



Comparison of the Auction Process for Collateral at BNI Sharia and BNI Branch of Pontianak

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ABSTRACT

The purpose of this research is to reveal: The Mechanism of the Implementation Process of Collateral Auction at Bank BNI Syariah Pontianak Branch and Comparison of the Implementation Process of Collateral Auction at Bank BNI Syariah and Bank BNI Branch of Pontianak.

This research uses qualitative research in which data is obtained from PT. BNI Tbk Pontianak Branch, the Pontianak Branch of the BNI Syariah bank and the Pontianak State Wealth and Auction Service Office (KPKNL). Meanwhile, secondary sources are documents and data at PT. BNI Tbk Pontianak Branch, Bank BNI Syariah Pontianak Branch and Pontianak State Wealth and Auction Service Office (KPKNL).

Based on the analysis conducted, the researchers concluded that the differences in the auction process at BNI and BNI Syariah banks, in general, have similarities, such as a listing of collateral auctions at the State Wealth and Auction Service Office (KPKNL), announcement 1 (one) time, announcement II (two) in mass media, auctions, the winner with the highest bid price, after the auction is held, the proceeds from the sale of collateral will be paid to pay off the debt. If the proceeds from the sale of collateral are less than the total debt of the customer, the bank will collect until the debt is paid off, on the other hand, if the sale of collateral is more than the total debt of the customer, the bank is obliged to collect it. return the auction results to the customer, this is done by all banks, both Islamic banks, and banks. conventional.

As for what distinguishes between BNI and BNI Syariah banks, there are 2, namely the first process before submitting the auction, namely the BNI Syariah bank there are more warning periods and the persuasion approach period is more widely applied in the BNI Syariah bank, as well as the eggs higher. Second, the process of resistance or lawsuits for the auction, which is when there is a problem between the bank and the debtor or customer refusal when there is dissatisfaction with the auction results.

Keywords: Comparison, Auction, Collateral

INTRODUCTION

According to Kasmir (2001) the Bank is a business entity that collects funds from the community in the form of deposits and channeling the community in the form of credit and or other forms in order to raise the living levels of the people. There are two types of banks, which are conventional banks and banks with syariah principles (Syariah Bank). According to the Constitutional Republic of Indonesia No. 21 of 2008 Chapter 1, conventional banks are banks that conduct conventional business activities that apply the interest system to obtain profit in its activities providing services in payment traffic.

According to Constitutional No. 10 of 1998 Bank Syariah is a general bank that executing its business on the basis of sharia principles in its activities providing services in payment traffic. Bank Syariah as one part of the banking system also has the same functionality with conventional banks, which is acting as a payment system administrator and as a financial intermediary institution

However, there is a difference in philosophy and operating system between Shariah Bank with Conventional banks, namely internalization of values and Islamic law in Shariah. The position of Shariah Bank is related to customers as investors and traders partners. In terms of banks in general, the relationship is as credit and debtor. In connection with the connection of investor relations with traders, in carrying his work, Shariah Bank using various techniques and investment methods. Contract of investment relationship between the Shariah Bank with the customer is called financing.

The financing stated by Kasmir (2012) is the provision of money or bills, according to an agreement between a bank and another parties that requires the party to return money or bills after a certain period time with rewards or shared the profits.

In the activity of the Shariah Bank Financing will perform the techniques and methods, the application of dependent on the purpose and activity, such as Murabahah, Musyarakah and other. The syariah banking mechanism in the finance principle is no interest payment to the deposit or giving an interest to the financing customer. In the implementation of financing, the Shariah Bank must have two aspects: Shariah aspects and Economic aspects. in Syariah aspect means in any realization of financing to the customers, the Sharia Bank must still be guided by Islamic Shariats, among others, not containing the unsure of Maisir, Gharar, Riba, and its businesses should be halal. The economic aspect means in addition to Considering Shariah things, Sharia Bank may consider the benefits for Sharia Bank and Sharia Bank customers.

Being a difference between the credit provided by the conventional bank with financing provided by the Sharia Bank is located in the expected profit. For banks based on conventional principle, benefits comes from interest, while for banks based on syariah principles receives from the rewards or shared the profits.

Bank Indonesia Regulation (No.7 / 46 / PBI / 2005), the Bank may request the collateral to anticipate the risk if the Customer can not fulfill his obligations as contained in akad because of negligence or cheating. Moreover, the principle in financing analysis in Sharia Bank According to Irham Fahmi (2014) emphasizes 5c (character, capacity, capital, collateral, and condition) to approach financing analysis and pay attention to the quantity and quality of the guarantees owned by the borrower.

The application of the funding activities of the Bank's funds is required to maintain the quality of its productive assets as the instructions of Bank Indonesia, Shariah Bank should also have minimized the risk of loss due to problem-financing. Therefore the bank can take policies by using various stages of approach in the billing of customer obligations. One of them is done by the friendly, if by friendly is not working, there is a legal approach to the remainder in the form of warning letter 1 (one) until the last warning letter III (three), if the customer still does not pay, the collateral withdrawal is made so that the customer is willing to pay his obligations. If the customer still does not pay his obligations, the collateral will be liquidated either through a voluntary sale or auction.

Auctions on banks become an alternative to adjusting the problematic collateral to minimize any union anticipated credit can incorporate the loss of banks for financing and credit to the customer. In the principle of each financing or credit has always been a guarantee as a requirement of the legislation of the financing and credit, it is in accordance with chapter 1131 of the Criminal Code(KUHP) that any material of belonging to both moving and non-moving, either existing and new will exist in the future of debt for its debts. When a debtor of the waprestasi (A broken promise), the guarantee owned by the debtor must be executed by the debtor and is done by the debtor of the first dependent rights by doing sales through the assurance of the guarantee and must go through the procedure of the laws of the laws' applicable (UUHT). This is applied by any bank conventional and bank syariah in credit and financing, so it is also applied by PT. Bank Indonesia State of TBK for the credit or finance of the potential risk of detail the company, such as valid to PT. Bank Indonesia Country, Tbk. Branch Pontianak Kalimantan West.

Appropriate to the function of the guarantee has a job of launching and securing the credit or financing of its granting by rights and power to the bank to obtain the repayment of the guarantee goods, if the debtur of the wanperstation. Thus each syariah or conventional banking applies the guarantee for the smooth traffic of the loan or financing.

Bank BNI Shariah Pontianak branch has issued auction of the collateral in the media of the period, previously issued by the State and Auction of Wealth Service and the Auction (KPKNL) there are 7 collaterals to be auctioned by 2018 and by 2019, after negotiating execution with the KPKNL of the collateral of them in the form of property (shop, home and others). The appearance of the execution of the

auction he has done after going through several stages and customers remain unable to pay off its obligations, then covered by collateral through the auction. In 2016-2017 BNI Syariah Pontianak branch has conducted 6 auction of troubled financing (interview of the Appraisal BNI Syariah Pontianak 3 April 2019).

Whereas, PT. Bank BNI, Tbk. Pontianak branches provide information in internal and other media before the 2019 will discover 8 collaterals of them in the form of homes and ruko (Chairman of the PT Bank BNI, Tbk. Branch Pontianak 10 April 2019).

According description above researchers interested in conducting research on the auction process of two-banking processes, at Bank BNI Syariah and Bank BNI (conventional). Because according to the assumption of researchers, these two Banks have differences and equations reinforcement auction, a result becomes important to do.

LITERATURE REVIEW

The word of "bank" can be traced from *banque's* word in French and from *Banco* in Italian, which mean chest or cabinet. According to Constitution no. 10 of 1998 It is mentioned that Shariah banking is a common bank that executing business activities based on shariah principles in its activities providing cross-payment services. Rasiam said (2012) in carrying out its activities, Shariah Bank embraces the principle of justice, the principle of the equality, the principle of the peace. Bank Islam is a banking institution that uses systems and operations based on Islamic Shariah. This means that the operational bank syariah must match the guidance of the Al-Qur'an and Hadist, using the system of shares and other rewards in accordance with Islamic Shari'at. While According to Article 1 paragraph 1 of the Constitution Number 21 of 2008 on Shariah Banking. Shariah banking is everything concerning about Sharia Bank and Sharia Business Unit (UUS), including institutions, business activities, and ways and processes in carrying out its business activities.

Guarantee or Collateral is an asset of the borrower that is pledged to the lender in the event that the lender is unable to repay the loan. If the borrower defaults, the lender can have the collateral. Guarantee according to Constitution No. 10 of 1998 about Banking is the belief in the ability of the debtor's customer to pay his obligations in accordance with the agreement. The guarantee here includes capabilities, capital, collateral, and business prospects of the debtor's customers. Collateral is identical to guarantee, which is an additional collateral submitted by the debtor's customer to the banks in order to provide credit facilities or financing based on shariah principles (Article 1 number 23 of Constitution No. 10 of 1998). According to Ruddy Tri Santoso (1997), bail is generally divided on assurance of materials and non-material. Material assurance consists of moving things, non-moving things (land and building) and securities (stocks, bonds, certificates of deposit) and cash bills. Whereas non-material coverage consists of

personal guaranty, corporate coverage, and so forth as coverage (good name, brand mark, goodwill).

In the fiqh context, the sale at auction is called the purchase of muzayadah (also an addition). According to A. Nawawi Rambe (1994), selling the purchase of muzayadah (selling the auction) is this way: first the seller offers the purchase to the prospective buyer. The buyers bids or prices at any cost. Then the goods sold to the buyers who proposed the highest price. While Wahbah Az-zuhaili (2011), selling to muzayadah (selling to auction) was a public offering of goods, then someone wanted to add the price, and the sale was decided on to the person who offered the final price.

Auctions (buying muzayadah) are part of the trade. The basis (Rukun) for the purchase of Muzayadah is the same as the basis for the other purchase. In setting up buying and selling, among scholars there's a difference of opinion. According to Hanafi, it is known as *ijab* and *qabul* that give evidence of exchange or the like. In other words, Rukun (basic) is the act of words or gestures that show willingness with the wonder of prices and goods (Wahbah Az-Zuhaili, 2011)

RESEARCH METHOD

The study researchers use descriptive methods with a qualitative approach. According to M. Burhan Bungin (2010), research methods that use qualitative discretization are intended to describe, summarizing the conditions, situations, or social realities of society that become the subject of research, and draw that reality to the surface as a trait, character, nature, model, mark, or description of a condition, a situation, or a cropped phenomenon. A qualitative approach is aimed at understanding social phenomena from a participant's Angle or perspective. Participants are those invited to interview, observe, are asked to provide data, thought opinions, and perception. (Nana Syaodih Sukmadinata, 2012)

Lexy J. Meleong (2014), further notes that descriptive methods are words, pictures, and not Numbers. Sugiyono (2014), stating that a descriptive method is a problem-solving procedure that is investigated by illustrating or describing the state of the research object, one or society and others today based on the facts of places as they are. As for the purpose of this research, it is to understand phenomena occurring in society with more emphasis on a complete picture of the phenomenon being studied.

Qualitative research used by researchers is oriented on observations, interviews, and documentation of the phenomenon of Collateral Auction Implementation Process on the Bank BNI Syariah and Bank BNI Pontianak Branch.

RESULT AND DISCUSSION

Mechanism of Collateral Auction Implementation Process at Bank BNI Syariah Pontianak Branch

According to Nur Rianto (2012) financing is funding provided by one party to another party to make a planned investment that have been planned, either done alone or institutionally. According to Hendi Suhendi (2002) *akkad* is a deliberate act made by two or more individuals on the basis of its union, with both *haq* and *iltijam* created by *akkad*, it is *ijab* and *qabul* that the *syara'* justifies which establishes a firm of both sides, and establishes the consequences of the law of its object.

Muhamad said (2002) the risk of financing arises if the bank cannot obtain the return of the principal and margin of the loan given or the investment it is making. The main reason for the risk of financing is that it is too easy for the bank to give a loan or make an investment because it is too demanding to take advantage of excess liquidity so that credit assessments are less careful in anticipating the various possible risks the business he funded.

At BNI Syariah bank in anticipating the financing of troubled customers who have been classified as bankrupt, then the bank will give a reprimand letter 1 (one) to customer. If the document reproof 1 (one) is ignored by customers, the bank will give a letter of compensation 2 (two). The content of the II reprimand (two) letter advised customers who were overdue in payments to make appropriate payments according to their signed financing papers and financing *akkad*. A reprimand letter is a letter submitted by the bank to customers who are in arrears to pay their installments. If the II reprimand (two) letter is still ignored, the bank will make a call, a letter from which the bank is seeking a meeting to solve the problem.

If the document II (two) is not successful, then the bank will issue the final III (three) notice. the bank's letter informs that the customer's financing journey shows an unfavorable development and the customer is declared in default on the payment of the financing installment which must be settled immediately. If the customer ignores the summons III (three), then the bank will issue a sticker installation letter. The contents of the bank plaque affix letter informing that the poor development of customer financing and must be completed immediately, if the customer does not comply with the provisions of this letter then the bank will install a plaque of this Land and Building is the BNI Syariah Guarantee, 15 calendar days since this letter was published. If there is still no settlement of arrears from the customer, then 30 days calendar since the installation of the plaque then the bank will do the installation of the plaque This House and Land For Sale.

Comparison of Collateral Auction Implementation Process at Bank BNI Syariah and Bank BNI Pontianak Branch

The implementation of the auction of securities at Bank BNI and Bank BNI Syariah is generally the same. Because if there is a problem financing or bad credit then the auction is submitted to the Office of State Financial Services and Auction (KPKNL), so that the Office of State Financial Services and Auction (KPKNL) is not will distinguish between banks that want to bid, if the bank can meet the requirements in bidding then KPKNL will accept.

Among other things, there are requirements for an auction to the KPKNL:

a. General Requirements

1. Proof pays for the application of the auction.
2. Application for auction
 - Enclosed to the auction applicant photocopy ID.
 - Enclosed a photocopy NPWP office. Enclosed the company's address data, phone Numbers and emails (without its letterhead).
3. Copies/photocopies the bookmark of the seller's official decree/the seller's assignment/authorization, unless the individual auctioneers or agreements/warrants indicate the auction hall as sellers.
4. Original list of items to be auctioned for:
 - deposit the bail (20% s.d. 50% of the value limit).
 - Gives the value of the liquidation report.
5. A copy of the consent letter from the processor of auctions in the matter of auction rights in the case of auction items with the ownership document of HGB or the right to use on the management rights ground (a statement must be made that "allows for auction").
6. The original statement/certificate is sufficient for the auction amount:
 - the seller's account number.
 - If it does not have an account number, then a statement stating that it does not have a specific account or that would be willing to collect net proceeds in the form of a cash check in the name of the seller, when the auction proceeds are paid to the auction.auctio
7. The original certificate specifies the seller's auction conditions (if available). List:
 - a time frame for participants to view items auctioned.
 - a period of pickup from the buyer.
 - The auction explanation schedule (aanwijzing) to the auctioneers and made a news story of the show and left to the KPKNL to be pleased.

As for the difference between the auction process at BNI bank and BNI Syariah bank, there are 2, namely the process before submission for auction and the Religious / State court execution auction process.

1) Process Before Submitting Auction

The process before the opening of the bank's auction takes steps to make the customers pay off their debt. Among the actions of Bank BNI Syariah and Bank BNI Pontianak Branch include:

Table. 1
Pre -Auction Procedures

Action	BNI Syariah	BNI
Reproof letter I	There, the contents of the letter remind customers to make installment payments that have been in arrears for 5 days	Nothing
Reproof letter II	There, the contents of the letter remind customers to make installment payments that have been in arrears for 15 days	Nothing
Summons	There, the contents of the letter call the customer to come to the office in order to help the customer to solve difficulties or solutions that have not paid an	Nothing
Subpoena letter 1/Arrears reprimand letter 1	There, the contents of the letter inform that the financing trip is reasonably showing unfavorable progress or will be declared defaulting on payment of financing installments for 3 months to be completed	There, the contents of the letter of notification to the customer that there has been no additional credit payment for 3 months which will later increase
Letter of summons II/ letter of reprimand for arrears II	There, the contents of the letter inform that the financing trip is reasonably showing unfavorable progress or will be declared defaulting on payment of financing installments for 6 months to be completed	There, the contents of the letter of notification to the customer that there has been no additional credit payment for 6 months which will later increase

Letter of summons III/ letter of reprimand for arrears III	There, the contents of the letter that the customer has been declared default on the payment of financing installments for 9 months which must be settled immediately	There, the contents of the letter emphasize more to the customer to make the payment of installments which are in addition to 1 credit installment according to the agreement and if the customer does not resolve it immediately, then the bank will continue to process this information into the Indonesian bank's personal blacklist
Plaque Installation Letter	There, the contents of the letter of notification to the customer that the poor development of customer financing and must be resolved and will be posted placards "House and his Land is sold" if the nasabah ignores this letter for 30 days from the delivery of the letter	Nothing

As for the difference between Bank BNI Syariah and Bank BNI is the period of more reminders given to BNI Syariah bank and over time the persuasion approach is more applied in BNI Syariah banks, as well as its higher tolerance. Bank Syariah is also trying to help customers in solving problems in order to pay off debts / arrears. While Bank BNI is more focused on customers who are already in trouble.

While Bank BNI is more focused on customers who are already in trouble poor credit will be given a letter of reprimand for arrears I. If the customer has been declared bad credit or has been 9 months there is no etiquette pay or settle the arrears, BNI bank will continue to process this information to Bank Indonesia's Personal Black Register. If the customer has entered the Personal Blacklist of Bank Indonesia, then the customer can no longer make credit to other banks or agencies.

CONCLUSION

Based on the results of the research, it can be concluded that: In general, the collateral auction process at Bank BNI and Bank BNI Syariah have similarities such as: Registering auction to KPKNL, Announcement I (one), Announcement II (two) in time, Auction, Winner with the highest bid price. After the auction is held, the proceeds from the sale of the auction collateral will be paid to pay off the debt. If the proceeds of the sale of collateral is less than the total customer debt, the bank will continue to collect until the debt is paid, otherwise if the sale of collateral exceeds the total customer debt, then the bank must return the money from the auction to the customer, this is done by the conventional BNI Bank and the Syariah BNI Bank.

As for what differentiates between Bank BNI and Bank BNI Syariah, namely the process before submitting the auction of Bank BNI Syariah is more reminder time is given to BNI Syariah banks and the persuasion approach time is more applied in BNI Syariah banks, as well as higher tolerance. Islamic Banks also try to help customers in solving problems in order to pay off debts / arrears. While Bank BNI is more emphasizing to customers who already belong to less smooth credit will be given a letter reprimand arrears I. If the customer has been declared a bad credit group or has not had an obligation to pay or settle the arrears for 9 months, then the BNI bank will continue to process this information into the Bank Indonesia Personal Blacklist. If the customer has entered the Bank Indonesia Personal Blacklist, then the customer can no longer make credit to other banks or agencies.

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