

ABSTRAK

Meidia Josa

(01659200014)

TANGGUNG JAWAB BANK DALAM PENERAPAN PRINSIP KEHATI-HATIAN TERHADAP DUGAAN PENYELEWENGAN DEPOSITO MILIK NASABAH

(Studi Putusan Nomor 50/Pid. Sus/2015/PN.Jkt.Sel)

(x + 102 halaman)

Bank merupakan lembaga perbankan yang dipercaya oleh masyarakat untuk tempat menyimpan dana. Sebagai penjamin dana masyarakat, bank harus bertanggung jawab atas penyimpanan dana para nasabah. Oleh karena itu, bank wajib menerapkan pengaturan prinsip kehati-hatian agar usaha dan pencegahan kerugian pada bank dapat diketahui juga oleh nasabah. Untuk itu, pencegahan kerugian pada bank dengan menerapkan peraturan terkait prinsip kehati-hatian berdasarkan pada Pasal 29 ayat 2 Undang Undang Nomor 10 tahun 1998 tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan yang menyatakan bahwa bank wajib memelihara tingkat kesehatan bank serta wajib melakukan kegiatan usaha dengan prinsip kehati-hatian. Oleh karena itu, pada perkara yang Penulis teliti, bank dan/ atau pegawainya telah melakukan penyelewengan dana Deposito milik nasabah yang mengakibatkan nasabah mengalami kerugian materiil dan immateriil. Kerugian materiil nya berupa Rp 15 Milyar serta bunga, sedangkan kerugian Immateriil berupa tekanan nasabah atas kepercayaannya kepada Bank karena sebelumnya sebagai relasi bisnis yang baik, namun akibat dari kelalaian Pihak Bank tersebut, membuat Nasabah menjadi hilang kepercayaan. Penulis menggunakan metode penelitian Yuridis Normative, yaitu berdasarkan pada peraturan perundang-undangan serta buku-buku kepustakaan. Hasil penelitian Penulis yaitu dugaan penyelewengan dana Deposito milik nasabah tersebut akibat dari kelalaian pegawainya yang tidak menerapkan prinsip kehati-hatian sebagaimana telah diatur dalam Undang-Undang Perbankan yang mengakibatkan bank yang harus bertanggung jawab atas kerugian nasabah dengan membayar ganti rugi serta denda kepada Nasabah. Terkait hal itu, pegawai bank tersebut terbukti melanggar Pasal 49 ayat 2 huruf b Undang-Undang Nomor 7 tahun 1992 tentang Perbankan *jo.* Undang-Undang Nomor 10 tahun 1998 sehingga di pidana kurungan selama 3 (tiga) tahun penjara serta membayar denda yang telah ditetapkan.

Kata Kunci: Bank, Prinsip Kehati-hatian, Deposito Berjangka, Nasabah, Perlindungan Hukum

Referensi: 37 (1979-2020)

ABSTRACT

Meidia Josa

(01659200014)

BANK'S RESPONSIBILITY IN THE APPLICATION OF PRUDENTIAL PRINCIPLES ON ALLEGED IMPRESSATION OF DEPOSITS OWNED BY CUSTOMERS

(Study of Decision Number 50/Pid. Sus/2015/PN.Jkt.Sel)

(x + 102 Pages)

Banks are banking institutions that are trusted by the public as a place to store funds. As guarantor of public funds, banks must be responsible for depositing customer funds. Therefore, banks are required to apply the precautionary principle so that the business and prevention of losses at the bank can also be known by the customer. To that end, the prevention of losses to banks by applying regulations related to prudential principles based on Article 29 paragraph 2 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking which states that banks are required to maintain the soundness of banks and must conduct business activities with the principle of prudence. Therefore, in the case that the author examines, the bank and/or its employees have misappropriated the deposit funds belonging to the customer which resulted in the customer experiencing material and immaterial losses. The material losses are in the form of Rp. 15 billion and interest, while the immaterial losses are in the form of customer pressure on their trust in the Bank because previously it was a good business relationship, but as a result of the negligence of the Bank, the Customer lost trust. The author uses a normative juridical research method, which is based on legislation and literature books. The results of the author's research are the alleged misappropriation of the Deposit funds belonging to the customer as a result of the negligence of the employee who does not apply the precautionary principle as stipulated in the Banking Law which results in the bank being responsible for the customer's loss by paying compensation and fines to the customer. In this regard, the bank employee was proven to have violated Article 49 paragraph 2 letter b of Law Number 7 of 1992 concerning Banking jo. Law No. 10 of 1998 so that he is sentenced to 3 (three) years in prison and pays a predetermined fine.

Key words: Banks, Prudential Principles, Time Deposits, Customers, Legal Protection

References: 37 Books (1979-2020)