

Settlement of Disputes between Banks and Customers through the Mediation Process

Aan Handriani¹, Suparno², Rineke Sara³
{aanhandriani@gmail.com¹, suparno@borobudur.ac.id², rineke_sara@borobudur.ac.id³}

Universitas Borobudur, Indonesia

Abstract. One way that can be accomplished to determine the question is through the Intercession interaction. Intervention is one of the elective choices utilized when the question between the client and the bank can't be settled in court, then, at that point, intercession is the elective decided to determine debates between the two gatherings outside the court. Intervention is a course of settling issues determined to wipe the slate clean to the questioning gatherings, for this situation the questioning gatherings, in particular the bank and the client. The issue in this paper is the way the advantages of banking intervention as an elective question goal in financial settlement and how the lawful security of client privileges in financial intervention. The exploration strategy utilized by the creator is a regularizing juridical examination technique. In view of the examination results, the principal advantage of banking intervention in settling debates among clients and banks is to increment trust in banks in light of the fact that extended questions among clients and banks can diminish the picture of the bank. Concerning clients, banking intervention is one of the lawful principles to safeguard the privileges of clients, particularly little clients, and miniature and private ventures. Since debates can be accomplished basically, economically, and rapidly. The two assurances for clients can be completed in two ways, specifically implied and unequivocal security.

Keywords: dispute resolution; bank; mediation

1 Introduction

Banking as a monetary middle person organization (monetary mediator foundation) assumes a significant part in the public improvement process. The fundamental business exercises of banks as per the arrangements of Article I (2) of Regulation Number 10 of 1998 concerning Changes to Regulation Number 7 of 1992 concerning Banking are "Banks are business elements that gather assets from the general population as stores and disseminate them to general society as credit as well as different structures to work on the way of life of many individuals." One of the elements of a bank is as a specialist of improvement, to be specific a foundation to help the execution of public turn of events.[1] In the financial business, it is firmly connected with trust, in the event that individuals put stock in a bank, they will have a real sense of reassurance being clients of the bank concerned, and on the other hand, public doubt will impact the business progression of a bank.[2]

Powerless assurance for clients should be visible from the rising number of cases that arose regarding banking advancements. It is likewise progressively obvious from the quantity of client protests through the broad communications, which basically implies that clients are not happy

with the administrations given by the bank that are not by the commercials advertised.[3] Disputes can occur because there is no common ground between the disputing parties. The dispute occurs because there is a feeling of dissatisfaction where there are parties who feel aggrieved which then the dissatisfaction becomes an unresolved conflict of interest, causing a conflict.[4]

The place of the bank is as a foundation that is firmly connected with the local area itself by the system of banking legitimate standards, in particular:

- a. Principles of Economic Democracy.
- b. Fiduciary Principle
- c. The principle of confidentiality (Confidential Principle)
- d. The principle of prudence (Prudential Principle).[5]

Question goal, either through court or mediation, is formal, and coercive, and takes a gander at the issue in reverse by considering the idea of the contention and what the freedoms depend on. For this situation, the gatherings who settle a question should go through a case end strategy in view of severe arrangements and the lawful privileges and commitments of the gatherings. Then again, elective debate goal is casual, deliberate, forward-looking, agreeable, and in view of interests. No misrepresentation to keep up with the relationship exists among banks and their clients, the financial business should accordingly keep up with public trust by giving legitimate insurances to the advantage of the local area. The interests of the local area, particularly the bank's impacted clients.

In other words, to avoid the possibility of public distrust of the banking world, which is currently intensively expanding to find and attract customers, legal protection for customers against possible losses is required.[6] In Indonesia, elective question goal is directed in Regulation Number 30 of 1999 concerning Discretion and Elective Debate Goal. Article I number 10 of Regulation Number 30 of 1999 states that "elective question goal is a debate goal establishment or distinction of assessment through a method settled upon by the gatherings, specifically debate goal out of court through conference, exchange, intercession, placation or master judgment."

One of the causes of disputes between banks and customers in their interactions is friction which if not resolved properly will turn into a dispute. The friction is mainly caused by four things, namely:

- a. Inadequate information regarding the characteristics of the products or services offered by the bank.
- b. Customer understanding of banking activities and products and services is still lacking.
- c. Inequality in the relationship between customers and banks, especially for borrowing customers.
- d. The absence of adequate channels to facilitate the settlement of friction between customers and banks.[7]

Banking intercession is fundamental to aid the settlement of questions among clients and banks in a modest, basic, quick, and proficient way, other than having the option to keep up with the coherence of the connection among clients and banks so thus they can build the validity and notoriety of the bank.[8] The presence of this financial intervention establishment is a type of insurance for buyers. It is a strategy step that will be carried out by Bank Indonesia as contained in the Indonesian Financial Design. The legal framework for bank intermediation is still questioned by various legal experts. And until an independent banking intermediary is established, they will continue to assert independence from Bank Indonesia as performers of bank intermediary functions.

2 Methodology

The sort of examination utilized in this paper is regularizing juridical exploration since it analyzes lawful standards, as well as looks at composed guidelines. The information source utilized is optional information as legitimate materials comprising of essential lawful materials and auxiliary legitimate materials. [9]

3 Problem

The issues brought up in this study are: the means by which, first and foremost, is the advantage of banking intervention as an elective debate goal in financial question goal, and also, how is the legitimate security of clients' privileges in financial intervention?

4 Result and Discussion

4.1 Benefits of Banking Mediation as an Alternative for Settlement of Disputes in Banking Dispute Resolution.

In settling debates through intercession, the gatherings are typically can agree between them, with the goal that the advantages of intervention can be seen. Banking intercession is exceptionally useful as far as the generally short settlement time, keeping up with great relations with clients, and keeping up with the bank's standing and public confidence in the bank. Moreover, banking intercession likewise gives advantages to building a sound, solid, and straightforward financial framework so it can energize social monetary development in banking. Essentially, the achievement or disappointment of a debate to be settled through intervention is unequivocally impacted by the capacity of the middle person to dominate and apply intercession procedures and ideally use the phases of intervention to recognize issues, decide interests, and proposition question goal choices. In this way an intercession cycle will have various characteristics, contingent upon the capacity of the middle person. The shortcoming of intervention is in the force of execution. Its adequacy is exceptionally subject to the completely pure intentions of the gatherings to consent to the consequences of the arrangement. If one of the gatherings would rather not do the arrangement that has been reached, there is no legitimate cure that can be taken to drive it. Presenting the debate to the middle person doesn't mean abandoning the current issues yet rather shows development to give the best answer for the two players. With the presence of a financial intercession foundation, it isn't to keep clients or banks from claims, however to explain the grumbling component so the instrument is controlled. The place of the bank is prevailing contrasted with the place of the client, so pure intentions is required in completing credit arrangements by the bank, it means to keep away from things that can prompt unfairness. Great trust as Article 1338 passage 3 of the Common Code, is that an arrangement should be founded on entirely pure intentions, implying that the execution of an understanding should be founded on the standard of respectability or something saw to be suitable in the public arena.[10]

The presence of this banking mediation institution is not only to protect the interests of bank customers, but also the interests of the bank. The advantages obtained by the bank with the existence of this mediation institution are as follows:

- a. Banks can make their customers sense better comfortable because their concerns are clearly answered by the bank. If customers feel more comfortable, it is hoped that it will show customer loyalty which will be more tested.
- b. The existence of complaints can be valuable information for bank management. Thus, if the bank's management finds out that many complaints occur in certain fields, for example, they can be corrected immediately.
- c. Regarding customer loyalty, the presence of customer complaints will be a warning for the bank. It means that the management of the bank concerned will know which aspects are most complained about by customers. Thus, the aspects can be directly corrected on the weak side.
- d. In addition, the market research department at the bank knows where its weaknesses are. It makes it efficient because market research does not need to hire outsiders.

The reputation of the bank concerned is getting better because the bank's services have also improved. Can minimize or can immediately find out if there is negative publicity. Rather than writing down customer dissatisfaction with a bank in a mass media reader's letter, it is better to directly address it. Because if they complain in the mass media, at least the reputation of the bank will be awful.

The dispute resolution process through banking mediation is cheap, fast, and simple because:

- a. No fee.
- b. The period of the mediation process is a maximum of 60 (sixty) working days.
- c. The mediation process is carried out formally/flexibly.

The execution of banking intervention is expected to determine questions among clients and banks. In the event that intervention isn't done, then it can possibly hurt the interests of clients and influence the bank eminence. Banking intervention is a basic, reasonable, and quick method for settling issues that happen among clients and the bank. The aftereffect of intervention which is an arrangement between the client and the bank is viewed as a successful type of critical thinking in light of the fact that the interests of the client and the standing of the bank can be safeguarded.

In the execution of banking business exercises, clients' freedoms are frequently not carried out as expected, causing contact among clients and the bank, which is shown by the rise of client grumblings to the bank. On the off chance that this grumbling isn't settled as expected, it can turn into a contention or question that can possibly turn into a debate for the two players. Realities demonstrate the way that the quantity of client objections in papers can diminish the standing of the bank as well as a public trust in the event that the aim is expanding and there is no conviction of settlement. The financial intervention process is a continuation of client objections in the event that the client isn't happy with the bank's taking care of and settlement of the issue.

The issuance of Bank Indonesia Guideline Number 7/7/PBI/2005, concerning the Settlement of Client Objections, should be executed by all banks, to guarantee the execution of a compelling component for settling client grievances inside a sufficient period, despite the fact that a considerable lot of these client grumblings are not generally ready to be settled. fulfill the client on the grounds that the requests of the client are not satisfied either to some degree or entirely so it turns into a contention. A contention will transform into a debate in the event that the harmed party expresses that he can't acknowledge what is going on straightforwardly to the party considered the reason for the misfortune so it very well may be deciphered that the question is a continuation of the contention. As a social peculiarity, struggle is a social cycle where each individual or gathering attempts to satisfy their objectives by restricting the

contradicting party joined by dangers as well as power.

The term intercession, regarding language (historical underpinnings), intervention comes from the Latin "mediare" and that implies being in the center. This significance alludes to the job of outsiders as middle people in completing their obligations to intercede and determine questions between the gatherings, it additionally means to be unbiased and fair in settling debates.[11]

Yahya Harahap characterizes intervention as an outsider that is unbiased and fair (unprejudiced) and capabilities as a colleague or partner in finding different conceivable outcomes or elective question goals that are ideal and commonly helpful to the gatherings.[12]

Not at all like the adjudicator or judge, the arbiter doesn't have the position to conclude debates between the gatherings however assists the gatherings with settling their concerns. Outsiders might impact the strength and social elements of contention connections by affecting the individual convictions and conduct of the gatherings, by giving information or data, or by utilizing more compelling discussion processes as questionable arrangement issues. [13]

Intervention contains the accompanying components:

- a. Mediation is a debate goal process in light of the standard of volunteerism through assent.
- b. Mediation is a harmony cycle.
- c. The go between involved is entrusted with helping the questioning gatherings to track down an answer.
- d. The arbiter included not set in stone by the gatherings to the debate.
- e. The arbiter doesn't have the position to go with choices during the delay.

The motivation behind intercession is to reach or create an understanding that is adequate to the questioning gatherings.

4.2 Legal Protection of Customers' Rights in Mediation

In a juridical framework, legal protection can be defined as the protection of customer rights. This protection is provided by a statutory regulation aimed at parties who violate these rights, namely banks and third parties. From a positive legal perspective, the legal protection of customer rights should be regulated by law. Legal protection is all efforts that guarantee legal certainty to protect every legal object. Legal protection for customers is divided into 2 (two) legal protections, namely indirect legal protection and direct legal protection.

4.2.1 Direct Legal Protection

The protection has been given to customers who deposit funds directly against the risk of loss possibility from activities carried out by the bank. Direct protection is contained in the following provisions:

- a. Law Number 10 of 1998 concerning Banking.
In the financial world, contributors are leasers who have precautionary freedoms as in investors should outweigh everything else in getting installments from banks that are encountering disappointment or trouble in satisfying their commitments. The issue of precautionary privileges is directed in Article 29 of Regulation Number 10 of 1998. As to assurance of security for contributors of assets regarding the end of the investor's bank business exercises, the making of store protection. The mission of the store organization is to keep up with the soundness of the state monetary framework by safeguarding bank contributors and diminishing interruption to the public economy because of bank disappointments. The issue of certifications for public assets is directed in the arrangements of Article 37 B of Regulation Number 10 of 1998.
- b. Law Number 24 of 2004 concerning Deposit Insurance Corporation.

The Store Protection Enterprise is a free establishment that capabilities to ensure stores of banking clients in Indonesia. The Store Protection Enterprise capabilities to ensure stores from bank clients and effectively takes part in keeping up with the dependability of the financial framework by its power and gives assurances to all bank installment commitments, including public stores (cover ensure). The motivation behind the insurance contract of the Store Protection Company. This is to safeguard little client stores. In its execution, the sweeping assurance can for sure recover public trust in the financial business, yet the assurance extension is excessively wide, causing moral peril both from the bank the board side and people in general. To conquer this and to keep on making a feeling that all is well with the world for investors and keep up with the security of the financial framework. The assurance program which is extremely expansive in scope should be supplanted with a restricted assurance framework.

4.2.2 Indirect Legal Protection

Backhanded security (implied/circuitous insurance) by the financial world against the interests of clients keeping reserves is a legitimate assurance given to clients storing assets against all dangers of misfortune emerging from a strategy or emerging from business exercises completed by the bank. Aberrant legitimate security, among others, depends on:

- a. Articles 29 to 37 of the Banking Law.
- b. Based on articles 29 to 37 of the Banking Law, through the supervisory guidance mechanism carried out by Bank Indonesia, it is expected that banks will become healthy so that beneficial banking activities will run smoothly without any obstacles that interfere with the comfort and trust of customers in the bank. and foster customer confidence in their safe and secure funds.
- c. Law Number 8 of 1999 concerning Consumer Protection. Customers are consumers who use products and services produced and provided by banks as producers to customers. Customers who use the products or services offered by the bank are consumers in the banking business whose rights and interests need to be protected by the bank that issues banking products and services, especially internet banking.
- d. Article 1367 of the Civil Code.

Based on article 1367 of the Civil Code, it is explained that the customer is not only answerable for misfortunes brought about by his activities, yet in addition for misfortunes brought about by the activities of the gatherings who are his wards and that obligation closes when the client can demonstrate that the client can't forestall the demonstration that makes them be liable for it.

The Banking Law does not specifically regulate the rights of customers, both debtor customers, and creditor customers. Legal protection for customers should have been carried out at the pre-contract stage up to the execution of the contract. When the legal relationship between the customer and the bank began to be created, from that moment on, there was a legal conflict between the parties. In the Indonesian banking legal system, the customer is left alone without predictable and reasonable protection. Therefore, one of the problems that are often complained about continuously is the absence or lack of protection for customers when dealing with banks.[14]

Legitimate assurance in financial exchanges is something that ought to be focused on so the interests of the gatherings can be safeguarded. The type of legitimate assurance is a work to implement the law. Authorization of strict schooling is adroitly a movement to fit the relationship of values that are depicted in the principles. Policing are indivisible from the legitimate beliefs took on locally worried about different positive lawful standards, legitimate foundations, and cycles (conduct of government administration and local area individuals). In

implementing the law, three components should be thought of, to be specific the component of equity, the component of convenience, and the component of legitimate assurance. In Financial Regulation, there are no arrangements that explicitly manage the issue of the lawful security of client stores. Article 29 passage (I) of the Financial Regulation just expresses that bank advancement and management is done by Bank Indonesia. [15]

5 Conclusion

Based on the descriptions that have been submitted, the conclusions in this paper are as follows:

- a. One of the advantages of banking intervention as an elective debate goal in settling banking questions is to accomplish uniformity between parties in struggle to accomplish a mutually beneficial arrangement. For the bank, question goal through financial intercession has a positive effect, particularly in expanding public confidence in banks. Since the extended question between the client and the bank can lessen the bank's glory and damage the coherence of the bank's presence, in particular standing and diminishing the degree of client trust in the bank.
- b. Protection of client privileges in financial intercession is the issuance of Bank Indonesia Guideline (PBI) Number 8/5/PBI/2006 concerning Banking Intervention as corrected by PBI Number 10/1/PB 1/2008 began to take note. Assurance of clients should be possible in two ways, in particular implied security, specifically assurance produced by powerful bank oversight and direction, which can forestall bank chapter 11, one of which is through regulation in the field of banking, and express insurance, to be specific insurance got through the foundation of an establishment that ensures public stores or the Store Protection Company (LPS).

From the conclusions that have been presented by the author, several suggestions are put forward, first, it is better that this Independent Banking Mediation Institution not only serves customers who are harmed by the Bank but also serves banks that may be harmed by their customers, to create bilateral harmonization between the two so that not only customers who are harmed by the bank are protected. Yet, it provides balanced protection to banks that are harmed by customers with bad/bad intentions. Second, the independent banking mediation institution that will be formed later will not only consist of banking circles or banking associations but also include other elements such as academics and practitioners so that they can act completely neutrally in resolving disputes in the banking sector.

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