

## Legal Approach in Overcoming Bad Credit Mortgage at Bank BTN Parepare

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***Abstract***

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*Home Ownership Loans (KPR) offered by PT Bank Tabungan Negara (Persero) Tbk (Bank BTN) are superior products in housing financing. However, the risk of bad loans remains a significant challenge for banks. To overcome this problem, Bank BTN has developed a series of bad loan settlement mechanisms regulated in the Standard Operating Procedures (SOP). These mechanisms include repayment with relief, gradual repayment, transfer of debtors, redemption of collateral, subrogation, cessie, and sale of collateral. Through a transparent and collaborative approach, the bank strives to provide fair solutions for customers and maintain financial stability. The study also identifies factors that affect the success of the non-performing loan settlement process, including policy innovations that accommodate provisions outside the SOP. One such innovation is the transfer of debtors under the hands, which allows risk mitigation and legal protection for potential buyers. Thus, Bank BTN can continue to maintain credit quality and provide the best service to its customers,*

***Keywords:*** Home Ownership Loans; Bad Loans; Standard Operating Procedures.

**A. INTRODUCTION**

The phenomenon of bad debts is a significant challenge for the banking sector in Indonesia, including Bank BTN Parepare Branch Office in South Sulawesi. Bad debts occur when debtors fail to fulfill payment obligations according to the agreement, which can threaten the financial stability of the bank (Abdu 2019) . Therefore, it is important to understand the mechanism for resolving bad debts, especially in the context of Bank BTN, which has a specific standard operating procedure (SOP) to deal with this issue.

Bank BTN implements a bad debt resolution mechanism based on strict SOPs. This process involves several steps, such as in-depth analysis of the causes of bad debts, reassessment of the debtor's financial capability, and adjustment of the payment schedule. If necessary, the bank may restructure the loan, including extending the term, lowering the interest rate, or reducing the principal. These measures are designed to minimize risk and ensure the recovery of bad loans. At Bank BTN Parepare Branch

Office, several factors influence the successful resolution of bad debts. Internal factors such as the effectiveness of risk control and the quality of credit analysis play an important role in preventing and resolving bad debts. In addition, a good relationship between the bank and the customer, as well as the bank's ability to assess the customer's good faith, also contribute to the successful resolution of credit problems (Kadari, Saharuddin, and Syahril 2023) .

External factors, such as macroeconomic conditions and government policies, also affect banks' ability to handle bad debts. Economic instability, changes in interest rates, and unfavorable fiscal policies can increase the risk of bad debts. Therefore, Bank BTN needs to consider these factors in its loan management strategy. Although Bank BTN Parepare has managed to keep the bad debt rate at zero rupiah until the 2023 financial year period, further research is needed to explore the approach applied in handling bad debts. This includes an analysis of loan restructuring policies and the handling of delinquent customers, which could provide valuable insights for other banks facing similar issues (Phireri, Amir, and Suardi 2022) .

The urgency of this research lies in the importance of understanding the factors that support Bank BTN Parepare's success in managing home ownership loans without experiencing bad debts. With the increasing challenges in the banking sector, this research is expected to provide in-depth insight into best practices that can be applied by other banks in Indonesia. The results of this study will not only be beneficial for Bank BTN Parepare to maintain its achievements, but can also serve as a strategic reference for other financial institutions in developing more effective policies and procedures in handling bad debts. In addition, by identifying successful approaches, this research can contribute to improving the stability and sustainability of the banking

sector as a whole, while providing benefits for customers in maintaining a good relationship with financial institutions.

## **B. RESEARCH METHODS**

The type of research in this study is normative-empirical which can also be called field research, namely examining the applicable legal provisions and what happens in reality in society (Juliardi et al. 2023) . The author conducts research based on legal research(Sabar et al., 2021) through various library materials. The legal research in question is research in the field of law that is motivated by the gap between *das sollen* and *das sein*, or in other words, a research conducted on the actual situation or the real situation that occurs in society with the intention of knowing and finding the facts and data needed after the required data is collected then heading to problem identification which ultimately leads to problem solving (Syarif et al. 2024) .

## **C. RESULTS AND DISCUSSION**

### **1. Bad Debt Settlement Mechanism for Home Ownership Loan Facilities in accordance with Special Standard Operating Procedures (SOP) at Bank BTN**

Home ownership loan (KPR) is one of the leading products offered by PT Bank Tabungan Negara (Persero) Tbk (Bank BTN) to the public. As a bank known for its specialization in housing finance, Bank BTN is committed to providing the best service to its customers. However, in the implementation of home ownership loans, the risk of bad debts cannot be avoided. These bad loans not only affect the customers who have difficulty in fulfilling their obligations, but also the overall financial health of the bank.

Facing these challenges, Bank BTN has developed a series of standard operating procedures (SOPs) specifically applied to deal with bad debts (Rusli, Asba, and Adhilia 2023) . These SOPs are designed with the aim of minimizing the risk of loss for the bank as well as providing fair and prudent solutions for customers. This procedure involves various stages and approaches, ranging from preventive efforts to settlement steps when the loan has been declared bad. Good implementation of the SOP is expected to maintain the financial stability of Bank BTN and provide a sense of security for customers.

Bank BTN emphasizes the importance of transparency and fairness in bad debt resolution. Each stage in the SOP is designed to provide customers with clear information regarding their rights and obligations. In addition, the bank provides assistance and solutions to help customers overcome financial problems, making a humanistic and solution-based approach a hallmark in dealing with bad debts. The implementation of the SOP involves working with credit guarantee agencies and legal entities to ensure compliance with legal requirements and achieve optimal results. The success of bad debt resolution depends on the synergy between the bank and external parties that play an important role in this process. Based on an interview with Mr. Ibnu Alif, Branch Business Control of Bank BTN Parepare Branch Office, the architecture of policies and procedures at Bank BTN is organized hierarchically, starting from the company's Articles of Association to technical guidelines. Matters that have not been formulated in bank policies are conveyed through temporary memos before being included in the policy architecture. The mechanism for resolving mortgage bad debts is regulated in Technical Guideline No. 1-R.1 and Special Policy No. 1-R, which governs collection management and credit settlement for the consumer segment.

The mechanism for resolving bad debts for home ownership credit facilities at Bank BTN will be discussed in depth as follows:

1. Credit Repayment with Waiver of Payment of Interest Arrears and/or Penalties.

Banks can provide relief in the form of reduced payment of interest arrears and/or penalties for the repayment of non-performing loans. The aim is to reduce the bank's risk of loss and allowance for impairment losses (CKPN), thereby reducing provisioning costs. This relief is given to debtors who are unable to pay off their principal, interest, and/or penalty obligations in cash. Debtors must submit a written application with identity documents. If the debtor is unable to repay due to death, working abroad for more than one year, detention, or unknown whereabouts, blood relatives or by marriage can apply.

Supporting documents required include identity card, marriage book, family card, inheritance certificate, police certificate, and certificate from relevant agencies. Other documentation such as termination letter, health condition, or proof of business difficulties are also required to support the application.

2. Phased Repayment

Gradual repayment is a bank policy for debtors who are unable to repay their credit at once before maturity. The aim is to reduce the risk of bank losses and help debtors pay off credit. Eligible debtors are those who have limited financial capabilities, such as a business that is not running, illness, or layoffs (Serenity 2019) . Debtors must submit a written application with supporting documents, such as termination or medical certificates. If the debtor is unable to repay due to death, working abroad for more than one year, detention, or

unknown whereabouts, the family can submit an application with valid documents, such as identity card, family card, and inheritance certificate. Gradual repayment must be agreed upon and outlined in a documented addendum to the credit agreement (Turnip, Subekti, and Raharjo 2023) .

### 3. Debtor Transfer

Debtor Transfer is a credit agreement renewal process where the old agreement between the creditor and the old debtor is removed and replaced with a new agreement between the creditor and the new debtor. In this process, the rights to credit collateral are also transferred from the old debtor to the new debtor. The purpose of transferring debtors is to reduce the bank's loss and operational risks and improve the bank's bargaining position. The new debtor must fulfill the terms of the loan, and the old debtor must voluntarily agree to this process. The new debtor must also have good performance and no affiliation with the old debtor. To carry out a debtor transfer, the old debtor and/or prospective new debtor must submit a written application (Kaffa 2020) . Prospective new debtors must be declared eligible by the bank and be willing to bear the costs associated with transferring debtors. In addition, a certificate in the name of the old debtor must be issued, and the appraisal must be updated according to applicable regulations.

### 4. Collateral Redemption

Collateral redemption is the process by which the debtor or collateral owner redeems the pledged property to the bank to settle the debt. This redemption may include part or all of the collateral, based on the request of the collateral owner. The purpose of this redemption is to provide the bank with full

or partial repayment of the debtor's obligations through cash payments, as well as providing fresh funds for the bank (Wardhani 2022) . Redemption must be carried out by the debtor, heirs, or collateral owner by attaching a photocopy of identity. In addition, collateral valuation must be carried out by an independent or internal appraiser in accordance with applicable regulations.

5. Subrogation

Subrogation is a process in which a third party replaces the bank's position in a credit agreement after paying the debtor's debt to the bank, either partially or in full. The purpose of subrogation is to transfer the creditor's rights to a third party with payment compensation. To carry out subrogation, the debtor or third party must submit a written application accompanied by documents showing the existence of financial rights and obligations between the debtor and the third party (Yustisia, Permadi, and Andrijani 2021) . This process must be notarized, and the third party must make payment to the bank. In addition, the debtor must have received coaching and warning letters announced through mass media.

6. Cessie (Sale and Purchase of Receivables)

Cessie is the transfer of receivables from the bank as a creditor to a third party, where the rights and obligations of the bank are transferred to the cessee who then collects the debtor. The purpose is to transfer receivables and property rights to a third party. This process requires a written request from the third party, is done notarially, and payment must be made in advance to the bank account (Agustina 2017) . Debtors must have received coaching and warning letters announced in the mass media. Debtors who have paid up to 700 percent of the

principal installments cannot settle the credit through cessie, but must go through an auction.

7. Credit Settlement through Transfer of Receivables Accompanied by Cooperative Management of Bank and Investor Receivables

Settlement of non-performing loans can be done by transferring non-performing loan receivables (NPLs) to investors, accompanied by receivables management cooperation between banks and investors. This transfer is carried out after a cooperation agreement or application from a potential investor. This process uses a cessie scheme, where the rights and obligations of the bank as a creditor are transferred to the investor, and the transferred receivables are separated from the bank's balance sheet. Each transaction is supported by a cooperation agreement that includes the value of the transaction, rights and obligations, and the method of payment (Justitia and Aidi 2017) .

8. Joint/voluntary sale of the Collateral object

The sale of collateral is carried out with the consent of the debtor or together with the debtor to obtain the optimal selling value to pay off the debtor's debt to the bank. The aim is to ensure that the bank gets full or partial repayment of the debtor's obligations through cash payments, as well as avoiding potential claims from the debtor (Kosasih 2021) . Requirements include the debtor's consent, the existence of a prospective buyer, and the use of sales proceeds to pay the debtor's obligations with priority payment of the principal. Submission of collateral documents is carried out after effective payment, and all sales costs are borne by the debtor.

9. Sale of Collateral based on Deed of Authorization to Sell

Collateral sales based on notarial power of attorney allow banks to sell collateral from debtors to interested parties with full payment. The main objectives are to obtain full or partial repayment of the debtor's obligations through cash payments, reduce bank losses due to non-performing loans, and solve the problem of vacant houses so that they can be owned and occupied by the community. The requirements for this sale include collateral in the form of vacant houses that have not been perfectly bound, equipped with valid sales documents, and an announcement in the newspaper if the debtor does not respond within 14 days (Triyanta and MH 2019) . Submission of collateral documents is done after effective payment, and prospective buyers must submit a formal offer.

10. Sale of Credit Collateral by Mortgage Auction

The sale of credit collateral through a Mortgage Rights auction is a method of resolving non-performing loans without going to court, based on Law No. 4 of 1996. The aim is to obtain full or partial repayment of the debtor's obligations with cash payments, thereby reducing bank losses due to non-performing loans (Bimantara 2019) . The collateral must be fully secured, and the Deed of Mortgage Deed (APHT) must include a promise to sell under its own power. This process requires the completion of documents in accordance with legal requirements.

11. Credit Settlement Through Court

Settlement of non-performing loans through the District Court is carried out for collateral that does not have perfect Mortgage Rights, by filing a civil

lawsuit. The purpose of this process is to obtain full or partial repayment of the debtor's obligations through the sale of collateral, avoid claims from the debtor, and obtain fresh funds to reduce bank losses. Requirements include the issuance of a Warning Letter (SP 1-3) as evidence of the debtor's default, as well as a Power of Attorney from the Board of Directors to a bank employee or lawyer to represent the bank's interests. Civil lawsuits require a lawsuit letter from the bank to the debtor and/or guarantor, and the bank can request the District Court to confiscate the execution of the debtor's collateral (Rifa'i 2023) .

## 12. Simple Lawsuit

Simple Lawsuit is a legal process to resolve civil lawsuits with a material value of up to IDR 500 million, using simple procedures and proof. The aim is to obtain full or partial repayment of the debtor's obligations through the sale of seized personal property, as well as obtain fresh funds to reduce bank losses due to non-performing loans (Karim, Abdillah, and Mannan 2022) . Requirements include the issuance of Warning Letters (SP 1-3) to prove the debtor's default, inventory of the debtor's assets for collateral confiscation, and application for District Court assistance for execution. Related documents such as the credit agreement and the debtor's identity are also required.

## 13. Legal Remedies Against *Personal Guarantee (Borgtocht)* and/or *Corporate Guarantee*.

The settlement of non-performing loans through guarantors involves parties who have bound themselves to the bank in a deed of Borgtocht (*Personal Guarantee*) or *Corporate Guarantee*. The guarantor is responsible for paying the debtor's entire debt in the event of default (Karim et al. 2022) . The purpose of

this mechanism is to obtain full or partial repayment of the debtor's obligations through cash payments from the guarantor, thereby reducing bank losses due to non-performing loans. Requirements include valid binding of the guarantor, certainty regarding the guarantor's wealth, and issuance of Warning Letters (SP 1-3) as evidence of the debtor's default (Ayunda and Fadhillah 2021) . This process is carried out in coordination with the bank's Legal Unit.

Of the 13 credit resolution mechanisms stipulated in Bank BTN's SOP, the mechanism of selling credit collateral and transferring debtors is the best mechanism to resolve bad debts because by transferring credit collateral, the problems arising from debtors will be transferred to other parties as a whole. However, there are obstacles faced by Bank BTN officers in order to sell collateral.

## **2. Factors that influence the success of the Bad Debt Settlement Process of Bank BTN Home Ownership Credit Facility Parepare Branch Office**

In the banking world, home loans (KPR) are one of the most popular products. This facility gives many individuals the opportunity to own their dream home through financing provided by the bank. However, behind the convenience offered, there are challenges that cannot be ignored, namely bad debts. Bad debts occur when borrowers are unable to fulfill their obligations to pay installments in accordance with the agreement. This phenomenon is not only detrimental to the bank but also affects overall financial stability.

Various factors can affect the success of the bad debt resolution process, ranging from internal bank policies, macroeconomic conditions, to the ability and willingness of debtors to fulfill their obligations. Bank BTN as a financial institution must have an effective strategy in dealing with this problem so as not to cause greater losses,

including in the Parepare Branch Office. In addition, the approach used by banks in resolving bad debts also needs to consider legal and ethical aspects, given its broad impact on various related parties.

Analyzing the factors that influence the success of the bad debt resolution process is important in finding a comprehensive solution. By understanding the root of the problem and the factors at play, banks can formulate more appropriate and effective policies. In addition, it also provides a clear picture of the steps that need to be taken by borrowers to avoid bad debts. In this context,

Bad debt resolution is not only about reducing financial losses for the bank, but also about maintaining good relations between the bank and the customer. A humane approach and sustainable solutions are key in achieving the expected results (Rusli et al. 2023) .

In an effort to improve the welfare of the community through home ownership, Bank BTN has an important role in providing home ownership credit facilities (KPR). This facility provides access to the community to own a home with affordable financing. However, along with the increasing number of KPR recipients, challenges in the form of bad debts are also a serious concern. Bad debts occur when borrowers are unable to fulfill their installment payment obligations as agreed, which affects the financial health of the bank as well as public confidence in the financial institution.

Although there are significant challenges in handling bad debts at Bank BTN, especially in the Parepare Branch Office, the reality on the ground shows an interesting phenomenon. On the one hand, the bank faces many cases of bad debts that require effective resolution. However, on the other hand, there are also many loans that have been successfully resolved (Ayunda and Fadhilah 2021) . This shows that despite the

challenges of bad debts, there are also significant successes in credit management by Bank BTN Parepare Branch Office. To find out the success of bad debts at Bank BTN Parepare Branch Office, we as researchers conducted direct observations and interviews in the field.

Based on the results of an interview on May 28, 2024 with Mr. Muh. Ilyas Beddu as Team Leader Field Collector. He said that:

"In terms of the success of the process of resolving bad debts for home ownership credit facilities, BTN Parepare Branch Office has several factors including the good faith of the debtor. Here we see how the intention and effort shown by the debtor to complete his obligations to the bank, even though he is experiencing difficulties. The second factor is the accuracy between the debtor's profile and the treatment to be taken, here we see the suitability between the conditions and characteristics of the debtor and the planned handling actions. The debtor profile includes information such as payment history, income, employment, and assets owned. The third factor is the completeness of credit documents, we assess here how the availability and accuracy of all documents related to loans granted to debtors. This includes credit applications, loan agreements, collateral, and other supporting documents. Of the 13 mechanisms regulated by the bank's SOP, the mechanism of selling and transferring debtors is the most common."

The interviews revealed that three main factors influence the resolution of bad debts. First, the debtor's good faith, which shows sincerity and honesty, plays an important role. If debtors are in good faith, they will communicate with the bank regarding the constraints they face, increasing the likelihood of continuing obligations despite economic difficulties. Secondly, if the debtor is in good faith, the bank can restructure the loan or sell the collateral to a third party. However, if the debtor is in

bad faith, the restructuring may fail, and the collateral sale process may be hampered. Third, the completeness of credit documents is very important. Complete and clear documents ensure that the collateral sale process goes smoothly, while incomplete documents can hinder the settlement even if the debtor is in good faith.

The challenge of credit settlement is a crucial issue faced by financial institutions, including banks, which has direct implications for financial stability and customer satisfaction. To find out the challenges of resolving bad debts, we interviewed Mr. Imran Marjuni as *Operation Unit Head of Bank BTN Parepare Branch Office* on May 28, 2024 he said that:

The main challenge in resolving bad debts is the legal understanding of bank officers. The settlement is closely related to the elements of the credit agreement and the legal consequences of each step taken. Officers are required to know all the consequences of the types of agreements made between bank debtors and other third parties, because in reality not all mechanisms that have been regulated in banks can be perfectly realized in the field.

Researcher analysis: Of the 13 credit resolution mechanisms stipulated in the bank's SOP, the mechanism of selling credit collateral (auction of mortgage rights and/or joint sales) and Transferring Debtors is the best mechanism to resolve bad debts because by transferring credit collateral, the problems arising from the debtor will be transferred to the other party as a whole. In the practice of selling collateral carried out by bank officers, there are conditions that make the sales process unable to be completed quickly and accurately. There are obstacles faced by BTN Bank officers in order to conduct collateral sales, namely:

1. The mechanism set out in the SOP takes a long time, so that selling collateral

perfectly (joint sale or auction of mortgage rights) can still have an impact on credit quality performance that is monitored and reported every month, especially if the sale is carried out with a mortgage auction mechanism. Meanwhile, if a joint sale is carried out, the debtor generally sets a price above the fair market as part of compensation and the expectation of profit from his assets requires negotiation time.

2. If a joint sale mechanism is used, the collateral buyer does not have enough cash to cover the entire credit facility along with the cost of profit desired by the debtor.
3. If facilitated with a new credit facility (Novation or Transfer of debtors) to prospective buyers, generally prospective buyers by bank count are not eligible for new credit (*take over credit*).
4. The motivation of prospective buyers is generally as a means of investment for resale, so that prospective buyers do not want to spend more money just to pay Taxes and the cost of the name change process because there will be 2 transactions (from debtors to prospective buyers as investors and from investors to the next buyer if it has been sold again).

According to the author, Bank BTN has adapted SOPs to overcome obstacles in managing bad debts, including through the method of transferring debtors under hand. In this mechanism, the debtor makes a statement of release of rights to credit collateral to a prospective buyer, and both make a sale and purchase agreement with certain conditions. However, there are several caveats to this practice. First, the sale and purchase agreement often resembles more of a credit obligation transfer agreement, which can lead to a discrepancy between the objective and the desired outcome,

especially regarding the ownership of the credit collateral. Secondly, the power of sale and document retrieval may lapse if the grantor dies, given the long term of the loan. This may result in the prospective buyer being unable to collect the loan security certificate, and the heirs of the deceased debtor may be reluctant to sign the sale and purchase deed, even if the prospective buyer has paid off the loan. In addition, the bank has no direct obligation to the prospective buyer as it is not bound by the agreement between the debtor and the prospective buyer. This means that the prospective buyer cannot seek protection from the bank in the event of a risk, such as the death of the debtor. Also, the subject in the credit agreement does not change, which may affect the debtor's reputation if the prospective buyer defaults (Hariyani, Karim, and Darwis 2021) . The debtor's credit history may be tainted, even if he or she is not the one who materially repays the credit.

Innovations made by bank officers in order to resolve bad debts at Bank BTN Parepare Branch Office that accommodate provisions outside of the established SOP, should be appreciated considering that in addition to maintaining credit quality figures bank officers also mitigate risks to protect the legal interests of prospective buyers (moral hazard) with the existence of supporting documents in the form of Sale and Purchase Binding accompanied by the Power of Attorney to Take Credit Documents and Power of Attorney to Sell Credit Guarantees. However, this innovation should be accommodated in a standard provision in the SOP or get formal bank approval so that the risks that occur in the future can be institutionally accounted for.

#### D. CLOSING

Bank BTN applies various mechanisms to resolve non-performing loans on mortgage facilities, including repayment with relief, gradual repayment, transfer of debtors, redemption of collateral, subrogation, cessie, and sale of collateral. Among these methods, the sale of collateral through a mortgage auction and transfer of debtors proved to be the most effective, as it allowed the debtor's problems to be fully transferred to another party. The successful resolution of bad debts at Bank BTN Parepare Branch Office is influenced by good faith analysis, debtor profile, and clear credit documentation. In addition, policy innovations that go beyond the official SOP, such as transferring debtors under the hand, help to overcome obstacles in the field quickly. These innovations, which involved binding the sale and purchase and authorizing the collection of credit documents, demonstrated effective risk mitigation and maintained credit quality over the past two years.

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