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Borrowing and Lending Procedures with Fiduciary Guarantee at the Mega Buana Makmur Savings and Loans Cooperative in Jayapura City

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Abstract

This study aims to determine the lending and borrowing procedures with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) in Jayapura City and to determine the problems that arise in the implementation of lending and borrowing agreements with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) in Jayapura City. The method used in this study is normative and empirical juridical, namely reviewing the laws and regulations including the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 25 of 1992 concerning Cooperatives, Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loans Business Activities by Cooperatives, and Law Number 42 of 1999 concerning Fiduciary Guarantees as well as seeing the reality that occurs in the field. The results of this study reveal that the implementation of lending and borrowing with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) is through the formation of a lending and borrowing agreement and a fiduciary burden agreement and the problems that arise in the implementation of the lending and borrowing agreement with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) are the existence of default (defective performance), where the Debtor does not keep his promise to the Creditor as agreed by both parties in the credit agreement.

Keywords: Lending and Borrowing; Fiduciary Guarantee; Mega Buana Makmur Savings; Loans Cooperative.

Introduction

Loan distribution must provide more opportunities for small businesses and economically disadvantaged groups, better known as Small and Medium Enterprises (SMEs). During the monetary crisis, SMEs were the ones that survived despite their limitations. Therefore, the government needs to shift its focus by empowering the SME sector. Lending to SMEs can be provided by banks and non-banking financial institutions.

In Indonesia, the most suitable financial institution for lending to SMEs is a cooperative. Cooperatives aim to advance the welfare of their members in particular and society in general, as

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well as to contribute to building a national economic order in order to realize an advanced, just, and prosperous society based on Pancasila and the 1945 Constitution. Therefore, cooperatives have a respected position in the Indonesian economy. Cooperatives are not only the only form of business constitutionally declared to be in accordance with the economic structure being developed in this country, but are also recognized as the pillars of the national economy (Revrisond Baswir, 1997).

This loan agreement can create a contract between the debtor and creditor. However, in practice, the debtor sometimes fails to repay the money as agreed. Article 1131 of the Civil Code stipulates that all movable and immovable assets belonging to the debtor, both existing and future, serve as collateral for the debtor's individual obligations.

When taking out a loan, not all parties possess ownership of the goods or rights used as collateral for the loan. Borrowing with fiduciary collateral is easier and less expensive than other forms of collateral. Because fiduciary collateral is directed to movable assets, the debtor retains control of the assets for daily use and achieves the goal of obtaining credit.

Distribution of loans to Small and Medium Enterprises (SMEs) can be done by both banks and non-banking credit institutions, but in Indonesia the credit institution that is suitable for distributing loans to Small and Medium Enterprises (SMEs) is a cooperative because Cooperatives as a people's economic movement and business entity that has a significant position in the Indonesian economic system, where cooperatives since their inception in Indonesia have been directed to side with the economic interests of the people known as the weak economic group or lower middle class community groups and cooperatives are in accordance with the culture and way of life of the Indonesian Nation which contains the power to help oneself and work together for the common good as stipulated in Article 3 of Law Number 25 of 1992 concerning Cooperatives which reads "Cooperatives aim to advance the welfare of members in particular and society in general and participate in building a national economic order in order to realize a society that is advanced, just and prosperous based on Pancasila and the 1945 Constitution".

In principle, the cooperatives that play a large role in providing loans are savings and loan cooperatives as stipulated in the provisions of Article 1 Number 2 of Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by Cooperatives. Article 1 number 2 of Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by Cooperatives states that "Savings and Loan Cooperatives are cooperatives whose activities are only savings and loan businesses." As a means of collecting community funds, although in a limited scope, savings and loan business activities have a unique character, namely a business that is based on trust and bears many risks, especially if the loan from the cooperative is not returned, then the members will directly suffer losses because the cooperative's capital is mostly from members, therefore management must be carried out professionally and handled by managers who have special skills and abilities assisted by a strict internal supervision system, thus the formation of cooperative legal systems must consider the position of cooperatives as an economic tool so that the cooperative itself is able to play a role as a pillar of the national economy, for this reason, Government Regulation Number

9 of 1995 concerning the Implementation of Savings and Loan Business Activities was enacted along with the Decree of the Minister of Cooperatives, Small and Medium Enterprises Number: 351 / KEP / M / XII / 1998 concerning Guidelines for the Implementation of Savings and Loan Activities by Cooperatives as the basis for its operations. The provision of loans by savings and loan cooperatives through loan agreements can create a contract between the lender on the one hand and the debtor on the other. Under this contract, the creditor is obligated to deliver the promised funds to the debtor and has the right to receive the funds back from the debtor on time. The debtor has rights and obligations that are the opposite of those of the creditor.

In carrying out their obligations, debtors sometimes fail to repay the loan on time. Therefore, Article 1131 of the Civil Code stipulates that all of a person's property generally serves as collateral for their contract. However, this general guarantee sometimes results in a creditor receiving only a portion of their funds, as this general guarantee applies to all creditors.

Creditors seeking certainty of repayment of their funds can request that the debtor enter into an additional agreement designating specific assets, both movable and immovable, as collateral for the debt. This guarantee is called material guarantee and can be in the form of a mortgage, pledge, security right, and fiduciary, so that with such guarantee, if the debtor fails to return the loan, the creditor can sell the goods used as collateral and take some or all of the proceeds from the sale to pay off the debtor's debt (Oey Hoey Thiong, 1984).

In the world of credit, there is a term known as collateral, where the results of the loan must be accompanied by certain guarantees from the borrower, this is generally better known as collateral. Further details regarding the position of collateral in credit for savings and loan cooperatives are contained in Article 19 paragraph (2) of Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by Cooperatives, which states "In providing loans, savings and loan cooperatives and savings and loan units are required to adhere to the principles of healthy lending by taking into account the assessment of the eligibility and ability of loan applicants.

The collateral is not only a complementary element of providing loans, but the law even requires collateral to be present in providing loans. The collateral or security itself is the last resort for creditors which will be realized or executed if a credit is truly in a state of default (Munir Fuady, 2002). According to R Subekti in his book H.S Salim, a good or ideal guarantee is (H.S. Salim, 2002):

a. Collateral that can easily assist the party in obtaining credit.
b. Collateral that does not weaken the potential (strength) of the credit seeker to conduct or continue their business.
c. Collateral that can provide certainty to the creditor, meaning that the collateral is always available for execution, meaning that it can be easily cashed in if necessary to repay the debt of the recipient or borrower.

In taking out a loan, not all parties have ownership of the goods or certain rights required as collateral in granting a loan. Sometimes certain goods that can be used as collateral are still needed in everyday life and this becomes an obstacle in the world of credit.

According to R. Subekti, Fiduciary collateral is a form of collateral where movable goods that can still be controlled by the debtor, namely goods needed to run the company. Because of its beneficial nature, fiduciary collateral is widely used in lending practices. The government itself has enacted Law Number 42 of 1999 concerning Fiduciary Guarantees, along with Government Regulation Number 86 of 2000 concerning Procedures for Registering Fiduciary Guarantees and the Cost of Making Fiduciary Guarantee Deeds, as the procedural basis for fiduciary encumbrances (R. Subekti, 1982).

Considering the development of fiduciary guarantees, which have existed since the Dutch East Indies era, the enactment of Law Number 42 of 1999 concerning Fiduciary Guarantees can certainly be considered late. However, this is not a problem if the purpose of enacting the Law concerning fiduciary guarantees is to ensure legal certainty and provide legal protection for interested parties. The practice of fiduciary guarantees itself existed before the enactment of the Fiduciary Guarantee Law, so several technical elements in the implementation of fiduciary guarantees are customary, one of which is the provision regarding the registration of fiduciaries in Article 5 paragraph (1) which reads "The burden of objects with fiduciary guarantees is made by a notarial deed in Indonesian and is a fiduciary guarantee deed", while Article 11 paragraph (2) of Law Number 42 of 1999 reads "Objects burdened with fiduciary guarantees must be registered".

So far, the provision on the registration of fiduciaries in credit agreements between the two parties has not been implemented perfectly, because apart from the procedure being difficult, the cost factor that must be incurred is the reason why many fiduciaries are not registered according to the provisions. In fact, the provision that fiduciary must be registered is intended as legal protection for the parties (especially creditors) so that the fiduciary goods themselves can be immediately executed if a default occurs as stated in Article 15 paragraph (2) and (3) of Law Number 42 of 1999. The text of Article 15 paragraph (2) is "The fiduciary guarantee certificate as referred to in paragraph (1) has the same execution power as a court decision that has obtained permanent legal force" while the text of Article 15 paragraph (3) is "If the debtor defaults, the fiduciary recipient has the right to sell the object that is the object of the fiduciary guarantee on his own strength.

The non-registration of fiduciary guarantees is a matter worthy of careful attention in the development of guarantees, particularly regarding the function of the guarantee itself or the procedural legality that is prioritized. Furthermore, it is necessary to pay attention to the development of credit agreements with various types of guarantees.

The definition of an agreement is regulated in Article 1313 of the Civil Code, which states, "An agreement is an act by which one or more parties bind themselves to one or more other parties." This formulation in Article 1313 of the Civil Code has received criticism from legal experts, who consider it to contain numerous weaknesses. Meanwhile, according to R. Setiawan, the formulation of an agreement in Article 1313 of the Civil Code has weaknesses, including (R. Setiawan, 1999):

a) Incomplete because it only mentions a unilateral agreement. "One party binds himself to one or more parties."

b) This is very broad because the use of the word "Act" also includes voluntary representation and unlawful acts. R. Setiawan argues that, [Ibid] the definition needs to be revised, namely that an Act must be interpreted as a legal act, namely one that aims to give rise to legal consequences and adds the words "mutually bind themselves" in Article 1313 of the Civil Code, thus formulating it as an Agreement is a legal act in which one or more people bind themselves to one or more people.

Agreements are regulated in Book III of the Civil Code. General provisions regarding agreements are set out in Part One, Articles 1313 to 1319 of the Civil Code. Part Two regulates the requirements for a valid agreement, starting with Articles 1320 to 1337 of the Civil Code. Part Three regulates the consequences of agreements, starting with Articles 1338 to 1341 of the Civil Code. Part Four regulates the interpretation of agreements, starting with Articles 1342 to 1351 of the Civil Code.

In money lending agreements, there may be an accessory agreement, namely a guarantee agreement, where one party undertakes to pay the other party a debt if the debtor defaults on their obligations. The principal agreement is the loan agreement, the payment of which is guaranteed. This is ultimately referred to as a guarantee.

The agreed agreement will give rise to a contract. The agreement here will give rise to rights and obligations for the parties, commonly referred to as performance. Performance itself must be fulfilled as agreed, while failure to fulfill the promised performance will result in default. Default itself is not fulfilling or neglecting to carry out obligations as stipulated in the agreement made by the creditor and debtor.

Fiduciary as a guarantee institution has long been known in Roman society. The emergence of the Fiduciary Guarantee institution is related to the provisions in Article 1152 paragraph (2) of the Civil Code concerning pawning, which requires that power over the pawned object cannot be in the pawnbroker. Law No. 42 of 1999 concerning Fiduciary Guarantees or UUF requires that fiduciary guarantees be made by a notarial deed and registered with a fiduciary registration agency to obtain a fiduciary guarantee certificate. In this case, the object burdened with fiduciary guarantees must be registered at the Fiduciary Registration Office. This is a significant breakthrough that gave birth to fiduciary principles, thus fulfilling the principle of publicity. The more publicized debt collateral is, the better, allowing creditors and the general public to learn and access important information regarding the debt collateral.

The term "cooperative" is derived from the Latin words "Cum," meaning "with," and "Aperari," meaning "to work." These two words have become the English term "Cooperation," meaning working together with others to achieve a specific goal. The word "Cooperation" was later adopted as an economic term, "Koperasi," which was standardized into an economic language known as "Koperasi," meaning an economic organization with voluntary membership. Therefore, a cooperative can be defined as an association or economic organization whose members are free to join and leave as members according to existing regulations, working together as a family to run a business with the aim of improving the physical well-being of its members.

In the Cooperative Law Number 12 of 1967 in Article 3 it is stated that "Indonesian Cooperatives are people's economic organizations that have a social character, consisting of individuals or cooperative legal entities which constitute an economic structure as a joint venture based on the principle of family". According to Law Number 25 of 1992 concerning Cooperatives, in Chapter I General Provisions Article 1 part one that "Cooperatives are business entities whose members are individuals or cooperative legal entities by basing their activities on cooperative principles as well as being a people's economic movement based on the principle of family".

Method

This research is normative and empirical juridical, namely reviewing the laws and regulations including the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 25 of 1992 concerning Cooperatives, Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by Cooperatives, and Law Number 42 of 1999 concerning Fiduciary Guarantees and observing the reality that occurs in the field. From the results of the research data, both library and field, a descriptive analysis discussion is carried out. Descriptive is the presentation of research results with the aim of obtaining a comprehensive but systematic picture, especially regarding facts related to the problems studied by the author.

Implementation of Borrowing and Lending with Fiduciary Guarantee

A loan agreement is an agreement in which one party provides another party with a specified quantity of goods that are used up through use, with the condition that the latter party will return an equal quantity of the same type and quality, as stipulated in Article 1754 of the Civil Code. The subjects of a loan agreement are the lender (creditor) and the borrower (debtor). The creditor is the person who lends money to the debtor, while the debtor is the person who receives the loan from the creditor. The positions of the two parties here are not strictly those of creditor and debtor, because at the outset of the agreement, the lender is also considered a debtor, obligated to provide the amount requested by the borrower. The lender is obligated to provide the amount of money or goods requested by the borrower (debtor). As loans are provided in the form of credit, the amount of money provided by the lender must take into account certain aspects, particularly in the practice of providing loans with collateral, where the value of the collateral affects the amount of the loan. This obligation is also regulated in writing in Article 1759 of the Civil Code, while the right of the lender is to receive back a sum of money or goods in accordance with the agreed amount.

The procedures for implementing a loan agreement with fiduciary collateral at the Mega Buana Makmur Savings and Loans Cooperative (KSP) are as follows: Formation of a Loan Agreement. Based on information obtained from the Credit Marketing Department of the Mega Buana Makmur Savings and Loans Cooperative (KSP), Mr. Anton, S.E., stated that to obtain credit or a loan with fiduciary collateral from the Mega Buana Makmur Savings and Loans

Cooperative (KSP), the applicant and the Mega Buana Makmur Savings and Loans Cooperative (KSP) must enter into a credit agreement. Therefore, the following steps are required in the credit agreement formation procedure:

1. Submitting a Credit Application: Every applicant intending to obtain credit or a loan must come to the Mega Buana Makmur Savings and Loans Cooperative (KSP) office and state their intent and purpose for submitting the loan application to the Mega Buana Makmur Savings and Loans Cooperative (KSP). Applicants are expected to provide truthful information regarding the intent and purpose of submitting the loan application. The requirements that must be met by prospective debtors to obtain credit from the Mega Buana Makmur Savings and Loans Cooperative (KSP) are as follows: as a member or non-member of the Mega Buana Makmur Savings and Loans Cooperative (KSP), have businesses that can support the return of the loan, provide collateral of the required value in accordance with the provisions and are willing to repay the loan, pay interest, pay applicable loan fees on time. Credit applicants who are willing to fulfill the requirements to apply for the credit will be given a credit application form that has been prepared in advance by the Mega Buana Makmur Savings and Loans Cooperative (KSP), and the credit applicant only needs to fill in the blank sections of the form. In filling out the credit application, the credit applicant is required to have determined the goods or rights to be pledged. The goods or rights pledged by the credit applicant in the agreement are used to provide certainty to the Savings and Loans Cooperative (KSP) that the credit applicant will repay the loan along with the interest and fees to be paid. The Mega Buana Makmur Savings and Loans Cooperative (KSP) itself stipulates the requirement for certain goods or rights to be pledged, this is in accordance with Article 19 paragraph (2) of Government Regulation Number 9 of 1995 concerning the Implementation of Savings and Loans Business Activities which states "In providing loans, the Mega Buana Makmur Savings and Loans Cooperative (KSP) and savings and loan units are required to adhere to the principles of healthy lending by paying attention to the assessment of the suitability and ability of the loan applicant." Goods or movable objects that are used as collateral in the loan agreement at the Mega Buana Makmur Savings and Loans Cooperative (KSP) with fiduciary collateral are movable objects in the form of BPKB motor vehicles and agricultural tools. The credit application that has been completely filled out by the credit applicant must be signed by the husband or wife as the party who is also responsible and must request a recommendation from the village head or office where the credit applicant works. The parties who make the agreement must of course fulfill the requirements for the validity of the agreement as regulated in Article 1320 of the Civil Code, one of which is related to this is the ability to make an agreement. Capacity to act relates to the maturity of the person who will take legal action. Overall, customers of the Mega Buana Makmur Savings and Loans Cooperative (KSP) can be said to meet the maturity requirements. This is evident from the credit application letter and credit agreement that must be signed by the husband or wife. Therefore, customers of the Mega Buana Makmur Savings and Loans Cooperative (KSP) meet the capacity requirements. This level of maturity can be measured from the provisions of Law Number 1 of 1974 concerning Marriage and Law Number 30 of 2004 concerning the Position of Notary Public Article 39

paragraph (1) point a which states that the limit of adulthood is 18 years of age or already married so that if it is linked to an agreement then the limit of maturity can be used to make an agreement before a notary, even a woman who is married is allowed to make an agreement since the issuance of Circular Letter of the Supreme Court Number 3 of 1963 so that the provisions in Article 108 BW which views a woman who is married as not capable of making an agreement are no longer valid because they have been revoked by the provisions of Article 31 sub 2 of Law Number 1 of 1974 concerning the Marriage Law (Mariam Darius Badrulzaman, 2001).

2. Filling in the Prospective Borrower Data for the Mega Buana Makmur Savings and Loans Cooperative (KSP). After completing the loan application form and receiving a recommendation from the village head or the office where the applicant works, the applicant is required to complete the prospective borrower data form provided by the Mega Buana Makmur Savings and Loans Cooperative (KSP).
3. Examination/Survey. After the applicant has completed the prospective borrower data form, the next step is for an account officer from the Mega Buana Makmur Savings and Loans Cooperative (KSP) to verify the accuracy of the data provided by the applicant, either through an interview or a direct inspection in the field. During the interview, the account officer will strive to obtain as much clarity as possible about the applicant's circumstances. This is intended as a preventative measure to reduce the risk of losses that may arise due to the applicant's default.
4. Credit Application Analysis. Based on the results of the examination conducted by the account officer, an assessment of the debtor's condition will be made to determine the accuracy of the data provided by the applicant. The assessments that can be used as considerations in granting credit include: the credit applicant is known as a good and responsible person and is directly known about his business, the credit applicant has been in business for a long time and the prospects of his business allow for a loan, collateral or guarantee in accordance with the conditions set by the Mega Buana Makmur Savings and Loans Cooperative (KSP) with a sufficient estimated value and is worthy of being guaranteed (not in dispute and not controlled by others).
5. Decision Making, in the proposal for granting credit if it has been approved, the prospective borrower will sign the data form of the Mega Buana Makmur Savings and Loans Cooperative (KSP) and will then form an agreement in a credit agreement whose form and content have been made by the Mega Buana Makmur Savings and Loans Cooperative (KSP). While the credit applicant only needs to accept or reject the contents of the agreement that has been made unilaterally by the Mega Buana Makmur Savings and Loans Cooperative (KSP). If the credit applicant accepts the credit agreement, the debtor must sign the credit agreement.

Fiduciary Encumbrance Agreement, in the credit agreement will be followed by a fiduciary encumbrance agreement on the specified goods. Placing certain goods or rights in the provision of a loan is a must. The fiduciary encumbrance agreement itself is an accessory or follow-up to the main agreement, in this case a loan agreement so that it is not possible for a fiduciary guarantee to occur without another agreement that is the parent of the fiduciary agreement,

although it is not regulated in the Civil Code, but with the enactment of the Fiduciary Guarantee Law will guarantee the priority rights of the creditor receiving the fiduciary in the fiduciary agreement so that the position of the goods absolutely belongs to the creditor. Based on the results of the interview with Mr. Gilbert, the account officer of the Mega Buana Makmur Savings and Loans Cooperative (KSP), it was obtained information that the fiduciary goods include: Motorized vehicles such as motorbikes and cars that are pledged, their position remains in the hands of the credit applicant so that they can be used for daily needs, but proof of ownership of BPKB (Proof of Motor Vehicle Ownership) is required to be in the hands of the Mega Buana Makmur Savings and Loans Cooperative (KSP) so that the transfer of the motorized vehicle is not possible and also Agricultural Tools that can be fiduciary are in the form of production machines, processing machines that have a certain economic value.

Problems in the Implementation of Loan Agreements with Fiduciary Guarantees

In research conducted at the Mega Buana Makmur Savings and Loans Cooperative (KSP), the author discovered problems in loan agreements with fiduciary collateral, namely the existence of defaults (defects in performance) in the agreement, including: Late installment payments. In implementing loan repayments, the parties had agreed to make payments in several installments. The installment payments are stipulated in Article 2 of the Mega Buana Makmur Savings and Loans Cooperative (KSP) Credit Agreement. Based on the standard format of the agreement, the Mega Buana Makmur Savings and Loans Cooperative (KSP) credit agreement requires uniform implementation of the agreed-upon policies by both parties. During these payments, it turned out that some loan applicants committed defaults by failing to make installment payments on the agreed-upon dates at the Mega Buana Makmur Savings and Loans Cooperative (KSP). Interviews with several customers revealed that the reason for the default, which occurred in the form of late installment payments, was that the funds intended for loan repayments were instead used for other purposes. In addition, there are other factors that cause borrowers to default on payments, including: first, economic changes, where changes in economic conditions are normal and can impact the financial position of the loan applicant. Ultimately, the loan applicant, as a borrower who relies on business profits to repay the loan, is unable to continue making the loan installments. Second, personal factors on the part of the loan applicant, where many cases of non-payment are more likely due to personal factors. In this case, the loan applicant intentionally fails to fulfill their obligations despite their economic circumstances. Further information regarding this issue is obtained, indicating that most loan applicants who default due to personal factors are those who have borrowed frequently. Typically, the first or second loan is considered good, but it is only with subsequent loans that their negative character becomes apparent.

The goods placed as collateral are no longer in the hands of the Debtor, based on information from the account officer of the Mega Buana Makmur Savings and Loans Cooperative (KSP), the transfer of the position of fiduciary objects by the credit applicant himself can be classified into various forms, some are only temporarily loaned to other parties, some are indeed

with the awareness of the credit applicant has released the object in a sale and purchase agreement (sold), some are deliberately placed in a rental agreement with another party (rented). If the Debtor is in default after collection at his residence but is unsuccessful, the Mega Buana Makmur Savings and Loans Cooperative (KSP) will provide a first warning letter which is a notification so that the credit applicant immediately shows his good faith in an effort to settle the payment arrears that must be made. The expected response from this first warning letter is that the credit applicant immediately comes to the Mega Buana Makmur Savings and Loans Cooperative (KSP) office to pay off the arrears of his installments or the credit applicant can also come to the Mega Buana Makmur Savings and Loans Cooperative (KSP) office to explain the failure to fulfill his obligations because in this first warning letter, the Mega Buana Makmur Savings and Loans Cooperative (KSP) still provides an opportunity for the credit applicant to negotiate other efforts in repayment of the loan that can be agreed upon by both parties amicably. Ultimately, if the credit applicant does not provide a positive response to the first and second warning letters from the creditor, the creditor will send a third warning letter. Unlike the two previous warning letters, this notification letter is a pre-execution letter for the collateralized goods. The essence of the third letter is that the collateralized credit applicant's goods will be immediately confiscated and to prevent the confiscation, it can only be done if the debtor fulfills his obligations.

Conclusion

The procedure for implementing a loan agreement with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) is through the formation of a loan agreement and a fiduciary burden agreement. Meanwhile, the problem that occurs in the loan agreement with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) is the existence of default (defective performance), where the Debtor (credit applicant) does not keep his promise to the Creditor (lender) as agreed by both parties in the credit agreement.

The author's suggestion is that in the implementation of the loan agreement with fiduciary guarantee at the Mega Buana Makmur Savings and Loans Cooperative (KSP), both from credit marketing, account officers, and managers in making decisions must be more careful so that the procedures are not good but the implementation in the field does not run properly, because there are still many customers who have experienced default in the Mega Buana Makmur Savings and Loans Cooperative (KSP). Meanwhile, customers who make loan agreements with fiduciary guarantees at the Mega Buana Makmur Savings and Loans Cooperative (KSP) must have good intentions in terms of paying loan installments on time in accordance with the agreement of the two parties stated in the credit agreement between the credit applicant (Debtor) and the lender (Creditor) of the Mega Buana Makmur Savings and Loans Cooperative (KSP).

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