Asia Proceedings of Social Sciences (APSS)
Journal Homepage: http://readersinsight.net/APSS

"Tort" As an Absurd Claims in Bank Credit Restructuring

Johannes Ibrahim Kosasih*

Law Department
Universitas Warmadewa Denpasar, Bali
Indonesia
johannesibrahim26@gmail.com

Theresia Anita Christiani

Law Department
Universitas Warmadewa Denpasar, Bali
Indonesia
anita.christiani@uajy.ac.id

*Corresponding Author email: johannesibrahim26@gmail.com

Submitted: 26 November 2021 *Revised: 30 December 2021* *Accepted: 10 January 2022*

Peer-review under responsibility of 7th Asia International Conference 2021 (Online) Scientific Committee
http://connectingasia.org/scientific-committee/
© 2022 Published by Readers Insight Publisher,
Office # 6, First Floor, A & K Plaza, Near D Watson, F-10 Markaz, Islamabad. Pakistan,
editor@readersinsight.net
This is an open access article under the CC BY license (http://creativecommons.org/licenses/4.0/).

https://doi.org/10.31580/APSS.v9i1.2302

© 2021 The Authors. Published by Readers Insight Publisher. This is an open access article under the CC BY license (http://creativecommons.org/licenses/by/4.0/)

ABSTRACT

Restructuring is a process of saving credit as an effort to mitigate risk from the bank against non-performing loans. Non-performing loans have bad implications for bank performance and soundness. The form of credit restructuring is in the form of payment scheduling, interest rate reduction, elimination of part of the principal and interest in arrears (hair cut) or other actions. The restructuring is the result of a mutual agreement between the Bank and the Debtor. Restructuring does not always solve credit problems, if it fails, the Bank can take execution actions as the last step. In fact, the execution of the guarantee creates problems in banking practice and is considered detrimental to the debtor, thus giving rise to a civil lawsuit using the unlawful act pursuant to Article 1365 of the Civil Code. The purpose of this study is to find and find answers whether a lawsuit against the law can be carried out by a debtor who is bound by a contractual relationship by arguing that an error and loss has occurred for the debtor due to restructuring. The research method used in this paper is normative juridical with a statute approach and conceptual approach, complemented by case studies that have been decided by the Supreme Court on CV. Agung Sembada against PT. Bank Rakyat Indonesia, Tbk Tuban Branch. The results of the study show that restructuring is a joint effort between the debtor and the bank based on an agreement and is a contractual relationship that becomes one with the initial agreement (merge clause) which provides an agreement for the debtor to improve its performance, and if the debtor fails to implement it, the bank can execute the guarantee.

Keywords: *Unlawful Acts; Civil Lawsuits, Credit Restructuring*