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## LEGAL PROTECTION FOR BANK CUSTOMERS RELATED TO SAVINGS MONEY EMBEZZLED BY OFFICIALS AT BANK BRANCH HEADS

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### ABSTRACT

The existence of a bank as a storage facility for public funds often creates legal problems which in essence can cause a loss to the customer. The existence of a bank which should be a forum for the community to store the funds they have. This is part of the bank's function in carrying out its business sector in the banking sector because in practice there are legal problems experienced by customers with the initials WE as eSport athletes. Where the money in his savings was embezzled by the head of the Maybank branch with the initials CA. Based on this, the legal action that harms the customer is carried out by bank maybank in terms of the banking law, consumer protection law and Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection article 7 paragraph (1) letter (e) that the Principles of Consumer Protection cover the protection of Consumer assets against misuse.

**Keywords :** Legal Protection, Bank Customers, Embezzlement, Bank Officials.

### INTRODUCTION

That the existence of the Bank as a forum for the community to save the funds they have. This is part of the bank's function in carrying out its business sector in the banking sector. <sup>1</sup> By definition, this is based on the provisions of the Law of the Republic of Indonesia Number 10 of 1998 concerning Amendments to Law Number 17 of 1992 concerning Banking Article 11 number 11 that Banking is everything related to banking, including institutions, business activities, as well as methods and processes in carry out their business activities. The existence of a bank as a storage facility for public funds often creates legal problems which in essence can cause a loss to the customer. Because in practice there are legal problems experienced by customers with the initials WE as eSport athletes. Where the money in his savings was embezzled by the head of the

<sup>1</sup> Arthesa, Ade & Edia Handiman, 2006. *Bank & Lembaga Keuangan Bukan Bank*, Jakarta: PT. ndeks, h. 12

Maybank branch with the initials CA. In the case experienced by WE, his savings amounted to Rp. 22,000,000,000.- (twenty two billion rupiah) is already in the trial process. However, previously PT. Bank Maybank Indonesia mediates with WE by providing temporary compensation of Rp. 16,800,000,000.- (six billion eight hundred million rupiah). but the WE.

Based on the problems above, the existence of Bank Indonesia as the Central Bank issued a policy of Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection. In this regulation, it is made on the basis of carrying out the duties of Bank Indonesia, Bank Indonesia conducts regulation and supervision of administrators who are regulated and supervised by Bank Indonesia by paying attention to aspects of consumer protection. Therefore, on the basis of this problem, there is an obligation on the part of Maybank to be resolved. The role of the customer is basically related to banking service activities. Thus the role of the customer in the banking sector is also interpreted as the role of the customer in filling that field from the bank's business. Bank business fields can be divided into categories.<sup>2</sup> The rapid development of the world of banking cannot be separated from the role of the customer as the party that uses the services of the bank, because if there is no trust from the customer in the bank then of course the bank cannot carry out its function as a protector and distributor of funds from the community. However, it cannot be denied that it is not uncommon for customers, as parties, to use bank services, their rights are often ignored. Due to the lack of protection for customers when transacting with banking, this is a problem that is often complained about continuously.<sup>3</sup>

Based on the description above, a problem arises that if in practice the activities carried out by the Bank when there is a legal problem there is an element of the customer as a victim as a result of the actions taken by the Maybank bank officials themselves which result in losses for the customer. So how is the concept of legal protection in Indonesian law in providing protection for WE as a customer whose money in their savings is allegedly lost. then what about the legal responsibility of the Maybank Bank in cases that befell its customers which were carried out by the Maybank officials themselves. Based on the problems above, we will examine how legal protection is for WE as a customer from Bank Maybank whose money in savings is embezzled by the official head of the Maybank branch? And what is the legal responsibility for the behavior of Maybank customers for the actions of the Maybank branch head officials?

## RESEARCH METHOD

Legal research methods that can be used to study normatively. This method involves reviewing various relevant legal regulations, including banking laws, internal bank regulations, and regulations related to consumer protection. You can analyze and interpret legal norms relating to legal protection for WE (name of customer) as a Maybank Bank customer who has experienced misappropriation of funds by an official at the Maybank Branch Head. In addition, you can also analyze WE's legal responsibility as a customer for the actions of the Maybank Branch Head officials.

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<sup>2</sup> Hermansyah, 2013, *Hukum Perbankan Nasional Indonesia*, edisi ke-2. Jakarta: Kencana, h. 9

<sup>3</sup> *Ibid.* h. 11

## RESULTS AND DISCUSSION

### Legal Protection of WE As Customer Savings Money from Bank Maybank embezzled by the Head of Maybank Branch Officer

The Legal Basis Used by the WE Customers who were Disadvantaged by Bank MayBank. Where s the loss experienced by the customer Rp. 22,000,000,000.- (twenty two billion rupiah). as for the legal basis for legal protection used by customers at banks based on Law number 10 of 1998 concerning Banking concerning Banking.<sup>4</sup> Whereas based on the principle of customer protection it is also regulated in the provisions of Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection article 7 paragraph (1) letter (e) that the Consumer Protection Principle ncludes protection of Consumer assets against misuse. So on the basis of this principle, the customer has the right to the customer's assets which were misused by the head of the Maybank branch because the WE customer did not commit any actions or transactions n the funds n his savings. Because these allegations are based on the results of nvestigations carried out by nvestigators that the suspect n the case of embezzlement of WE's funds was carried out by Maybank officials themselves, n this case who has the position of head of the Maybank branch with the nitials CA.

Whereas for the problems experienced by WE, Banj is obliged to provide legal protection for these WE customers because the bank has a legal obligation to handle and resolve complaints by customers n accordance with the consumer protection principles stipulated in Bank Indonesia Regulation Number 22/20/Pbi/ 2020 concerning Bank Indonesia Consumer Protection article 7 paragraph (1) letter (g). so that this principle must be carried out by the maybank as part of the customer's rights. The bank's obligation Maybank is to protect ts customers n managing the funds placed at the customer's bank as well as possible and is always responsible for providing refundable funds if the customer wants to take them back. In the provisions of the No. 10 Year 1998 regarding did not determine the legal basis can be used by the customer f he is harmed by the bank because basically f a customer enters the banking service system, he will be faced with the choice provided by the bank himself. n other words, if the customer is a saver, that means he will receive nterest from his savings, and f the customer is a customer debtor, then he must repay his debt to the bank.<sup>5</sup> if he does not pay off his obligations, then based on his agreement, the bank can confiscate the collateral submitted to the bank.

Legal protection for banking customers basically arises because banks do not have good management due to ineffective credit distribution and supervision, the management system mplemented does not support bank operations, which results n difficulties for banks to carry out their operations that banks are liquidated by the government.<sup>6</sup> The implementation of this liquidation is detrimental to customers, especially customers, who cannot take their funds from liquidated banks n cash. n this position the customer has been harmed and in claiming his rights

<sup>4</sup> Kasmir, 2008. *Dasar-Dasar Perbankan*, Jakarta: PT. RajaGrafindo Persada, h. 26

<sup>5</sup> Sembiring, 2000. *Sentosa, Hukum Perbankan*, Bandung: CV. Mandar Maju, h. 42

<sup>6</sup> Sihombing, Jonker, 2010. *Penjaminan Simpanan Nasabah Perbankan*, Bandung: PT. Alumni, Bandung, h. 37

he must comply with government regulations.<sup>7</sup> Regarding prosecution on the basis of unlawful acts (Article 1365 of the Civil Code) and breach of contract, customers will spend large amounts of funds and for a long time to demand the implementation of the prosecution process.<sup>8</sup> So, if a depositing customer files a claim against the bank on the basis of an unlawful act and default, it is because the WE customer has lost funds and time. Therefore, the provisions adopted by Bank Indonesia are appropriate in providing legal protection for customers. The funds deposited by the customer at the Maybank bank have been disbursed legally and can be proven ownership.

The Concept of Legal Protection for WE Customers, The condition of WE customers who were not protected as bank Maybank customers started from the first time the bank customer had contact with Maybank bank. The relationship is unbalanced. Savings as an equivalent form, there is no collateral whatsoever that is given by bank maybank to WE customers, except: capital bank trust. The customer's position is very weak compared to bank's position.<sup>9</sup> There are at least two legal relationships between the bank and customers that are considered unfair. First, when the bank acts as a creditor, the customer provides legal protection in the form of submitting collateral documents, such as land certificates, to guarantee repayment of the customer's debt. Second, customers do not have control over bank asset documents to guarantee bank loans to customers in the form of demand deposits, deposits, savings or other forms. Banks are only armed with "trust" from customers. Inadequate customer protection is provided.

The Banking Law regulates real customer protection issues. This is reflected in the authority of Bank Indonesia in conducting bank supervision. This means that customer protection cannot be separated from efforts to maintain bank continuity in the national banking system. Protection is not set explicitly. This means that bank failure is feared to create an uncomfortable customer community. Whatever the position of the customer towards the bank, it does not burden the bank. Banks are always in standard banking agreements protected in the form of unilateral clauses from the bank. In essence, the customer is subject to all bank guidelines and regulations, whether they are in force or will be enforced and then it is no longer questioned whether or not the customer has approval. Returning to the initial discussion regarding the legal basis that can be used by a customer when he is harmed by a bank, in this research as the scope of the author's discipline in the field of civil law, in this discussion it can be further questioned whether provisions regarding violations of law can be imposed on which bank the official head of the Maybank branch committed the crime of embezzlement of one of the customer's funds of around Rp. 22,000,000,000.- (twenty two billion rupiah).

The position of the customer who has the right to legal protection, that is seen from the position of the customer as an individual who interacts with the banking sector, both as depositors. In every reciprocal work, there are always 2 (two) types of legal subjects, each of

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<sup>7</sup> Simanjuntak, D. 2016. "Tinjauan Hukum Perlindungan Konsumen Terhadap Perjanjian Kredit Bank". *Jurnal Ilmu Hukum Legal Opinion*, 1(4), 1-10. h. 6

<sup>8</sup> Sembiring. *Op. Cit.* h. 39

<sup>9</sup> Hermansyah, *Op. Cit.* h. 55

which has reciprocal rights and obligations in implementing the agreements they have made.<sup>10</sup> In an agreement, including banking services, there is a possibility that one of the parties does not enter into an agreement or does not fulfill the contents of the agreement that has been agreed upon by them. If one of the parties does not carry out what was agreed upon or the obligations under their agreement have been carried out, that party is in default or breach of contract, which means that it does not fulfill the performance agreed upon in the agreement.

Basically, the customer's position is as depositor of funds so that the right of prosecution against the maybank. Furthermore, acts against the law can be imposed on the official head of the Maybank branch who has harmed his customers based on article 1365 of the Civil Code which reads "Any unlawful act that harms other people, obliges the person who because of his mistake to incur a loss is to compensate for the loss". From the data of the article 1365 of the Civil Code it is said that an act is against the law if it meets the requirements

1. elements of an act must be against the law
2. This action must result in a loss
3. The act must be done because of mistake/negligence
4. Between actions and losses that arise there must be a causal relationship.

Based on the provisions of Article 1366 of the Civil Code it states that "Every person is responsible not only for losses caused by his actions, but also for losses caused by negligence or lack of caution". the bank maybank which has committed an unlawful act under article 1365 of the Civil Code the customer must be able to prove that the bank has committed a legal action against its customer. The scope of legal protection for our customers cannot be separated from Law number 10 of 1998 concerning banking regarding customer protection, because basically this law is used to protect customers, including clients in general. Law number 10 of 1998 concerning Banking There is nothing that does not talk about customers in it, but because Law number 10 of 1998 concerning Banking only informs customers it does not provide banking effects itself so it is felt that it does not provide enough protection to its customers. But administrative law no. 10 of 1998 provides protection to its customers. But administrative law no. 10 of 1998 provides the consequences of actions taken by BI against banks that violate the provisions of Law number 10 of 1998 concerning Banking, while customers are not given the opportunity to take action from these provisions.<sup>11</sup>

### **Legal Liability Against Maybank Customers for the Actions of the Head of Maybank Branch Officers**

The principle of responsible business behavior which is an important aspect of the Bank as an effort to improve and empower customers is the presence of infrastructure at the bank to handle and resolve various customer complaints and complaints. The bank must respond to every

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<sup>10</sup> Kasmir, *Op. Cit.* h. 45

<sup>11</sup> Papendang, A.A. 2016. "Hak Dan Kewajiban Nasabah Bank Serta Perlindungan Hukum Menurut Undang-Undang Nomor 10 Tahun 1998". *Jurnal Lex Administratum*, 4(3), 77-86. h. 82

customer complaint and complaint.<sup>12</sup> In order to avoid protracted handling of customer complaints, clear and generally accepted time standards are required at each bank in resolving each customer complaint. If it cannot be resolved, it is necessary to provide media that can accommodate dispute resolution between the customer and the bank. Settlement of bank customer disputes must be able to fulfill simple, inexpensive, and fast elements.

In the provisions of Bank Indonesia Regulation Number 22/20/Pbi/2020 concerning Bank Indonesia Consumer Protection regarding the Application of the Principles of Consumer Asset Protection against Misuse of Article 27 paragraph (1) Providers are required to maintain the security of Consumer assets which are under the Provider's responsibility. So in this legal basis, in this case, the Maybank bank is responsible for the assets belonging to the customer. So there is a responsibility that is held by the Maybank to provide protection for and said. furthermore in the provisions of Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection 27 paragraph (2) Providers are required to be responsible to Consumers for losses incurred as a result of errors of the administrators and/or employees of the Provider. It is clear that this provision provides a legal obligation for Bank Maybank to be responsible for providing compensation for losses suffered by WE customers who lose in the amount of Rp. 22,000,000,000.- (twenty two billion rupiah). the loss was as a result of embezzlement legal actions carried out by the head of bank maybank officials themselves.

Customer protection in the banking sector, as debtors protect their customers under the law, because each borrower will be bound by a credit agreement between the customer and the bank.<sup>13</sup> Thus, there is no real agreement in standard form between the customer and the bank. However, in daily practice, reciprocal relationships are found between customers and banks, both customers in the form of savings and in the form of deposits. This reciprocal relationship can be in the form of interest by the bank on deposits of depositing customers, as well as the customer's obligation to carry out an administrative system if he wants to withdraw money or save money. This discussing legal principles in the relationship between customers and banks is basically discussing agreements between customers and banks. Such legal principles are not complex, in which the bank still imposes an obligation to provide certain interest on the amount of customer deposits and the customer has the right to withdraw and store these funds. It's just that the agreement between the customer and the bank is not stated in the standard form of the agreement, where depositors are only given evidence or pocket books. And actually, customers do not mind the system that is treated by the bank.

Whereas based on the problems experienced by these customers besides the efforts that have been made to the district court, there are other efforts provided by Bank Indonesia through Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection Article 44 (1) In the case of Consumers do not agree on the results of the handling and settlement carried out by the Operator as referred to in Article 35 paragraph (1), the Consumer can submit a complaint to the dispute resolution agency or institution or to Bank Indonesia.

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<sup>12</sup> Chalim, F. 2017. "Hubungan Hukum Antara Bank Dan Nasabah Penyimpan Dana Menurut Undang-Undang Perbankan". *Lex Et Societatis*, 5(9), 120-127. h. 124

<sup>13</sup> *Ibid.* h. 125

further Bank Indonesia Regulation Number 22/20/Pbi/2020 Concerning Bank Indonesia Consumer Protection article 44 paragraph (2) Complaints that can be submitted by Consumers to Bank Indonesia as referred to in paragraph (1) are those included in the scope of Protection. Therefore, consumer protection for the bank is part of the responsibility of the bank as a legal subject who has an obligation to provide protection to customers.

## CONCLUSION

The bank is obliged to ensure that in carrying out legal protection for WE customers against legal actions that harm these customers carried out by bank maybank in terms of banking laws, consumer protection laws and Bank Indonesia Regulation Number 22/20/Pbi/2020 concerning Consumer Protection Bank Indonesia article 7 paragraph (1) letter (e) that the Principles of Consumer Protection include protection of Consumer assets against misuse. . so there is a concept of legal protection for customers by applying provisions.

Whereas maybank is responsible for customer losses in the amount of Rp. 22,000,000,000.- (twenty two billion rupiah) it. because based on iBank iIndonesia iRegulation Number 22/20/PBI/2020 concerning Bank Indonesia Consumer Protection 27 paragraph (1) Providers are obliged to maintain the security of iConsumers assets that are in the responsibility of Organizers and paragraph (2) Organizers are obliged to be responsible to Consumers for losses which arise as a result of the mistakes of the administrators and/or the organizers' employees

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