 1320 and 1338 of the Civil Code concerning the valid terms of an agreement and the obligation to implement it in good faith. Based on Court Decision Number 613/Pdt.G/2023/PN.Smg, unilateral termination of insurance cooperation without notification to the debtor violates Article 1338 Paragraphs (1) and (3) of the Civil Code. The judge ruled that the rejection of claims was contrary to the legal basis, so that the insurance company was still obliged to pay off the debtor's remaining credit to the bank. Thus, this decision reinforces the principle of *pacta sunt servanda* (agreements must be fulfilled) and provides legal certainty for debtors and heirs in legal relationships related to credit life insurance.

Keywords: Credit Agreement; Life Insurance; Insurance Claim.

Introduction

In banking practice, a credit agreement is a form of legal relationship between a bank as a creditor and a customer as a debtor, which is set out in a written agreement and forms the basis for the provision of loan facilities. This agreement specifies the rights and obligations of both parties, including provisions regarding collateral and debt repayment mechanisms. Banks, as financial intermediary institutions, have a responsibility to apply the prudential principle in order to avoid bad credit risks. One form of risk mitigation carried out by banks is to require

debtors to take out credit life insurance, which is a protection product that will pay off the remaining loan if the debtor dies before the loan tenor ends.¹

The loan agreement is made between the bank as the creditor and the other party as the debtor, whereby the debtor is obliged to repay the debt interest within a certain period. In practice, the guarantee contract is drawn up in writing, either in a private document or a notarial deed, or in a specific format determined by the bank. In banking practice, a guarantee agreement may be embodied in the form of a deed of acknowledgment of debt, namely a deed containing a unilateral statement by the debtor acknowledging that he or she indeed owes a certain amount of money to the creditor and undertakes to repay it in accordance with the agreed terms and conditions. Such a deed of acknowledgment of debt is usually drawn up as an authentic deed before a notary, thereby possessing perfect evidentiary value and being directly enforceable in the event of default. In the context of security, this deed is often accompanied by clauses concerning real security or personal guarantees, so that it functions not only as proof of the existence of a debtor–creditor relationship, but also as a legal basis for the creditor to demand payment or to execute the collateral if the obligation is not fulfilled.²

In contrast, a loan agreement (credit agreement) is a reciprocal (bilateral) contract that comprehensively governs the legal relationship between the bank as creditor and the customer as debtor, including the amount of the loan, the term, interest, the rights and obligations of the parties, events of default, and dispute resolution mechanisms. A loan agreement is consensual in nature and arises from the mutual consent of the parties, whereas a deed of acknowledgment of debt is more declaratory, as it merely affirms the existence of an already existing debt. Accordingly, the loan agreement constitutes the principal contract that gives rise to the legal relationship of indebtedness, while the deed of acknowledgment of debt serves as an evidentiary instrument that strengthens and facilitates proof and the enforcement of the creditor's rights.³

Another fundamental difference lies in their respective functions and legal consequences. A loan agreement regulates in full the entire legal framework of financing, including security arrangements and the legal protection of the parties, whereas a deed of acknowledgment of debt primarily emphasizes the acknowledgment of an obligation to pay a certain sum of money and is often used as the basis for direct execution (parate execution) or a simplified claim in the event of breach of contract. In practice, both instruments complement each other: the loan agreement serves as the foundation for the creation of the obligation, while the deed of acknowledgment of debt provides certainty and executorial force for the creditor

¹ Gunawan Widjaja, *Perjanjian Kredit Bank*, (Jakarta: Prenada Media Group, 2020), hlm. 27.

² Munir Fuady, *Hukum Perkreditan Kontemporer*, (Bandung: Citra Aditya Bakti, 2018), hlm. 67.

³ Bima Setyawan, "Kekuatan Pembuktian Akta Pengakuan Utang dalam Perjanjian Kredit Perbankan," *Jurnal Hukum dan Pembangunan Ekonomi*, Vol. 11 No. 1, Tahun 2023, hlm. 55.

in enforcing its rights.⁴ This guarantee agreement is generally in the form of a debt acknowledgment agreement, which acknowledges the debt of the debtor and the guarantor.⁵

In banking practice, the position between the debtor and creditor in a credit agreement is not balanced, because the bank as the creditor has a more dominant position, both in terms of control of information, administrative requirements, and economic power. Therefore, to minimize the risks arising from default or the debtor's inability to fulfill their payment obligations, credit agreements are generally not stand-alone, but are accompanied by additional agreements such as collateral agreements and life insurance agreements. Credit agreements are usually set out in the form of authentic deeds so that they have permanent legal force and can be used as valid evidence before the law.⁶

According to Article 246 of the Commercial Code (KUHD), "an insurance agreement occurs when an agreement has been reached between the policyholder and the insurance company, and mutual rights and obligations arise from that moment, even before the policy is signed." To prove that an agreement has been reached between the policyholder and the insurance company, evidence must be provided in the form of a written document called an insurance policy to prove that the insurance has taken effect.⁷ As written evidence, the contents of the policy must be clearly stated at so as not to complicate the implementation of the insurance.⁸ The policy also regulates the specific terms and conditions that form the basis for the fulfillment of rights and obligations to achieve the purpose of the insurance. In this case, if the borrower dies, the life insurance policy can be used to pay off part or all of the outstanding debt.

Thus, this can prevent credit from becoming stuck if there is an approved insurance claim. The existence of collateral in a bank credit agreement is very important as a means of legal protection for the bank's security in overcoming risks and obtaining certainty that the debtor will repay the loan.⁹

In a credit agreement, if the debtor dies and has taken out life insurance, the insurance company is responsible for processing the insurance claim and granting

⁴ Rendy Dwi Pratama, "Kedudukan Akta Pengakuan Utang dalam Perjanjian Kredit Perbankan," *Jurnal Hukum Bisnis dan Perlindungan Konsumen*, Vol. 5 No. 2, Tahun 2023, hlm. 112.

⁵ Dwi Evanti Andriani dan Hardian Iskandar, "Penyelesaian Kredit Dari Debitur Yang Meninggal Dunia Dengan Klaim Asuransi Jiwa" *Jurnal UNES law Review*, Vol.6, No.2, Tahun 2023, hlm. 6987.

⁶ Mochammad Iqbal Saputra, "Tanggung Jawab Pihak Asuransi Terhadap Perjanjian Kredit Bank Dalam Hal Debitur Meninggal Dunia" *Jurnal Syntax Literate* Vol.9, No.4, Tahun 2024, hlm. 2304.

⁷ Abdulkadir Muhammad, *Hukum Asuransi Indonesia* (Bandung: PT Citra Aditya Bakti, 1999, hlm. 58.

⁸ *Ibid.*

⁹ Anton Suyatno, *Kepastian Hukum Dalam Penyelesaian Kredit Macet Melalui Eksekusi Jaminan Hak Tanggungan Tanpa Proses Gugatan Pengadilan* (Jakarta: Prenadamedia Group, 2016), hlm. 28.

rights to the policyholder by ensuring that all necessary documents are submitted and evaluated in accordance with the terms of the policy. When a misfortune befalls the policyholder, the policyholder can file a claim, whereby at the time of policy creation, each party commits to guaranteeing compensation payments by the insurance company after the policyholder has paid the insurance premium.¹⁰

Claims can be submitted by heirs or appointed representatives by attaching the necessary documents. After that, the insurance company stipulates that claims can be submitted by the policyholder immediately after the occurrence of the insured event until the end of the coverage period with a maximum time limit of two years.¹¹

In practice, not all life insurance claims are approved by insurance companies. There are various reasons for claim rejection, such as violation of the principle of utmost good faith by the policyholder or heir, negligence in fulfilling the administrative requirements for the claim, and the existence of certain exclusion clauses in the insurance policy. This can lead to legal problems, especially when the insurance is a condition of credit provided by a bank.¹²

Life insurance claims in credit agreements are filed when the debtor dies before the credit is paid off. Credit life insurance policies guarantee the repayment of the remaining debt to the bank so that the risk of default does not become a burden on the heirs. However, claims may be rejected if the death does not comply with the policy provisions, such as suicide during the waiting period, or if there is a delay in premium payments. Complete documents such as a death certificate and proof of credit agreement are also important for claims to be processed smoothly. Therefore, understanding the policy and good communication between the bank, the debtor, and the insurance company are essential.¹³

One real example of a dispute related to credit life insurance claims occurred in Court Decision Number 613/Pdt.G/2023/PN Smg, in which Bank Perkreditan Rakyat Gunung Kawi as Defendant I and PT Jasaraharja Putera as Defendant II failed to fulfill their obligations under to settle the claim filed by the heirs of the deceased debtor. As a result, the bank suffered losses and did not receive any benefits from the credit agreement made with the insurance premium.

Bank Perkreditan Rakyat Gunung Kawi and PT Jasaraharja Putera did not provide any explanation to the debtor regarding the claims that had been submitted by the debtor. In fact, there had been an agreement to terminate the coverage of the credit insurance cooperation agreement between Bank Perkreditan Rakyat Gunung Kawi and PT Jasaraharja Putera, which was also not disclosed to the debtor. As a

¹⁰ Mohamad Nasir, *Book 4 Insurance Series on Financial Literacy in Higher Education* (Jakarta: Tirta Segara, 2019), hlm. 71.

¹¹ Mochammad Iqbal Saputra, *Op. Cit.*, hlm. 2301.

¹² Abdul Ghofur Anshori, *Hukum Asuransi di Indonesia*, (Yogyakarta: UII Press, 2020), p. 143.

¹³ Andi Harahap, " Analisis Sengketa Penolakan Klaim Asuransi Jiwa Kredit", *Jurnal Hukum Bisnis dan Perlindungan Konsumen*, Vol. 4 No. 1, 2023, hlm. 88.

result, the bank requested the debtor to settle the debt. However, the debtor had essentially paid the insurance premium and had entered into an agreement in the insurance policy, so the agreement must be fulfilled.

Based on the provisions of Article 1338 Paragraphs (2) and (3) of the Civil Code (KUH Perdata), "an agreement cannot be revoked except by mutual agreement of both parties and must be carried out in good faith". In the case as stated in Court Decision Number 613/Pdt.G/2023/PN Smg, the Panel of Judges at the Semarang District Court declared that the insurance agreement between the late Sarwono and PT Asuransi Jasaraharja Putera was valid and ordered the insurance company to pay the claim and the bank to return the collateral to the heirs.

To date, there has been no record of any further legal action at the appeal or cassation level, so the District Court's decision is final and binding (inkracht van gewijsde). This decision confirms that if the insurance company fails to fulfill its obligation to pay claims, it can be held liable in accordance with Article 52 of Law Number 40 of 2014 concerning Insurance, which gives policyholders or their heirs a stronger legal position to claim their rights through civil lawsuits in a general court.

Problem Formulation

The issues in this study are: how is the liability of insurance companies regulated in relation to the payment of life insurance claims as collateral for bank loan installments? then how is the liability of insurance companies in fulfilling life insurance claim payments as collateral for bank loan installments if the debtor dies, and finally, how is the analysis of the judge's considerations and decisions regarding the liability of insurance companies for life insurance claims as collateral for bank loan repayments upon the death of the debtor based on Court Decision Number 613/Pdt.G/2023/Pn.Smg?

Method

The type of research used in this study is normative juridical, supported by field research, namely "the type of research conducted by referring to primary legal materials by analyzing theories, concepts, legal principles, and laws and regulations relevant to this study."¹⁴ This research is descriptive in nature, namely "research that describes the laws and regulations related to the legal theories that are the object of the research."¹⁵ The research approach is "the approach used by researchers in determining the scope of the discussion aims to provide clarity and a deeper understanding of the substance of scientific work."¹⁶

¹⁴ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), hlm. 58.

¹⁵ Zainudin ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika,2015), hlm. 110.

¹⁶ Marinu Waruwu, "Pendekatan Penelitian Pendidikan: Metode Penelitian Kualitatif, Metode Penelitian Kuantitatif Dan Metode Penelitian Kombinasi (Mixed Method)," *Jurnal Pendidikan Tambusa*, Vol.7, No.1, Tahun 2023, hlm. 2899.

The data sources used are divided into two types, namely primary data sources and secondary data sources. Data collection in this study was conducted through library research supported by field research. The data analysis used in this study was qualitative, namely "by interpreting the processed legal materials with the aim of interpreting the law, namely in relation to existing legal materials".¹⁷

Discussion

1. Regulations on the Liability of Insurance Companies for the Payment of Debtor Life Insurance Policy Claims as Collateral for Bank Loan Installments

The insurance industry is a business sector engaged in financial services and collects public funds through premiums to be given to people who experience uncertain events. This type of insurance business is divided into property insurance, life insurance, and reinsurance. In addition to insurance agreements that must be fulfilled, Book I Chapter IX of the Commercial Law Code has specific requirements that must be met, namely the principles of insurance.¹⁸ The principles of insurance regulated in these laws and regulations are:

- a. The Insurable Interest Principle, which determines the validity of an insurance agreement. This principle states that "a person can only insure an object if they have a legal interest in that object, namely an interest that is recognized legally and economically to protect themselves from potential losses".¹⁹
- b. The principle of utmost good faith, "a principle that aims to protect the weaker party by requiring both parties to be open and truthful."²⁰
- c. The Indemnity Principle, which states that the main purpose of an insurance agreement is to restore the policyholder to the same financial position as before the loss occurred, not to provide profit.²¹ Thus, insurance functions as a mechanism of financial protection against actual loss, not as a means of enriching the insured. This principle was created to prevent moral hazard, which is "the policyholder's deliberate action to cause or increase loss in order to obtain insurance benefits."²²
- d. The principle of subrogation aims to prevent double recovery for the insured after receiving compensation from the insurer.²³ This principle gives the insurance company the right to take over the policyholder's rights in suing third parties who caused the loss after the insurance company has paid the claim. In

¹⁷ Muhaimin, *Op.Cit*, hlm. 63.

¹⁸ Sherlly Febrianty, "Industri Asuransi Jiwa Digital Dalam Perspektif Hukum Positif Indonesia", *Sriwijaya Journal of Private Law*, Vol.1 No.1, Tahun 2024, hlm.74.

¹⁹ Mamduh Hanafi, *Manajemen Risiko*, (Yogyakarta: UPP STIM YKPN, 2020), hlm. 15.

²⁰ *Ibid*, hlm. 848.

²¹ Suparman, *Hukum Asuransi: Prinsip dan Praktik dalam Industri Keuangan*, (Bandung: Refika Aditama, 2019), hlm. 61.

²² *Ibid*.

²³ Tri Widodo Santoso, *Legal Aspects of Insurance in Indonesia*, (Jakarta: Sinar Grafika, 2019), hlm. 74.

other words, after compensation is paid, the insurance company replaces the policyholder's legal position against the third party responsible for the loss, to the extent of the compensation paid.²⁴ The main purpose of this principle is to maintain balance and fairness in the legal relationship between the insurance company, the policyholder, and the third party, as well as to ensure that no party gains more than the actual value of the loss.²⁵

Insurance acts as a financial protection mechanism that provides guarantees to both parties against the possibility of undesirable events occurring during the credit period.²⁶ In this context, the insured object is the debtor's life, with the sum insured equal to the amount of the loan granted, using term life insurance, which is "a type of insurance that provides protection for a certain period of time, and insurance benefits will only be paid if the insured dies while the protection period is still valid".²⁷

Life insurance, as a financial protection instrument, plays an important role in Indonesia's legal and financial systems. To ensure legal certainty, transparency, and protection for all parties involved, including insurance companies, policyholders, and beneficiaries, life insurance activities have a legal basis. Legal regulations on life insurance are not only contained in specific laws such as Law Number 40 of 2014 concerning Insurance, but also in the Commercial Law Code, and are reinforced by various Financial Services Authority Regulations (POJK) as the supervisory agency for the non-bank financial industry.

Life insurance regulations in Indonesia are primarily governed by Law Number 40 of 2014 concerning Insurance, which replaces the old provisions in the Commercial Code. This law comprehensively regulates the legal form, licensing, ownership, and governance of life insurance companies as part of efforts to protect policyholders and maintain the stability of the insurance industry in Indonesia. Law Number 40 of 2014 establishes the legal basis that life insurance companies can only operate after obtaining a business license from the Financial Services Authority (OJK), which was previously under the supervision of the Ministry of Finance. This shows that licensing is not merely a formality, but a preventive supervisory instrument to ensure that only institutions that are financially sound and well-managed are allowed to sell life insurance products to the public.²⁸

²⁴ Raden Rara Sayyidati.dkk, "Penerapan Prinsip Subrogasi dalam Perjanjian Asuransi Pengangkutan atas Kerugian yang Disebabkan oleh Pihak Ketiga," *Jurnal PSHA*, Universitas Islam Indonesia, Vol.3 No.2, Tahun 2023, hlm. 44.

²⁵ Diah Irianti Permana. dkk, "Penerapan Prinsip Indemnitas dan Subrogasi dalam Klaim Asuransi Umum", *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum dan Keadilan*, Vol. 14 No. 2, Tahun 2023, hlm. 23.

²⁶ Roslima Sitorus.dkk, "Implementasi Polis Asuransi Jiwa sebagai Jaminan Kredit pada Perbankan", *Jurnal Ilmu Hukum*, Vol.10 No.2, Tahun 2022, hlm. 226.

²⁷ Hikmah Rahmah, "Analisis Asuransi Jiwa Kredit Pada Lembaga Keuangan Mikro Berdasarkan Jenis Kelamin," *Binawan Student Journal (BSJ)*, Vol.3 No.3, Tahun 2021, hlm. 30.

²⁸ Dwi Lestari, *Hukum Perasuransian di Indonesia: Regulasi dan Implementasi*, (Jakarta: Prenadamedia, 2021), hlm. 55.

In addition to the law, more technical regulations regarding licensing are stipulated in various OJK Regulations (POJK). One of these is POJK Number 67/POJK.05/2016 concerning Business Licensing and Institutional Life Insurance Companies, which regulates the procedures for applying for a business license, minimum capital requirements, ownership structure, and risk management that life insurance companies must comply with. This regulation emphasizes the obligation of companies to submit supporting documents such as business plans, director profiles, and internal control systems before a license is issued. The POJK also regulates the obligation to report periodically to the OJK after a company obtains a business license, including quarterly financial reports, solvency levels (Risk Based Capital), and risk management reports. These provisions are intended to ensure consumer protection and support the stability of the national financial system.²⁹ Then there is POJK Number 69/POJK.05/2016 concerning the Implementation of Insurance Business, which regulates the procedures for marketing life insurance products, the formation of technical reserves, claim payment mechanisms, and provisions regarding risk-based supervision. This regulation emphasizes the principles of transparency and disclosure of information to policyholders.³⁰ Furthermore, the OJK also issues OJK Circular Letters (SEOJK) that serve as technical guidelines for the implementation of POJK, for example, regarding the submission of periodic reports, consumer complaint mechanisms, and restrictions on the placement of investments by life insurance companies. With the SEOJK, the OJK can monitor the compliance of life insurance companies in more detail.³¹

In credit agreements, banks often require debtors to insure themselves, i.e., the debtor as the policyholder. Insurance aims to reduce the bank's risk of loss due to damage or loss of collateral. This obligation is stated in Article 2 and Article 29 Paragraph (2) of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, which states that "banking business activities must be carried out based on the prudential principle and sound management". This means that before granting credit, banks are required to assess the eligibility of debtors through a comprehensive analysis of character, capacity, capital, collateral, and economic conditions, known as the 5C principle (Character, Capacity, Capital, Collateral, Condition of Economy).³²

In insurance law, insurance companies are not only referred to as claim holders, but also as insurers who have the authority to manage risks and pay benefits

²⁹ Putu Arya Mahendra, "Analisis Perizinan Usaha Perusahaan Asuransi Jiwa Berdasarkan POJK Nomor 67/POJK.05/2016", *Jurnal Regulasi dan Industri Keuangan*, Vol.8, No.2, Tahun 2023, hlm. 77.

³⁰ Rachmawati Dewi, "Perlindungan Konsumen Melalui Pengaturan Pelaporan Berkala Perusahaan Asuransi Jiwa." *Jurnal Hukum Bisnis Kontemporer*, Vol.5, No.1, Tahun 2022, hlm. 44.

³¹ Siti Hidayah, "Pengawasan Berbasis Risiko pada Perusahaan Asuransi Jiwa oleh OJK." *Jurnal Ilmu Hukum dan Kebijakan Publik*, Vol.11, No.3, Tahun 2023, hlm. 109.

³² Wahyu Adi Nugroho, *Hukum Perbankan di Indonesia*, (Yogyakarta: Deepublish, 2021), hlm. 102.

if an event covered by the policy occurs. In certain situations, insurance companies may have the right of recourse or subrogation, which is "the right to replace the insured or policyholder in suing a third party who caused the loss, after the insurance company has paid the claim to the policyholder."³³ Insurance companies also have the right to reject claims if the terms and conditions in the policy are not met, including if there is misrepresentation of information, breach of obligations, or excluded risks.³⁴

In the context of life insurance, according to the third party interest theory, the party that has an interest in the benefits of the agreement is referred to as the beneficiary, because they obtain the right to a claim based on an explicit designation in the insurance policy.³⁵ Insurance companies have an obligation to pay claims to banks as long as the loss event occurs within the scope of coverage and there is no violation of the policy terms by the insurance company. Therefore, this legal relationship is not solely contractual between the insurance company and the policyholder, but also creates rights for third parties, namely banks as beneficiaries.³⁶

The insurance company's liability is also closely related to the principle of indemnity or compensation. However, in life insurance, this principle is modified because the claim value is not solely based on the actual loss value, but on a previously agreed amount.³⁷ Therefore, the insurance company's responsibility to pay claims does not depend on the extent of the bank's losses due to the death of the debtor, but on the amount of coverage stated in the policy. This provides convenience and clarity for the bank, but also requires clarity in the initial policy arrangements so as not to cause differences in interpretation.³⁸

The legal responsibility of an insurance company arises from the moment a valid policy is agreed upon, as long as there are no exceptions in the terms of the agreement. If an insurance company refuses to pay a claim even though the administrative and legal requirements have been met, it can be considered a breach of contract. In practice, insurance companies are also bound by the principle of utmost good faith, which is "the obligation to convey accurate and complete information during the agreement process, both from the policyholder and the insurance company." If the debtor dies and the required documents have been submitted by the creditor as the beneficiary, the insurance company is obliged to

³³ Muhammad Djumhana, *Hukum Asuransi Indonesia* (Bandung: Citra Aditya Bakti, 2006), hlm. 115.

³⁴ Pasal 39 Undang-Undang Republik Indonesia Nomor 40 Tahun 2014 tentang Perasuransi.

³⁵ Agoes Parera, *Hukum Asuransi Di Indonesia* (Yogyakarta: PT Kanisius, 2019), hlm. 127.

³⁶ Munir Fuady, *Asuransi Hukum Dan Praktik* (Bandung: Citra Aditya Bakti, 2011), hlm. 123.

³⁷ Retno Wulansari, "Pemaknaan Prinsip Kepentingan Dalam Hukum Asuransi Di Indonesia," *Jurnal Panorama Hukum* Vol.2, No.1, Tahun 2017, hlm. 109.

³⁸ Herris B. Simandjuntak, *The Power of Values in the Uncertain Business World* (Jakarta: Gramedia Pustaka Utama, 2004), hlm. 43.

fulfill the claim payment in accordance with the provisions of the policy and laws and regulations.³⁹ In the case of credit life insurance, the beneficiary is generally the bank, considering that the policy is formed as collateral for loan repayment. Therefore, when the debtor dies, the insurance company has a legal obligation to pay off the remaining credit obligations in accordance with the provisions of the previously agreed policy. In terms of claim settlement, insurance companies are required to settle claim payments within a specified period. This provision aims to avoid delays in claim payments that could harm the bank as the beneficiary or the debtor's heirs. In addition, the Financial Services Authority (OJK) has the authority to impose administrative sanctions on insurance companies that are negligent in fulfilling their claim obligations, including revoking their business licenses if necessary. This is a form of legal protection provided by the state to ensure legal certainty for all parties involved in insurance agreements.⁴⁰

Law Number 40 of 2014 concerning Insurance provides a strong legal basis for the liability of insurance companies in paying claims on debtor life insurance policies used as collateral for bank loans. The article that explicitly regulates this is Article 53 Paragraph (1), which states that "insurance companies are obliged to pay claims in accordance with the policy agreement that has been agreed upon with the policyholder or the entitled party, including creditors or banks if they are appointed as beneficiaries of the policy." This provision emphasizes that credit life insurance policies are part of legal protection for debtors and creditors, so that insurance companies have a legal obligation to pay claims when insured risks occur, such as the death of the debtor during the credit period.⁴¹ This prevents disputes between banks, debtors/heirs, and insurance companies, because the obligations of insurance companies are clearly determined by law.⁴²

The obligation to repay credit for the benefit of creditors in the context of insurance companies' liability for the payment of debtor life insurance policy claims as collateral for bank credit installments is rooted in Article 8 Paragraph (1) of Law No. 10 of 1998, which regulates the obligation of banks to carefully assess the credit collateral submitted, including credit life insurance as a form of protection against creditor risk. This article emphasizes that "banks have the right to request additional collateral in the form of a debtor's life insurance policy to ensure that the credit can be repaid if the debtor dies."⁴³

³⁹ Safitri, "Perlindungan Hukum Nasabah Kredit dalam Asuransi Jiwa Kredit", *Jurnal Hukum dan Peradilan*, Vol.11, No.1, Tahun 2022, hlm. 54.

⁴⁰ Suhawan, *Op. Cit.*, hlm. 77.

⁴¹ Ratih Sasmita, "Perlindungan Hukum Debitur Melalui Polis Asuransi Jiwa Kredit", *Jurnal Hukum dan Bisnis Perbankan*, Vol. 5, No.2, Tahun 2023, hlm. 88.

⁴² Tika Indriani, "Tanggung Jawab Perusahaan Asuransi dalam Pembayaran Klaim Polis Jiwa Kredit." *Jurnal Kebijakan Jasa Keuangan*, Vol.4, No.1, Tahun 2023, hlm. 66.

⁴³ Maya Yulianti, "Peran Asuransi Kredit dalam Perlindungan Kreditur", *Jurnal Ekonomi dan Hukum Keuangan*, Vol. 11, No. 1, Tahun 2023, hlm. 95.

Furthermore, Article 11 Paragraph (1) of Law No. 10 of 1998 also stipulates that "credit distribution must take into account the principle of prudence, so that collateral in the form of credit life insurance policies must be managed properly so that claims can be used to repay the debtor's remaining obligations." This article reinforces the position of the creditor as the beneficiary of the policy, so that the insurance company is responsible for paying the claim for the purpose of repaying the debtor's credit.⁴⁴ On the other hand, the mechanism for transferring insurance claim benefits to creditors is in line with Article 29 Paragraph (2) of Law No. 10 of 1998, which stipulates that "banks must maintain the health and security of loans disbursed through risk management, including credit insurance." Thus, banks have a legal basis to receive life insurance claims payments from debtors to cover the remaining credit so that the rights of creditors are legally protected.⁴⁵

In the event of the debtor's death, the insurance company is obliged to pay the claim to the party designated as the beneficiary, which in this context is usually the bank as the creditor. This provision is in line with the basic principles of insurance agreements as stipulated in Law Number 40 of 2014 concerning Insurance and clarified through Financial Services Authority Regulation (POJK) No. 69/POJK.05/2016 concerning the Implementation of Insurance Business.⁴⁶ This regulation emphasizes that "insurance companies are obliged to fulfill their claim payment obligations in accordance with the provisions of the policy and applicable laws, thereby providing legal protection for both debtors and creditors."

The article that directly forms the legal basis for the obligation of insurance companies to pay debtor life insurance policy claims, including if the beneficiary is a bank as a creditor, is contained in Article 53 Paragraph (1) of Law Number 40/Year 2014 on Insurance, which requires insurance companies to make claim payments in accordance with the policy provisions and agreements made with the policyholder or the party entitled to receive the benefits. This provision emphasizes that if a life insurance policy is made to guarantee credit obligations, the insurance company is obliged to pay the benefits to the designated party. For example, a bank as the beneficiary, as long as the terms and conditions of the policy are met.⁴⁷

If an insurance company fails to fulfill its obligation to pay valid claims, the Insurance Law regulates administrative law enforcement mechanisms, including the authority of the Financial Services Authority to impose administrative sanctions as stipulated in the provisions of the law, so that there are legal consequences for negligent companies. In summary, the combination of Article 53 of Law No.

⁴⁴ Agus Rahardjo, *Prinsip Kehati-hatian dalam Penyaluran Kredit Bank*, (Bandung: Refika Aditama, 2018), hlm. 101.

⁴⁵ Bagus Santika, "Kedudukan Bank sebagai Penerima Manfaat Polis Asuransi Jiwa Kredit." *Jurnal Hukum dan Bisnis Keuangan*, Vol.5, No.3, Tahun 2023, hlm. 122.

⁴⁶ Peraturan Otoritas Jasa Keuangan Nomor 69/POJK.05/2016 tentang Penyelenggaraan Usaha Asuransi.

⁴⁷ Kartini Mulia, "Perlindungan Kreditur melalui Penunjukan Beneficiary pada Polis Asuransi Jiwa Kredit." *Jurnal Hukum dan Keuangan Nasional*, Vol. 7, No.1, Tahun 2022, hlm. 34.

40/2014 and POJK 69/POJK.05/2016 forms a legal framework that requires the payment of claims to beneficiaries (including banks), regulates the procedures for implementing claims, and guarantees sanctions if insurance companies do not fulfill their obligations, so that legal certainty for creditors and debtors remains protected.⁴⁸

In practice, the bank's Standard Operating Procedures (SOP) stipulate that credit life insurance claims are submitted by the bank as the policyholder, so that the bank's internal procedures also play an important role in determining the speed of the claims process.⁴⁹ The bank's SOP also regulates the opening of policies, the appointment of beneficiaries, and claims procedures, which are important aspects that determine the success of their implementation. The bank's internal SOP must be prepared with reference to POJK provisions and prudential practices to ensure that the legal interests of all parties are protected.⁵⁰

2. The Responsibility of Insurance Companies in the Administration of Life Insurance Claim Payments as Guarantees for Bank Loan Installment Payments in the Event of the Debtor's Death

Risk is "a central concept in the world of insurance because it forms the basis of all insurance business activities."⁵¹ In the context of insurance, risk is understood as "the possibility of an undesirable event occurring, which can cause financial loss to the policyholder."⁵² An insurance agreement is essentially an aleatory contract, namely "a contract whose outcome depends on an uncertain event, namely the occurrence of risk."⁵³ Thus, risk is not only the basis of the legal relationship between the parties, but also a key element in assessing the insurance company's obligation to pay insurance benefits.⁵⁴

In insurance, insurable risks must meet basic principles such as insurable interest, utmost good faith, indemnity, and proximate cause. These principles serve as guidelines in assessing whether a risk is acceptable for an insurance company to cover.⁵⁵ For example, in life insurance, the insured risk is the death of the

⁴⁸ Nurhadi, "Kepastian Hukum bagi Kreditur dalam Asuransi Jiwa Kredit: Tinjauan UU Perasuransi dan POJK", *Jurnal Kebijakan Hukum dan Keuangan*, Vol. 2, No.1, Tahun 2024, hlm. 12.

⁴⁹ Pardjo YAP, *Mnajemen Risiko Perusahaan* (Jakarta: Growing Publishing, 2017), hlm. 84.

⁵⁰ Bank Indonesia, *Pedoman Umum Standar Operasional Prosedur (SOP) Perbankan*, (Jakarta: Bank Indonesia, 2020), hlm. 46.

⁵¹ Agung Wibowo, *Prinsip-Prinsip Manajemen Risiko dan Asuransi*, (Bandung: Refika Aditama, 2018), hlm. 21.

⁵² Riza Setiawan, "Risiko dan Perlindungan Pemegang Polis: Kajian Normatif UU Nomor 40 Tahun 2014 tentang Perasuransi", *Jurnal Hukum Ekonomi Indonesia*, Vol. 9, No. 2, 2023, hlm. 112.

⁵³ Suhrawardi K. Lubis, *Hukum Perikatan Islam Dan Asuransi Syariah* (Bandung: Pustaka Setia, 2011), hlm. 76.

⁵⁴Muh. Sabir.M et al., *Manajemen Risiko* (Bali: Intelektual Manifes Media, 2023), hlm. 98.

⁵⁵ Toto Sugiharto, *Asuransi Dan Manajemen Risiko* (Yogyakarta: UPP STIM YKPN, 2010), hlm. 33.

policyholder within a certain period of time. The risk must be objective and verifiable so that the insurance company can accurately calculate the premium amount and the necessary reserve funds. In practice in Indonesia, insurance companies are also regulated to implement risk management in accordance with OJK Regulation No. 44/POJK.05/2020 concerning the Implementation of Risk Management for Non-Bank Financial Services Institutions.⁵⁶

Credit life insurance is specifically designed to provide protection against the risk of debtor death during the loan period. The main risk anticipated is the death of the debtor during the outstanding credit period, which could potentially lead to a cessation of installment payments. The first and foremost risk anticipated in credit life insurance is the risk of the debtor's death during the loan period. If the debtor dies, the remaining loan obligations will be paid by the insurance company to the creditor, thereby minimizing the risk of financial loss to the bank.⁵⁷ In addition to the risk of death, the risk of total permanent disability is also included in the protection provided by credit life insurance. Total permanent disability is a condition in which the debtor is no longer able to work permanently, either due to an accident or illness. In some insurance products, this risk is covered as an additional benefit, depending on the policy content and initial agreement.⁵⁸ This risk is important because it directly affects the debtor's ability to pay their loan installments.

Credit life insurance must also anticipate the risk of moral hazard, which is "deliberate actions by the policyholder or other parties to manipulate the situation in order to obtain insurance benefits illegally."⁵⁹ This risk can arise if the debtor conceals their actual health condition or even colludes with family members and hospitals to hasten death in order to obtain a claim. Therefore, the application of the principle of utmost good faith and strict underwriting procedures are important in preventing moral hazard.

Adverse selection risk, which is "the risk that occurs when an insurance company accepts high-risk prospective policyholders without adequate selection, which can cause the company to receive more claims than the premiums collected, thereby jeopardizing the sustainability of the insurance business."⁶⁰ To overcome this, insurance companies conduct risk assessments based on age, occupation, health, and loan value.

From the insurance company's perspective, financial risks such as the imbalance between premium income and claim payments must also be taken into

⁵⁶ Peraturan OJK Nomor 44/POJK.05/2020 tentang Penerapan Manajemen Risiko bagi Lembaga Jasa Keuangan Non-Bank.

⁵⁷ Abdulkadir Muhammad, *Op.Cit*, hlm. 62.

⁵⁸ M.N. Nasution, *Op. Cit*, hlm. 51.

⁵⁹ Suhrawardi K. Lubis, *Op. Cit*, hlm. 88.

⁶⁰ Millania Tri Rahmadhani and Novina Sri Indiraharti, "Tinjauan Yuridis Mengenai Prinsip Itikad Baik Dalam Penolakan Klaim Asuransi Jiwa Kredit," *Jurnal Reformasi Hukum Trisakti*, Vol.4, No. 5, Tahun 2022, hlm. 1098.

account. OJK data shows that the credit insurance claim ratio in Indonesia has been quite high in recent years, putting pressure on the profitability of insurance companies.⁶¹ The exclusion clause is an important part of credit life insurance policies that explicitly states the circumstances or events that are not covered by the insurance company. so that if a risk occurs in a situation covered by this clause, the insurance company has the right not to pay the claim. This aims to regulate the insurance company's liability limits, maintain the company's financial sustainability from actuarially unpredictable risks, and prevent moral hazard from policyholders or other parties with an interest in the coverage.⁶² The following are exclusion clauses in credit life insurance:

a. Waiting Period

This clause sets a time limit (usually 1-2 years from the date the policy is issued) during which the insurance company may reject claims if important information, such as initial health conditions, is found to have been concealed. If it is found that the debtor concealed a chronic illness that existed before the policy took effect, the claim may be rejected on the basis of a violation of the principle of utmost good faith.⁶³

b. Exclusions for Suicide, Criminal Acts, and Illegal Activities

Death caused by suicide within a certain period, death resulting from involvement in criminal acts, or high-risk activities (such as non-regular flights, warfare) are generally not covered.⁶⁴ This type of exclusion is a form of protection for insurance companies against claims that do not reflect pure risk.⁶⁵

c. Payment Suspension Clause

Some policies include a clause stating that the company has the right to delay payment of claims or credit settlements for up to 6 months from the date of claim submission, unless the death was caused by an accident. This is to prevent fraudulent claims or manipulation.⁶⁶

d. Pre-existing Conditions

Conditions that existed before the policy took effect (such as HIV/AIDS, hypertension, cancer) are usually excluded if they are not disclosed when filling

⁶¹ Kontan, "OJK Soroti Risiko Dan Ketidakseimbangan Premi Dalam Asuransi Kredit," 2025, <https://www.kontan.co.id/>, diakses pada tanggal 21 Juni 2025, pukul 06.48

⁶² Akhmad Faqih Mursid, "Perjanjian Kredit Yang Mencantumkan Klausula Asuransi Jiwa," *Jurnal Justisi*, Vol.4, No.2, Tahun 2018, hlm. 117

⁶³ Amisa Utami and Herwastoeti Herwastoeti, "Perlindungan Hukum Terhadap Konsumen Atas Penjualan Obat-Obatan Ilegal Secara Online," *Jurnal Hukum Tata Negara, Hukum Administrasi, Pidana Dan Perdata*, Vol.1, No.2, Tahun 2022, hlm. 99

⁶⁴ Asri Sarif, "Implikasi Hukum Klausula Asuransi Jiwa Dalam Perjanjian Kredit Perbankan," *Jurnal Halu Oleo Law Review* Vol.3, No.2, Tahun 2019, hlm. 311

⁶⁵ Materi AAJI, "Klausul Pengecualian & Penundaan," 2015. <https://www.scribd.com/document/634342349/MATERI-AAJI> diakses pada tanggal 21 Juni 2025, pada pukul 07.33

⁶⁶123dok, "Hukum Asuransi BAB 1 Pengantar Asuransi Jiwa," 2015. <https://text-id.123dok.com/document/7qvpr40q-hukum-asuransi-bab-1-pengantar-asuransi-jiwa.html> diakses pada tanggal 21 Juni 2025, pada pukul 07.39

out the form. Conditions like this are not covered because they are high risk and can undermine the actuarial principles of premiums and payment expectations.⁶⁷

Claims on behalf of a deceased debtor are highly dependent on the structure of the insurance agreement between the debtor, the bank as the creditor, and the insurance company. In a credit life insurance scheme, the bank acts as the beneficiary of the policy. Based on the policy provisions with a banker's clause, the debtor or their heirs file a claim with the insurance company, but the proceeds are paid directly to the creditor to settle the remaining debt.⁶⁸

The mechanism for filing a credit life insurance claim begins with the obligation of the heirs or the debtor to submit a claim application to the insurance company by attaching supporting documents in the form of an insurance policy, the debtor's death certificate, and proof of legal relationship with the debtor. This provision follows the basic principles of insurance agreements as stipulated in Law No. 40 of 2014 concerning Insurance, which requires the payment of claims to the entitled parties as long as the administrative requirements are met.⁶⁹ Furthermore, the bank as the creditor usually acts as the beneficiary named in the policy, so that the insurance company has a legal obligation to verify the accuracy of the debtor's data, loan status, and claim documents submitted before paying insurance benefits to ensure the accuracy and transparency of claim payments. This verification process refers to the technical standards described in POJK No. 69/POJK.05/2016 concerning the Implementation of Insurance Business, which requires insurance companies to settle claims fairly, quickly, and transparently and to publish claim procedures to policyholders or heirs so that legal certainty and consumer protection can be fulfilled.⁷⁰

After the claim is verified and declared valid, the insurance company pays the claim benefits to the bank as the creditor to settle the remaining credit obligations of the deceased debtor; this mechanism provides certainty for both parties because the debtor's remaining debt is covered by insurance funds, while the heirs are free from credit obligations. If the insurance company delays or refuses to pay the claim without a valid reason, the debtor or heirs can file an objection or dispute resolution through the financial services consumer dispute resolution mechanism, either through internal dispute resolution, the Indonesian Insurance Mediation Agency (BMAI), or a lawsuit in court, so that the rights of the debtor are

⁶⁷ Allianz Indonesia, "Kenali Klausul-Klausul Yang Ada Dalam Polis Asuransi Jiwa," 2020. <https://www.allianz.co.id/explore/agar-tak-salah-paham-kenali-klausul-klausul-yang-ada-dalam-polis-asuransi-jiwa-part-2.html>, diakses pada tanggal 21 Juni 2025, pukul 07.46.

⁶⁸ Juneidi D. Kamil, "Banker's Clause Bentuk Mitigasi Risiko Kredit," Analisa Daily, 2019. <https://analisadaily.com/berita/arsip/2019/2/13/692920/bankers-clause-bentuk-mitigasi-risiko-kredit>, diakses pada tanggal 21 Juni 2025, pukul 08:29.

⁶⁹ Aditya Santoso, *Hukum Asuransi di Indonesia: Teori dan Praktik*, (Jakarta: Prenada Media, 2018), hlm. 144.

⁷⁰ Sari Widyaningsih, "Penunjukan Bank sebagai Penerima Manfaat dalam Polis Asuransi Jiwa Kredit: Analisis Perlindungan Hukum Kreditur", *Jurnal Asuransi dan Perbankan Indonesia*, Vol. 6, No.2, Tahun 2023, hlm. 45.

protected and the insurance company remains subject to supervision by the Financial Services Authority.⁷¹

Forms of Insurance Company Responsibility in the Administration of Insurance Claim Payments:

a. Compensation

An insurance claim is "a demand from the policyholder due to a contractual agreement with the insurance company to guarantee compensation payments as long as the premiums have been paid by the policyholder."⁷² In other words, a claim is "a formal request submitted by the policyholder to the insurance company to make a payment to the policyholder or premium recipient due to an event in accordance with the contents of the policy."⁷³ The purpose of an insurance claim is the most important thing in insurance. An insurance claim is "a request submitted officially by a customer to an insurance company with the aim of requesting the agreed funds." In this case, an insurance company will provide a certain amount of funds as compensation to the customer in accordance with the initial agreement. A customer must meet a number of insurance claim requirements so that the required funds can be disbursed immediately.⁷⁴ The policy can be used as evidence in insurance claims between the policyholder and the insurance company, whether settled through litigation or non-litigation. In general, problems often arise in relation to the contents of the insurance agreement or policy. This is because the contents of the policy generally contain standard agreements that are often not in accordance with laws and regulations because they can give rise to various perceptions or multiple interpretations by the parties. In this case, the insurance company uses the contents of the agreement to limit the policyholder's responsibility in fulfilling their obligations, namely paying compensation or exonerating them.⁷⁵

b. Compensation

An insurance agreement is a consensual agreement, meaning that it is a "reciprocal agreement that creates rights and obligations between the parties entering into the agreement." Therefore, if an uncertain event occurs, namely the death of a person, the heirs are entitled to compensation from the insurance company. However, if the life insurance policy expires, the policyholder is also

⁷¹ Firman Ramadhan, "Mekanisme Penyelesaian Sengketa Klaim Asuransi Jiwa Kredit di Indonesia," *Jurnal Hukum dan Regulasi Keuangan*, Vol. 3, No.1, Tahun 2024, hlm. 12

⁷² Tri Reni Novita, dkk, "Perlindungan Hukum Bagi Nasabah Asuransi Kesehatan Berdasarkan Undang-Undang No. 40 Tahun 2014", *Jurnal Unes Law Review*, Vol. 6 No. 2, Tahun 2023, hlm. 4441

⁷³ *Ibid*, hlm. 442

⁷⁴ Geradine Gloria, "Suatu Tinjauan Terhadap Sengketa Pembayaran Klaim Asuransi Atas Dasar Ex-Gratia Melalui Arbitrase", *Lex Privatum*, Vol.14, No.2, 2024, hlm. 2

⁷⁵ Jericho Jacsson Salur, dkk. "Perlindungan Hukum Terhadap Pemegang Polis Asuransi Kesehatan Berdasarkan Hukum Positif Di Indonesia", *Jurnal Fakultas Hukum*, Vol.15, No.4, Tahun 2025, hlm. 4

entitled to receive a sum of money from the insurance company, the amount of which has been determined based on the agreement.⁷⁶

The compensation is paid to members of the public who have had an accident or misfortune while using public transportation. The public is entitled to compensation if an accident occurs during the trip, whether in the form of injury, disability, or death, through a predetermined procedure. From an academic perspective, this form of liability also serves as an indicator of the company's compliance with the principles of indemnity and insurable interest, because the compensation paid must be in accordance with the coverage value stated in the policy and may not exceed or be reduced without legal justification.⁷⁷

c. Premium Refund or Restitution

Premium refunds or restitution are "a form of liability provided by insurance companies if the insurance agreement ends or is canceled for reasons that are legally valid."⁷⁸ This restitution is carried out by returning a portion of the premium that has been paid by the policyholder, either in full or in part, depending on the provisions of the policy and the reason for the cancellation. For example, if the insurance agreement is canceled before the risk begins, the premiums that have been paid must be refunded in full. However, if the risk has already been partially covered, the premium refund is made proportionally according to the coverage period that has not yet been completed.⁷⁹

On the other hand, this liability mechanism is inseparable from the principles of fairness, legal certainty, and proportionality. Life insurance is different from property insurance because the object of coverage is human life, so the value of the coverage benefit is determined based on the agreement in the policy, not based on the actual amount of loss. This often leads to differences in interpretation in the settlement of claims, especially if there are policy clauses that are considered detrimental to one of the parties. Therefore, in drafting policies, insurance companies are required to use language that is clear, transparent, and easily understood by policyholders so as not to cause disputes in the future.⁸⁰

The responsibility of insurance companies in the context of credit life insurance is rooted in the basic principle of insurance agreements that the risk transferred from the policyholder to the insurance company will be covered in accordance with the policy provisions if a covered event occurs. When the debtor dies, the insurance company is obliged to pay the claim to the beneficiary named in

⁷⁶ Muhammad Syakir Sula, *Asuransi Syariah Life And General Konsep Dan Sistem Operasional*, (Jakarta: Gema Insani Press, 2014), hlm. 259

⁷⁷ Daru Aqilla, *Hukum Asuransi dan Perlindungan Konsumen*, (Bandung: Refika Aditama, 2019), hlm. 132

⁷⁸ Budi Hutagalung, *Perlindungan Hukum terhadap Tertanggung dalam Perjanjian Asuransi*, (Bandung: Alumni, 2018), hlm. 102

⁷⁹ Syahputra, *Prinsip-Prinsip Hukum Asuransi di Indonesia*, (Jakarta: Prenadamedia Group, 2017), hlm. 158

⁸⁰ Bambang Suryono, *Perjanjian Asuransi: Teori dan Praktik di Indonesia*, (Malang: UB Press, 2016), hlm. 133

the policy, in this case usually the bank as the creditor, as expressly stipulated in Article 53 Paragraph (1) of Law Number 40 of 2014 concerning Insurance, which states that "insurance companies are obliged to pay claims in accordance with the agreement made".⁸¹ The designation of the bank as the beneficiary is not merely an administrative formality, but a substantive clause that reflects the mechanism for protecting the interests of creditors; thus, the insurance company is legally obliged to distribute the claim payment to the bank to cover the remaining obligations of the debtor's credit, thereby creating legal certainty, protecting the bank's financial position, and reducing the potential for disputes with the heirs.⁸²

The insurance company's responsibility also includes administrative obligations in the form of verification and validation of claim documents, including death certificates, insurance policies, credit agreements, and proof of beneficiary designation. This process is regulated in detail in POJK No. 69/POJK.05/2016 concerning the Implementation of Insurance Business, which requires insurance companies to settle claims in a timely, transparent, and fair manner. In practice, insurance companies will conduct a brief investigation to ensure the accuracy of the data, the legality of the credit relationship, and the suitability of the policy terms with the debtor's death. This investigation process aims to prevent moral hazard and maintain the sustainability of the credit life insurance system.⁸³ Once the verification is complete and the claim is deemed valid, the insurance company must immediately pay the claim to the bank as the creditor in accordance with the amount stated in the policy agreement. This payment is final and binding, so that the debtor's remaining credit obligations are considered paid off. This mechanism provides dual protection: for the bank as the creditor, as it receives certain repayment, and for the debtor's heirs, as they are freed from the credit obligation. The payment of claims by the insurance company also reaffirms the function of credit life insurance as an instrument for mitigating the risk of default in the increasingly complex banking sector based on prudential banking.⁸⁴

Thus, the responsibility of insurance companies in fulfilling credit life insurance claims not only covers financial aspects but also reflects legal, administrative, and ethical responsibilities. These obligations are based on policy agreements, regulatory norms, and OJK supervision and sanction mechanisms, thereby ensuring legal certainty, consumer protection, and the sustainability of the credit life insurance system in Indonesia. This structure emphasizes that credit life

⁸¹ Adnan Ramlili, *Hukum Perasuransi Indonesia: Teori dan Praktik Modern*, (Jakarta: Sinar Grafika, 2018), hlm. 175

⁸² *Ibid*, hlm. 178

⁸³ Hidayati, "Perlindungan Kreditur melalui Penunjukan Bank sebagai Beneficiary Asuransi Jiwa Kredit." *Jurnal Regulasi dan Hukum Keuangan*, Vol. 5, No.1, Tahun 2023, hlm. 44

⁸⁴ Bima Setyawan, "Verifikasi Klaim Asuransi Jiwa Kredit sebagai Upaya Menghindari Moral Hazard." *Jurnal Hukum dan Bisnis Asuransi*, Vol. 4, No.2, Tahun 2022, hlm. 70

insurance is not merely a financial product but also a socio-economic protection mechanism integrated into the national financial services legal system.⁸⁵

3. Analysis of the Judge's Considerations and Decision Regarding the Liability of Insurance Companies for Life Insurance Claims as Bank Loan Repayment Guarantees in the Event of Debtor Death Based on Court Decision Number 613/Pdt.G/2023/Pn.Smg

Based on Court Decision Number 613/Pdt.G/2023/PN. Smg, the plaintiff in this case is Suprihati, the wife of the late Sarwono bin Suwadi, who sued PT. BPR Gunung Kawi as Defendant I and PT. Asuransi Jasaraharja Putera as Defendant II. The case stems from a loan agreement made by the late Sarwono with PT. BPR Gunung Kawi on December 18, 2019, in the amount of Rp. 200,000,000, with a term of 60 months until December 18, 2024. The loan was secured by a Certificate of Ownership No. 00994 in the name of Sarwono and the payment of life insurance premiums amounting to IDR 2,597,400 to PT. Asuransi Jasaraharja Putera, through BPR as an intermediary. However, the insurance policy was never given or delivered to Sarwono or his wife until this lawsuit was filed. On May 29, 2022, Sarwono passed away. Shortly thereafter, in June 2022, the BPR approached Suprihati and informed her that the remaining balance of Sarwono's loan would be covered by insurance. Suprihati was asked to fill out a claim form and submit supporting documents, which the family then did. However, after the claim was submitted, there was no clarity from either the BPR or the insurance company. Suprihati and her legal counsel visited the BPR office several times to inquire about the progress of the insurance claim and the return of the land certificate collateral, but did not receive a definite answer. In September 2023, the BPR invited the plaintiff's legal counsel to mediation, but no agreement was reached. In a subsequent meeting on November 3, 2023, the BPR stated that the insurance claim had been paid in the amount of IDR 96,000,000 and asked Suprihati to pay off the remaining loan of IDR 104,310,333. However, when asked to show proof of the insurance payout and the basis for calculating the remaining debt, the BPR was unable to provide it. Even at the meeting on November 17, 2023, the BPR changed its statement again, stating that the insurance claim had been rejected by the insurance company and that they would appeal the rejection. However, there was no written evidence of the rejection or the appeal.

Due to the lack of clarity, Suprihati, through her legal counsel, again submitted a request to the BPR on November 22, 2023, to return the land collateral. However, as of the filing of the lawsuit, the collateral had not been returned. Defendant I even stated that the insurance claim could not be processed by Defendant II (Jasaraharja Putera), referring to a rejection letter that actually only

⁸⁵ Maya Andini, "Integrasi Asuransi Jiwa Kredit dalam Sistem Perlindungan Sosial-Ekonomi Nasional." *Jurnal Ekonomi Hukum Indonesia*, Vol.2, No.1, Tahun 2024, hlm. 15

contained a simulation of the calculation of the debtor's remaining loan. In the lawsuit, Suprihati asserted that the BPR had committed unlawful acts by failing to fulfill the rights of the debtor and heirs to life insurance benefits, as well as lacking transparency regarding insurance protection information.

Based on this, Suprihati filed a lawsuit on December 13, 2023, at the Semarang District Court. She demanded that the court declare that Defendant I had committed an unlawful act, request Defendant II to pay the life insurance claim of the late Sarwono, or declare that the loan agreement was null and void or terminated, and require Defendant I to return the collateral in the form of Ownership Certificate No. 00994 in the name of Sarwono.

Based on Court Decision Number 613/Pdt.G/2023/PN Semarang, the judge ruled that BPR Gunung Kawi had committed an unlawful act because it was not transparent and did not act in good faith towards the heirs, especially regarding the status of the loan and the return of collateral. Regarding Sarwono's life insurance claim, the Panel found that the insurance cooperation between BPR and PT Jasaraharja Putera had ended before Sarwono's death, so there was no active coverage at the time of death. Even so, the Panel still considered that the insurance company and the bank had administrative responsibilities for premiums and customer rights. In its decision, the Council granted the Plaintiff's claim in part, declared that Defendant I had committed an unlawful act, ordered the return of the land certificate belonging to the late Sarwono to the Plaintiff, and ordered the Defendants to pay court costs of IDR 180,200.00. Thus, this decision partially favors the Plaintiff, particularly regarding the protection of the rights of heirs and the return of collateral.

In Court Decision No. 613/Pdt.G/2023/PN. Smg, the Panel of Judges conveyed legal considerations regarding the rejection of life insurance claims by life insurance companies as collateral for bank loan installments in the event of the debtor's death, which fulfilled the elements of Error in Persona and Obscuur Libel, whereby the Panel rejected Defendant II's exception stating that he had no direct legal relationship with the Plaintiff.

Regarding the validity of the credit agreement, in the case of the credit contract and its addendum, the Panel declared it valid based on Article 1320 of the Civil Code. This is appropriate because the four requirements of the agreement (agreement, competence, specific object, and lawful cause) have been fulfilled. However, the claim for cancellation is considered contradictory because, on the one hand, it is recognized, but on the other hand, it is requested to be canceled. R. Setiawan, in Pokok-Pokok Hukum Perikatan (Principles of Contract Law) based on Article 1321 of the Civil Code, states that "cancellation of an agreement is only possible if there is a defect of will (dwaling, dwang, bedrog), or a violation of

subjective/objective requirements".⁸⁶ In this case, no such indications were found, so the rejection of the request for cancellation of the agreement was justified.

Third, the element is the Liability of the Insurance Institution, in which the Panel assessed that the insurance could not be claimed because the BPR–Jasaraharja Putera cooperation agreement had ended on April 20, 2022, while the debtor's death occurred on May 29, 2022. This view is in line with the basic principles of insurance law as explained by Riduan Syahrani, that the essence of coverage is "the existence of the risk object at the time of the insurable event ()". Without an active policy, there is no legal protection for the risk.⁸⁷

However, from an ethical standpoint and within the framework of financial institution responsibility, the Council's approach may be too "legal formalistic." Erman Rajagukguk, in several of his writings on consumer protection law, emphasizes that "financial institutions have fiduciary and educational obligations toward customers, including informing them of important changes in insurance coverage. If the termination of the policy is not communicated to the debtor, then there is a violation of the principle of good faith in civil law."⁸⁸

The fourth element, Unlawful Acts by BPR Gunung Kawi, the Council stated that BPR committed unlawful acts because:

1. Lack of transparency in insurance claim information,
2. Retaining land collateral without a clear basis,
3. Providing conflicting information to the debtor's heirs.

Fifth, the element of Consumer Rights Restoration, even though the Panel stated that there was unlawful act, there was no clear order in the decision to return the collateral certificate to the Plaintiff. This should be criticized because it could cause inconsistency between the decision and actual restoration. If the loan can no longer be collected because it is not supported by a claim and the debtor has died, then there is no legal basis for BPR to continue to hold the collateral. According to Maria Farida Indrati, the principle of rechtsherstel requires the court not only to decide on legality but also to provide concrete restoration to the aggrieved party.⁸⁹

Finally, the element of Balance between the Principles of Justice and Legal Certainty, as a whole, the considerations of the Panel of Judges illustrate an effort to balance the principles of legal certainty and equity. The rejection of the formalistic part of the lawsuit and the acceptance of the essential part show that the court did not only rely on the text, but also on the substance and appropriateness. This approach is consistent with the idea of "progressive law" introduced by Satjipto Rahardjo, namely that the law should not only be fixated on written norms,

⁸⁶ R. Setiawan, *Pokok-Pokok Hukum Perikatan* (Bandung, 1987), hlm. 122

⁸⁷ Riduan Syahrani, *Seluk Beluk Dan Asas-Asas Hukum Perdata*, Alumni (Bandung, 1991), hlm. 168

⁸⁸ Erman Rajagukguk, "Perlindungan Konsumen Dalam Perjanjian Kredit Perbankan," *Jurnal Hukum Bisnis* Vol. 2, No.1, Tahun 2003, hlm. 45

⁸⁹ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: Kanisius, 2007), hlm. 232

but must also side with social reality and the protection of the weak, in this case consumers/heirs of debtors.⁹⁰

In this context, BPR acted as an intermediary (policy holder) involving the debtor in credit life insurance protection. However, the legal facts show that the policy was never handed over to the debtor or his heirs, even though Article 255 of the Commercial Code requires that the policy be given to the insured as proof of the legal relationship and source of the claim rights.⁹¹ BPR's action of withholding information about the insurance policy is contrary to Article 31 Paragraph (1) of Law Number 40 of 2014 concerning Insurance, which states that "insurance companies are required to clearly convey the terms, conditions, and rights and obligations of policyholders and insured parties. This obligation is absolute as a manifestation of the disclosure principle in the financial services industry." In this case, BPR did not fulfill its informational obligation to the debtor, resulting in the loss of the legal rights of the heirs to claim insurance benefits. In addition, Article 70 Paragraph (1) of Law Number 4 of 2023, concerning the Development and Strengthening of the Financial Sector (P2SK Law), reinforces the obligation of financial service institutions, including banks and insurance companies, to maintain transparency and provide accurate, complete, and non-misleading information to consumers. Thus, the negligence of BPR in providing information on credit life insurance policies is not only a contractual violation but also a violation of public regulations and is subject to administrative sanctions.⁹²

Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law) expands the responsibilities of financial institutions, including banks and insurance companies, in the aspects of consumer protection and the implementation of good governance. Based on Article 281 letter a of the P2SK Law, financial service institutions are required to provide protection to consumers based on the principles of openness, fairness, and reliability. In this case, the actions of the BPR in not submitting the policy, not explaining the coverage status, and providing inconsistent information to the heirs directly contradict these principles.⁹³ Furthermore, Article 282 Paragraph (2) of the P2SK Law stipulates that "financial service providers are prohibited from taking actions that may mislead or harm consumers." Thus, the BPR's act of providing false or inconsistent information regarding insurance claims constitutes a violation of positive law, which can be categorized as an unlawful act (onrechtmatige daad) as

⁹⁰ Satjipto Rahardjo, *Hukum Progresif: Hukum Yang Membebaskan*, (Jakarta: Kompas, 2009), hlm. 17

⁹¹ Yusuf Arif Pradana, "Analisis Yuridis Penerapan Prinsip Kehati-hatian dalam Penyaluran Kredit oleh BPR di Indonesia." *Jurnal Hukum dan Ekonomi Pembangunan*, Vol.5, No.2, Tahun 2023, hlm. 77

⁹² Ahmad Hidayat, *Hukum Asuransi dan Perlindungan Konsumen di Sektor Jasa Keuangan*, (Bandung: Refika Aditama, 2019), hlm. 74.

⁹³ I Gede Wiryawan, *Hukum Perbankan Nasional: Prinsip Kehati-hatian dan Perlindungan Nasabah*, (Yogyakarta: Deepublish, 2020), hlm. 56

referred to in Article 1365 of the Civil Code.⁹⁴ Based on Article 1365 of the Civil Code, the BPR's actions fulfill the elements therein, namely:

a. Elements of the Act

The first element of an unlawful act is the existence of an active or passive act that has legal consequences for another party. In this case, the act was committed by Bank Perkreditan Rakyat Gunung Kawi and PT Asuransi Jasaraharja Putera, which clearly failed to fulfill their obligation to pay the credit life insurance claim for the death of the debtor Sarwono, and did not notify the debtor of the termination of the insurance cooperation.

These actions constitute negligence (omission) and actual actions (commission) that caused losses to the debtor's heirs, because the claim rights guaranteed in the policy were not fulfilled. The judge ruled that the two defendants failed to fulfill their legal obligations as stipulated in Article 52 paragraph (1) of Law Number 40 of 2014 concerning Insurance, which emphasizes the insurer's obligation to pay claims in accordance with the policy agreement. In legal doctrine, the element of action is considered fulfilled if a person commits an act that causes legal consequences for another person, whether intentionally or negligently.⁹⁵

b. Element of Unlawfulness

The second element, namely "unlawfulness," is fulfilled if an act violates positive legal norms, the subjective rights of others, the legal obligations of the perpetrator, or norms of propriety, prudence, and general principles of civil law. In this case, PT Jasaraharja Putera rejected the claim without a valid basis and BPR Gunung Kawi withheld the debtor's collateral certificate without legal basis.

These actions clearly violated Article 1338 paragraph (3) of the Civil Code concerning the obligation to perform agreements in good faith, as well as Article 4 letters c and h of Law Number 8 of 1999 concerning Consumer Protection, which requires business actors to provide information that is true, honest, and not misleading. Thus, both defendants violated their legal obligations to the debtor and his heirs. Furthermore, the panel of judges emphasized that the unilateral termination of cooperation between the bank and the insurance company without notifying the debtor was contrary to the principle of *pacta sunt servanda*, thereby fulfilling the elements of unlawfulness.⁹⁶

c. Element of Fault (Schuld)

⁹⁴ *Ibid*, hlm. 57

⁹⁵ Salim, *Perikatan yang Lahir dari Perbuatan Melawan Hukum*, (Jakarta: Raja Grafindo Persada, 2018), hlm. 45.

⁹⁶ Dewi Ayu Sari, "Asas Itikad Baik dalam Perjanjian Asuransi Jiwa Kredit." *Jurnal Hukum dan Pembangunan Ekonomi*, Vol.11, No.2, Tahun 2023, hlm.155

The third element, namely fault, includes intent (dolus) and negligence (culpa). In this decision, the defendants' fault constitutes culpa lata or gross negligence.

BPR Gunung Kawi was negligent in carrying out its administrative obligations to provide notification regarding the termination of the policy and did not ensure the continuation of insurance protection for the debtor, while PT Jasaraharja Putera was negligent in processing insurance claims even though the premiums had been paid legally. Both actions demonstrate non-compliance with the principles of prudential duty and utmost good faith in insurance as stipulated in Article 251 of the Commercial Code. The judge ruled that the defendants' negligence resulted in legal consequences that could be held civilly liable under Article 1365 of the Civil Code due to the direct legal relationship in the credit insurance contract.⁹⁷

d. Element of Loss (Schade)

The fourth element, namely damage, was clearly fulfilled. Sarwono's heirs suffered material and immaterial losses in the form of non-receipt of insurance claim payments that should have been used to pay off the remaining credit and the withholding of the land title certificate as collateral. This loss was real and economically measurable, as the amount of insurance coverage was stated in the policy.

The panel of judges ruled that the rejection of the insurance claim resulted in the loss of the heirs' economic and legal rights, which legally fulfilled the element of "loss" as referred to in Article 1365 of the Civil Code. Loss in the context of civil law is not only material in nature, but also includes the loss of rights and legal certainty over a valid agreement.⁹⁸

e. Element of Causal Relationship (Causaal Verband)

The fifth element is the causal relationship between the act and the loss incurred. In this case, the causal relationship (causal verband) is clear: the insurance company's rejection of the claim and the bank's negligence directly caused the heirs to be unable to enjoy the benefits of the policy and lose their rights to credit guarantees.

The panel of judges used the theory of adequate causality, whereby an act is considered the cause of the loss if it could reasonably have caused such a consequence. The second defendant's action meets this criterion because from the outset there was a legal obligation to provide compensation in the event of the debtor's death. The judge emphasized that if the defendants had fulfilled their obligations in accordance with the provisions of the agreement and the law, the loss would not have occurred. Therefore, , there is a direct

⁹⁷ Rendy Dwi Pratama, "Kesalahan dalam Perbuatan Melawan Hukum di Bidang Asuransi Jiwa", *Jurnal Ilmu Hukum Reformasi*, Vol.5, No.1, Tahun 2023, hlm. 87

⁹⁸ Nur Fauziah, "Analisis Kerugian Konsumen Akibat Kelalaian Lembaga Keuangan", *Jurnal Hukum Progresif*, Vol.9, No.1, Tahun 2023, hlm.88

relationship between the action and the resulting effect, so that the element of causality is considered to be fulfilled.⁹⁹

Bank Perkreditan Rakyat Gunung Kawi and PT Asuransi Jasaraharja Putera violated Article 1338 of the Civil Code, as the judge ruled that Bank Perkreditan Rakyat Gunung Kawi and PT Asuransi Jasaraharja Putera had violated this principle by not fulfilling their obligations as stipulated in the credit life insurance policy. The agreed policy binds both parties, namely the bank as the beneficiary and the insurance company as the insurer, to provide credit repayment in the event of the debtor's death. However, in practice, the insurance company rejected the claim without a valid basis, while the bank did not notify the debtor of the termination of the insurance agreement. This violation is a clear breach of the principle of *pacta sunt servanda* as stipulated in Article 1338 paragraph (1) of the Civil Code.¹⁰⁰

This act constitutes an Unlawful Act, not a Breach of Contract, because the BPR's actions do not fulfill the elements of a breach of contract as there is no direct contractual relationship between the BPR and the heirs regarding the payment of insurance benefits. The BPR is not the insurer, but rather an intermediary in the administration of insurance. However, BPR's actions in withholding information and guarantees without a clear legal basis clearly constitute a violation of the general legal obligation to act in good faith and with due care.

Conclusion

The regulation of insurance companies' liability for credit life insurance claims is stipulated in Article 246 of the Commercial Code, Articles 1320 and 1338 of the Civil Code, Law No. 40 of 2014 concerning Insurance, Law No. 10 of 1998 concerning Banking, and Law No. 8 of 1999 concerning Consumer Protection. Based on these provisions, insurance companies are required to pay off the remaining credit of a deceased debtor to protect the interests of the bank and free the heirs from the burden of debt, under the supervision of the OJK so that claim payments are made transparently, on time, and fairly.

The responsibility of insurance companies in the payment of credit life insurance claims is based on Article 52 of Law No. 40 of 2014, which requires the insurer to fulfill the rights of the policyholder. If the risk of death has occurred and the policy conditions are met, the claim must be paid. Rejection without legal basis violates the principle of good faith (Article 1338 paragraph 3 of the Civil Code) and can be categorized as an unlawful act (Article 1365 of the Civil Code). Based on

⁹⁹ Fitria Anwar, "Pertanggungjawaban Hukum Lembaga Keuangan atas Kelalaian Informasi Asuransi Jiwa Kredit", *Jurnal Ilmu Hukum Aktualita*, Vol.12, No.3, Tahun 2023, hlm. 210

¹⁰⁰ Riza Fahmi Siregar, *Asas dan Prinsip Perikatan dalam Hukum Perdata Indonesia*, (Medan: Pustaka Bangsa, 2020), hlm. 88.

POJK No. 69/POJK.05/2016, insurance companies must settle claims in a timely, transparent, and fair manner.

The judge's consideration in Court Decision No. 613/Pdt.G/2023/PN Smg emphasized that insurance companies are obliged to fulfill credit life insurance claims because the policy is valid and the premiums have been paid. This obligation is derived from the Civil Code (Articles 1313, 1320, 1338, 1233), the Commercial Code (Articles 246, 304, 307), Law No. 40 of 2014 concerning Insurance, Law No. 10 of 1998 concerning Banking, and Law No. 8 of 1999 concerning Consumer Protection. The judge ruled that the rejection of claims without legal basis violated the insurer's obligations, so that the insurance company was still obliged to pay off the debtor's remaining credit to the bank and protect the rights of the heirs.

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