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IMPLEMENTATION OF CREDIT GRANTING BY A CUSTOMARY VILLAGE CREDIT INSTITUTION TO OTHER KRAMA WITHOUT AN AGREEMENT OF COOPERATION BETWEEN CUSTOMARY VILLAGES

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ABSTRACT

This study aims to determine the cooperation agreement between Customary Villages as the basis for Village Credit Institution (LPD) in providing Denpasar credit to other village krama and to find out the implementation of credit granting by LPD in the Denpasar area to other village krama without any cooperation agreement between Customary Villages. The research method used is a type of empirical legal research. The results of this study are that inter-village cooperation agreements are regulated in the Bali Province Regional Regulation Number 3 of 2017 concerning LPDs emphasized in Article 7 paragraph (1) letter c where it is stated that LPDs can provide credit to other village krama on condition that there is cooperation between villages and collaboration between villages in the form of an inter-village cooperation agreement that was decided by the cooperating village, but in granting credit to other village krama, the inter-village cooperation agreement was not implemented which resulted in the credit agreement made between the LPD and other village krama considered invalid because it violated regional regulations and The Governor's Regulation on LPD and the agreement is null and void because it violates the objective conditions of an agreement. While the granting of credit to other village krama carried out by the LPD is not much different from the local village krama, the fundamental difference is the conditions when other village krama want to apply for credit to the LPD, each LPD provides different conditions to other village krama who wish to apply credit. Based on the results of research and interviews, there are several factors that the LPD provides credit to other village krama without an agreement due to profit factors, ignorance of the law, no sanctions given, family factors and village potential factors.

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I. Introduction.

The government has taken the initiative to increase the reach of credit institutions to villages, including Village Unit Cooperatives and other credit institutions in the community, in the context of equal distribution of capital facilities so that rural communities can borrow capital to develop their businesses. Specifically for the area of Bali, where there is a village that has an autonomous and administrative nature called a Customary Village, where the customary village itself has the meaning of a unitary customary law community that is social and social spiritual (religious). In a community

governed by customary law, people have lived side by side for a long period of time in order to develop a shared culture (Soekanto, 2005).

The Regional Government in developing financial institutions within rural communities is to establish Village Credit Institutions. Prior to the establishment of the Village Credit Institution (hereinafter abbreviated as LPD), a group of people or *sekaas* who were involved in the savings and loan business had grown and developed, such as *semal sekaa*, *nigtig sekaa* and many others involved in the savings and loan business (Jaya, 2015).

LPD plays a very important role in building the economy of rural communities as well as banks (Wati et al., 2021). However, the operational activities carried out by the LPD do not always run smoothly (Putri et al., 2015). This is due to several inhibiting factors, one of which is the occurrence of disease outbreaks (pandemic). Because at the end of 2019 to be precise in September there was a virus that attacked the respiratory system called the covid-19 virus, it is known that this virus initially broke out in the Wuhan area of China, the spread of this virus is very fast and cannot be predicted when the end of the COVID-19 pandemic has caused the World Health Organization on March 11, 2020 to affirm that Covid-19 is a global pandemic.

Pandemic condition itself has the meaning of an epidemic that spreads simultaneously everywhere or covers a large geographical area (Suharso & Retnoningsih, 2017). As a result of the Covid-19 pandemic, it has had a huge impact on people's lives, especially in terms of economic factors (Sujana & Wesna, 2020). In rural communities, the Covid-19 pandemic has had a major impact on rural community businesses because people's reduced purchasing power has resulted in reduced income or profits from community businesses.

In this case, Village Credit Institution or LPD plays an important role in helping the economic situation of rural communities in terms of capital, motivating and encouraging innovation in various branches of economic activity in rural areas. As an institution that carries out transactions in the field of savings and loans, the LPD has the qualifications and conditions for prospective loan borrowers or creditors. The authority of the LPD in providing credit to its village residents is regulated in the Bali Province Regional Regulation Number 3 of 2017 concerning Village Credit Institutions in Article 7 paragraph (1) letter b confirms that the LPD provides loans to village and village krama which can be used for village development and village krama itself (Parisuda et al., 2013). Savings and loan activities can only be carried out by village krama as debtors and LPD as creditors, because LPD is a financial institution owned by a customary village which is domiciled in a Customary Village area.

In fact, lending is not only given to village krama, in several Village Credit Institutions in the Denpasar area such as the Village Credit Institution (LPD) of Padangsambian Customary Village, Village Credit Institution (LPD) of Tambawu Customary Village, Village Credit Institution (LPD) of Peguyangan Customary Village, along with the Village Credit Institution (LPD) of Kesiman Customary Village can provide credit to other village krama, this happens because in Article 7 paragraph (1) letter c stipulates that LPDs can provide loans to other village krama with a written cooperation agreement regulated by Bali Governor Regulation No. 44 of 2017 hereinafter referred to as "Pergub LPD", but in the implementation of lending to other village krama there was no agreement inter-village cooperation but credit can still be given, thereby causing a form of violation committed by the Village Credit Institution (LPD).

Based on the issue above, this research aims to explore the implementation of inter-village cooperation agreements stipulated in Regional Regulation No. 3 of 2017 concerning Village Credit Institution (LPD) as the basis for granting credit to other village krama. In addition, this study also aims to determine the implementation of lending to other village krama without an inter-village cooperation agreement, as well as to find out the factors of LPD not implementing inter-village cooperation agreements before providing credit to other village krama.

This research expected to provide benefits in the form of insight and information on how to implement credit grants to other village krama and the consequences if the Village Credit Institution (LPD) provides credit without inter-village cooperation. It is hoped that the government, in this case the Village Credit Institution (LPD), through this research can become a reference and provide good benefits as a guide in carrying out their duties and authorities, especially in providing credit to other village krama.

II. Research Methods

The type of research used is empirical legal research, means that this legal research will be based on the effectiveness of law in society, because in discussing this research it analyzes the problems that are carried out by combining legal materials, namely how the law works in society. Empirical legal studies are studies that view law as a reality that includes social reality, and others. Empirical legal studies examine the existing law and know the enactment or application of legal laws in every specific legal occurrence. In this case, this involves observing the implementation of credit granting to other villagers and the resolution of credit providing disputes. The type of problem approach used in this study is the analysis and conceptual approach, which is an analysis of the identification of norms consisting of a series of legal concepts and other related concepts that are in accordance with research, the concept used is the concept of an agreement. The statutory approach (the statue approach) is research through a study of statutory regulations related to the issues that have been discussed (Ibrahim, 2007). In empirical legal research there are two types of data used, in this study the data sources used (Marzuki, 2011), Primary data is data obtained directly from the research location. Primary data was obtained by conducting interviews and observations at the research location. Secondary data is data that includes books, reports and official documents as well as library data.

III. Results and Discussion

3.1. Village Credit Institution (LPD) Legal Basis for Providing Credit to Other Village Krama Without Cooperation Agreements Between Customary Villages

Based on the provisions of Article 1 point 9 of the LPD Regional Regulation, it is explained that the Village Credit Institution (LPD) is a financial institution belonging to a Customary Village which is domiciled in the customary village jurisdiction. The definition of village-owned financial institutions can be seen in Law Number 6 of 2014 concerning Villages. Article 1 point 6 explains that a village-owned enterprise is a business entity whose capital is wholly or largely owned by the village through direct participation originating from village assets that are separated to manage assets, services and other businesses for the greatest possible welfare of the village community.

Article 7 paragraph (1) regulates the Village Credit Institution (LPD) business fields which include:

- a. Receive and collect funds from village manners in the form of in the form of savings (*dhana sepelan*) and deposits (*dhana sesepelan*),
- b. Providing loans to village krama and village,
- c. Village Credit Institution (LPD) can provide loans to other village krama on the condition that there is cooperation between villages,
- d. Cooperation between villages as referred to in letter c is further regulated by Governor Regulation,
- e. Receiving loans from financial institutions is a maximum of 100% (one hundred percent) of total capital, including reserves and retained earnings, except for other limitations in the amount of loans or financial support/assistance.
- f. Store excess liquidity at a designated bank in return for competitive interest and adequate service.

Based on the article above, it regulates the basis for Village Credit Institutions (LPDs) being able to provide credit to other village krama, but on condition that there is cooperation between Customary Villages before providing loans to other village krama (Arini & Suryani, 2020). However, in the implementation of lending by the Village Credit Institution (LPD) to other village krama, the cooperation agreement between customary villages was not implemented. However, credit can still be given, this results in the credit agreement between the Village Credit Institution (LPD) and other village krama not having or fulfilling an element of legal certainty, because the lending by the Village Credit Institution (LPD) to other village krama is not based on a cooperation agreement between customary villages.

Based on Article 1320 of the Civil Code, it confirms that the terms of the validity of an agreement are based on Their binding agreement; Proficiency in making agreements; There is an agreed object; and a cause that is not forbidden.

Referring to the provisions mentioned above, the credit agreement made by the Village Credit Institution (LPD) with other village krama is invalid because it violates the legal terms of an agreement (Sundariwati & Jayantiari, 2020). The conditions that are not fulfilled by the Village Credit Institution (LPD) are objective requirements, not subjective ones. Subjective conditions are the conditions listed in numbers 1 and 2, while objective conditions are listed in numbers 3 and 4. Related to the objective conditions that are violated are objective conditions number 4, namely a cause that is not prohibited. As

stated in article 1254 which reads all conditions aimed at doing something that is impossible to do, something that is contrary to good morals, or something that is prohibited by law is null and void and results in the agreement that depends on it being invalid. In this case, the Village Credit Institution (LPD) violates the Regional Regulation on Village Credit Institution (LPD) Article 7 paragraph (1) letter c where the Village Credit Institution (LPD) in providing credit loans to other village krama must have a cooperative relationship between villages,

As for the legal basis for the Village Credit Institution (LPD) in providing credit to other village krama is stated in the provisions of Article 7 paragraph (1) letter c (Pramana & Lemes, 2017). Village Credit Institutions (LPDs) are allowed to provide credit to other village krama with a note that it must be based on a cooperation agreement between customary villages. The cooperation agreement between Customary Villages is still made by the LPD with other Customary Villages. In other words, cooperation agreements between customary villages also serve as a legal basis for Village Credit Institutions (LPDs) in providing credit to other village krama.

3.2. Implementation of Credit Provision by Village Credit Institution (LPD) in the Denpasar Region to Other Villages Krama Without a Cooperation Agreement between Indigenous Villages

In the implementation of credit granting by the Village Credit Institution (LPD), according to Mr. I Komang Sudiantara as Head of Credit Analysis at the Village Credit Institution (LPD) of Kesiman Customary Village, the conditions that must be met by other village krama before applying for credit at the Kesiman Customary Village are not much different from local village krama who borrow at the LPD of Kesiman Customary Village, the difference is that as following:

1. Obtaining consent from husband/wife,
2. Attach a photocopy of Identity Card (KTP) / Family Card (KK),
3. Minimum age 21 years or married,
4. Get recommendations from local banjar,
5. Attach employee salary slips, submit collateral/collateral,
6. Fill out the credit application form at the LPD of Kesiman,
7. Comply with existing regulations,
8. Has contributed to the Village Credit Institution (LPD) Kesiman Customary Village.

Furthermore, Mr. Komang Sudiantara said that after these conditions had been met, there were several stages before credit could be given to other village krama, the stages that had to be done are as follows:

1. Initial stage: where the prospective debtor approaches the Village Credit Institution (LPD) of the Kesiman Customary Village,
2. Credit application stage: the debtor submits an official credit application to the Village Credit Institution (LPD) by filling out the credit application form,
3. Identification stage: interviewing and in-depth observation of prospective debtors to know for certain aspects of business, work and others,
4. Approval stage: if the Village Credit Institution (LPD) has received a conviction about the possibility that it can be granted it will be submitted to the chairman (pamucuk) of the Village Credit Institution (LPD) and the treasurer of the customary village for approval,
5. The stage of making or signing the credit agreement and power of attorney to sell collateral. (Interview on August 5, 2022).

The reason for giving credit to other village krama based on interviews with Mr. Komang Sudiantara is because, if the Village Credit Institution (LPD) of Kesiman Customary Village only relies on local village krama it will be difficult for the Village Credit Institution (LPD) to develop because money traffic will only revolve around village krama, by giving credit to krama other villages can help the progress of the Village Credit Institution (LPD) of Kesiman Customary Village.

Unlike the mechanism for granting credit to other village krama at the Village Credit Institution (LPD) of Kesiman Customary Village, the Village Credit Institution (LPD) of Padangsembian Customary Village provides credit to other village krama with easier conditions, based on the results of an interview on 9 August 2022 with Mr. I Made Astrawijaya as Pamucuk LPD or the Head of the Village Credit Institution (LPD) of Padangsembian Customary Village, the procedure and mechanism for extending credit to customers from other villages who wish to apply for credit loans at the Village Credit

Institution (LPD) of Padangsambian Customary Village are almost the same as extending credit to local village krama.

The difference with local village krama customers is that other village krama who wish to apply for credit at the LPD of Padangsambian Customary Village must meet the requirements. The requirements for other village manners to apply for a credit loan at the LPD of Padangsambian:

1. Have Collateral,
2. Received a recommendation from local Banjar (Kelian Banjar),
3. Has contributed to the Village Credit Institution (LPD) of Padangsambian Customary Village,
4. Attach photocopy/Family Card (KK),
5. Age 21 and over.
6. Guarantor in the local customary village (guarantor in question is the person)

In the Village Credit Institution (LPD) of Padangsambian Customary Village, collateral is the primary requirement for other village krama who wish to apply for credit. However, the Village Credit Institution (LPD) of Padangsambian Customary Village does not carry out cooperation agreements between Customary Villages prior to extending credit to other village krama, as it is more focused with a sense of kinship and economic interests to gain greater profits.

Not only in the Kesiman and Padangsambian, the Village Credit Institution (LPD) of Peguyangan Customary Village can also provide credit to other village krama without a cooperation agreement between villages. Based on an interview on 10 August 2022 with Mr. I Wayan Darmita as pamucuk or head of the Village Credit Institution (LPD) of Peguyangan Customary Village explained that the procedure or mechanism for granting credit to other village krama is almost the same as the local village krama.

The difference lies in the conditions for other village krama who wish to apply for credit. In more detail, the conditions that must be met by other village krama before applying for a credit loan to the Village Credit Institution (LPD) of Peguyangan are explained as follows:

1. Have a permanent home in the Peguyangan Customary Village area,
2. Have a steady income
3. Resident ID card of Denpasar,
4. Have the ability to pay off credit,
5. Recommendation from kelian banjar,
6. Have contributions or savings at the Village Credit Institution (LPD) of Peguyangan Customary Village.

After the above conditions have been met by other village krama who wish to apply for credit at the Village Credit Institution (LPD) of Peguyangan Customary Village, the next steps before credit can be granted are as follows:

1. Initial stage: where the prospective debtor approaches the Village Credit Institution (LPD) of Peguyangan Customary Village,
2. Credit application stage: the debtor submits an official credit application to the LPD by filling out the credit application form,
3. Identification stage: interviewing and in-depth observation of prospective debtors to know with certainty aspects of the business, work and ability of the debtor to pay off debts and others,
4. Approval stage: if the LPD has received assurance about the possibility that it can be granted, it will be submitted to the chairman of Village Credit Institution (LPD) and Treasury of customary village for approval,
5. The stage of making or signing the credit agreement and power of attorney to sell collateral.

Furthermore, Mr. I Wayan Dar Minta explained that credit was still given to other village krama even without an inter-village cooperation agreement because the debtor had fulfilled the conditions required before applying for credit. Another reason is because of the economic interest factor to gain profit so that the Village Credit Institution (LPD) of Peguyangan can develop, because if people only rely on local village krama, the money circulation will only be there and not developed. However, if other village krama do not meet one of the credit conditions, they can still be given, but the Village Credit Institution (LPD) makes an MoU (Memorandum of Understanding) with the krama village that will borrow, when the requirements have been met, the MoU is not made.

Similarly, Village Credit Institution (LPD) of Tambawu Customary Village can also provide credit to other village krama, based on the results of an interview on 10 August 2022 with Mr. I Nyoman

Rai Yudana as Head of the Credit Section at the Village Credit Institution (LPD) of Tambawu Customary Village that the mechanism for granting credit to other village krama almost the same as the local village krama the basic requirements that must be met by other village krama who apply for credit at the Village Credit Institution (LPD) of Tambawu Customary Village:

1. Have collateral,
2. Have a guarantor (person) in the local village,
3. Have a recommendation from kelian Banjar,
4. Has contributed to the Village Credit Institution (LPD) of Tambawu Customary Village,
5. Ability to pay off its debts.

The granting of credit loans to other village krama carried out by the Village Credit Institution (LPD) in Denpasar in the absence of a cooperation agreement written in Article 7 paragraph (1) letter c and in the Governor regulation concerning Village Credit Institution (LPD) contained in Articles 5 and Article 6 which regulate inter-village cooperation occurs because Village Credit Institutions (LPDs) have factors that cause loans to be allowed. The factors that allow other village krama to make credit loans at LPDs in the Denpasar area are summarized in the explanation below:

1. Profit Factor

Based on the results of interviews with Komang Sudiantara as the Head of the Credit Analysis Section at the Kesiman LPD, I Wayan Dar Minta as the Head of the Peguyangan LPD, and I Made Astrawijaya as the Head of the Padangsambian LPD, the Village Credit Institution (LPD) prioritizes collateral for movable and immovable objects from the debtor and sets aside the debtor's residence or the status of the debtor, in this case the krama of another village whose context is outside the local village where the Village Credit Institution (LPD) is located. Apart from guarantees, Village Credit Institutions (LPDs) in Denpasar also prioritize the amount of credit loans, when debtors from other village krama make quite a lot of credit loans, the Village Credit Institution (LPD) will earn more income from the interest earned from customers/debtors. Where the interest will help the Village Credit Institution (LPD) in developing and can be allocated for the interests of the village and the welfare of the village community.

2. The Factor of Ignorance of the Law

From the results of research in the field, employees at the Village Credit Institution (LPD) were not aware of the existence of a regulation stating that inter-village cooperation must have before giving credit to other village krama, this happened because the Village Credit Institution (LPD) Cooperation Agency was considered to have taken care of all the cooperation between the Village Credit Institution (LPD).

3. Family Factor

Based on the results of an interview with Komang Sudiantara as the Head of the Credit Analysis Section at the Kesiman LPD, I Wayan Dar Minta as the Head of the Peguyangan LPD, the reason for giving credit loans to other village krama is because the LPD adheres to the principle of kinship, where prospective debtors who have contributed even though they are not local village krama still credit loans can be given, this is because the Village Credit Institution (LPD) provides opportunities for other village krama not only to save money, but other village krama are also given the opportunity to enjoy credit loans. Due to this contribution the Village Credit Institution (LPD) can develop and financial traffic can revolve outside the local village manners only.

Apart from the contributions of other village krama, the Kesiman LPD can provide credit loans to other village krama because they have been given an Official Minutes approved by the local custom chief that the Kesiman LPD can provide credit to other village krama. Another reason is because the LPDs from other village krama have reached the limit in providing loans.

4. The factor of the absence of sanctions given

From research that has been carried out in the field of providing Village Credit Institution (LPD) credit loans in Denpasar without a cooperation agreement between Customary Villages, it occurs because there are no sanctions given for violations committed by the Village Credit Institution (LPD), so this activity is considered feasible.

5. Village potential factor

Based on the results of interviews with Mr. I Wayan Dar Minta as the Head of the Peguyangan LPD, and I Made Astrawijaya as the Head of the Padangsambian LPD, the potential of a rich and abundant and stable of Village Credit Institution (LPD) village is the reason why credit can be given to other village krama even without a cooperation agreement between Customary Villages.

From the above factors, Village Credit Institutions (LPDs) in the Denpasar area are more concerned with the benefits of guarantees and loan amounts. financial statements with the aim of profit for the benefit of shareholders (Dewi et al., 2022).

IV. Conclusions

The cooperation agreement between villages is regulated in the Regional Regulation of Bali Province Number 3 of 2017 concerning Village Credit Institution (LPD) affirmed in Article 7 paragraph (1) letter 'c' where it is stated that LPD can provide credit to other villages on the condition that there is cooperation between villages and cooperation between villages in the form of cooperation agreements between villages decided by the cooperating villages, however, in granting credit to other village krama, the cooperation agreement between villages was not implemented which resulted in the credit agreement carried out between LPD and other village krama was considered invalid because it violated the provisions of the Regional Regulation (Perda) and Governor regulation (Pergub) on Village Credit Institution (LPD) and the agreement was null and void because it violated the objective terms of an agreement. The procedures and mechanisms for granting credit to other village krama carried out by Village Credit Institution (LPD) are not much different from local village krama which is the fundamental difference is the conditions when other village krama want to apply for credit to Village Credit Institution (LPD), each LPD gives different conditions to other village krama who want to apply for credit. Based on the results of research and interviews, there are several factors that LPD provides credit to other villages without an agreement due to profit factors, ignorance of the law, absence of sanctions given, negligence factors and village potential factors.

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