

IMPLEMENTATION OF BANKING PRINCIPLES OF CAUTION IN LIQUIDATION OF DEPOSITS BELONGING TO HEIRS BY THE RELATED HEIRS DEED OF CONFIRMATION OF INHERITANCE DECLARATION MADE BY A NOTARY (STUDY AT MANDIRI BRANCH OFFICE, MALANG REGENCY)

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Abstract

The abstract serves as a concise summary of your research paper, highlighting the essential components that provide readers with an overview of your work. It should effectively capture the key issues addressed, the primary objectives of the study, the methods utilized, and the significant results achieved. This summary must be written in a single cohesive paragraph, limited to a maximum of 200 words. Ensure to follow the formatting specifications: use Times New Roman font, size 11, with single spacing, and present it in italics. The goal is to engage the reader while successfully conveying the importance and impact of your findings.

Keywords: *Banking Principles of Caution, Liquidation of Deposits, Study at Mandiri Branch Malang, Banking and Inheritance, Notary Inheritance Confirmation*

INTRODUCTION

Banking is a key pillar of the national financial system. Banks function not only as institutions for collecting and distributing funds, but also as guardians of financial system stability and public trust. Public trust is the greatest asset in the banking world, as people expect their deposits to be secure and reusable as needed. In this context, basic banking principles such as trust, confidentiality, "Know Your Customer," and the prudential principle play a vital role in maintaining bank sustainability. One savings product that requires the application of prudent principles is a time deposit. Unlike regular savings, time deposits have special characteristics such as a fixed term, a higher interest rate, and withdrawals that can only be made according to the agreement. Time deposits are an important instrument for people to securely store their funds and also serve as a significant source of liquidity for banks. However, the time-based nature of time deposits and limited withdrawals presents challenges when a customer passes away and the funds become part of an estate.

Under inheritance law, each heir is entitled to a portion of the testator's estate, whether in the form of movable or immovable property, including deposits. Problems arise when heirs wish to withdraw deposits, as banks cannot simply release the funds without authentic proof of the legitimate heir. If care is not taken, banks risk legal action or financial loss, either by mistakenly transferring funds to an unauthorized party or by triggering disputes between heirs. Therefore, the principle of banking prudence requires strict procedures for withdrawing deposits belonging to testators. In practice, there are two main documents that heirs can use to claim the testator's deposit: a court ruling and a notarized Deed of Confirmation of Heirship. Court rulings are legally binding because they are issued by a judicial institution. However, the process is often time-consuming, expensive, and inefficient for the public. As an alternative, many heirs use a notarized Deed of Confirmation of Heirship, as notaries have the authority under the Notary Law to create authentic, legally binding deeds. However, the status of notarial deeds is not yet uniformly clarified in banking regulations. Neither Bank Indonesia nor the Financial Services Authority (OJK) has yet to specifically regulate the status of notarial deeds as a basis for deposit disbursement. Consequently, each bank, including Bank Mandiri, has its own operational standards for assessing the validity of these deeds. This situation has the potential to raise doubts, even losses, for both the bank and the heirs.

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Based on a pre-survey conducted at the Bank Mandiri Malang Regency Branch Office, 29 cases of problematic deposit withdrawals were identified between 2020 and 2023. These cases were largely driven by differing interpretations of the validity of inheritance confirmation deeds compared to court rulings. For deposits under 100 million rupiah, withdrawal decisions are typically made directly by branch managers, referring to bank operational standards. For deposits above 100 million rupiah, withdrawals are made after consulting with the legal department and considering legal opinions. These differing standards indicate legal uncertainty that could potentially trigger future disputes. This is where the role of a notary becomes crucial. As a public official, a notary is authorized to create authentic deeds that have full evidentiary force as stipulated in Article 1870 of the Civil Code. A notary's Deed of Confirmation of Inheritance Information should be strong legal evidence for banks in implementing the principle of prudence, while also providing legal certainty for heirs. However, in reality, the difference in acceptance between court rulings and notarial deeds gives rise to legal, philosophical, and sociological problems. From a legal perspective, questions arise regarding the extent to which notarial deeds can be equated with court rulings. From a philosophical perspective, there is the issue of legal equality, considering that Article 28D paragraph (1) of the 1945 Constitution guarantees equality before the law. Meanwhile, from a sociological perspective, this difference in treatment can create injustice for people who want a fast and efficient deposit disbursement process. With this background, this research is important to conduct in more depth to analyze the implementation of the principle of bank prudence in the disbursement of deposits owned by the heirs by the heirs using the Deed of Confirmation of Heirship Information. This research not only provides theoretical contributions to the development of civil law, especially banking and notarial law, but also provides practical benefits for banks, notaries, and the public in creating a deposit disbursement mechanism that is fairer, more transparent, and in accordance with the principle of banking prudence.

LITERATURE REVIEW

Principle of Prudence in Banking

The prudential principle is a fundamental principle in banking law that requires banks to maintain the soundness and security of customer funds (Law No. 10 of 1998, Article 29, paragraph 2). In practice, this principle is implemented through risk management, legal compliance, and selectivity in financial transactions, including the disbursement of deposits belonging to deceased customers.

Inheritance and Deposit Law

Inheritance assets include both movable and immovable assets, including deposits. The disbursement of the testator's deposits by the heirs must be supported by valid legal documentation, either a court order or a notarial deed. Under Article 1870 of the Civil Code, an authentic deed has full evidentiary force and can serve as a basis for the bank to release funds to the heirs.

The Role of a Notary in the Deed of Confirmation of Inheritance Information

As a public official (Law No. 2 of 2014 concerning the Position of Notary), a notary is authorized to issue authentic deeds that provide legal certainty. A notary's Deed of Confirmation of Inheritance is crucial because it provides authentic proof of the heir's status, allowing it to be used in the process of disbursing bank deposits.

METHOD

This research uses an empirical juridical method (socio-legal research), namely a legal research method that not only examines written legal norms (law in books) but also examines how the law is applied in practice (law in action). This approach was chosen because research on the implementation of the principle of bank prudence in the disbursement of heirs' deposits cannot be understood solely from a normative perspective, but must also examine how banking procedures are implemented in practice. The approach used is legal sociology, an approach that examines the reactions and interactions of normative systems with social practices in society. Through this approach, the research attempts to illustrate how banking regulations, inheritance law, and notary authority interact in the practice of deposit withdrawals by heirs at Bank Mandiri. The research location was chosen at the Bank Mandiri Malang Regency Branch Office, considering that there were at least 29 problematic cases related to the disbursement of heirs' deposits at that branch office throughout 2020–2023. This situation makes the research location relevant for in-depth analysis.

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RESULTS AND DISCUSSION

The results of the study indicate that in the practice of disbursing deposits belonging to deceased customers, Bank Mandiri Malang Regency Branch Office applies different procedures based on the nominal amount of funds disbursed. For deposits with a value of less than one hundred million rupiah, the decision to disburse is made directly by the branch manager with reference to the bank's operational standards. Meanwhile, for deposits with a value above one hundred million rupiah, the decision to disburse must go through consultation with the legal department to obtain a legal opinion before being approved by the manager. This difference in procedures is intended as a form of implementing the principle of prudence, because the larger the deposit value, the greater the potential legal and financial risks borne by the bank if a disbursement error occurs. In practice, significant issues have been identified regarding the legal basis for deposit withdrawals by heirs. Banks are more likely to accept court decisions as valid proof of heir status than notarized Deeds of Confirmation of Heirship. This is because court decisions are considered to have stronger and more definitive legal force. However, court proceedings are lengthy and expensive, making it difficult for heirs who need quick access to their funds. Conversely, notarial deeds are relatively faster and more efficient, but their acceptance in the banking sector remains mixed due to the lack of clear regulations from Bank Indonesia or the Financial Services Authority regarding the role of notarial deeds in the withdrawal of testator deposits.

In terms of implementing the principle of prudence, banks face a dilemma. On the one hand, banks are obliged to protect customer funds and ensure that disbursements are made only by legitimate heirs. On the other hand, banks must also consider the principle of legal certainty and ease of access for the public to their rights. This situation often creates tension between the bank's interest in maintaining its reputation and financial health and the interests of heirs who demand prompt and practical disbursement of funds. Legal analysis shows that the Deed of Confirmation of Inheritance Information made by a notary has a legal standing as an authentic deed as regulated in Article 15 paragraph (1) of the Notary Law and Article 1870 of the Civil Code. This deed provides authentic evidence that has perfect evidentiary power, so that it should be able to be used as a legal basis for the disbursement of the testator's deposit by the bank. Thus, the bank's rejection or doubt regarding the notarial deed reflects the existence of legal uncertainty in practice, which is contrary to the principle of legal certainty as guaranteed by Article 28D paragraph (1) of the 1945 Constitution.

Furthermore, the application of the precautionary principle in this case should be interpreted not merely as a defensive measure to avoid risk, but also as an effort to create a balance between bank protection and the protection of the rights of heirs. This means that banks can remain cautious by conducting more in-depth verification of notarial deeds, for example through direct confirmation with the notary who made the deed or cross-checking with population data, without having to reject the deed outright. In this way, banks maintain legal compliance while protecting the rights of heirs. The results of this study demonstrate that the primary problem lies not in the weak validity of notarial deeds, but rather in the lack of explicit regulations from banking authorities regarding their use. Therefore, clearer guidelines are needed from Bank Indonesia or the Financial Services Authority to align notarial deeds with court rulings in the context of disbursing testator deposits. This regulatory clarity is expected to strengthen the implementation of banking prudential principles, while also providing legal certainty and fair protection for all stakeholders.

CONCLUSION

The importance of banking prudence in disbursing deposits by heirs, particularly regarding the use of the Deed of Confirmation of Heir Information (APKW) as a valid verification tool. APKW, drawn up by a notary based on legal authority, has full evidentiary power and is recognized as authentic evidence. However, field practice, as found at Bank Mandiri, shows a gap in the acceptance of APKW, especially for large deposits above IDR 100,000,000 (one hundred million rupiah). Banks tend to request additional documents such as court orders, which burden the heirs and create uncertainty. This contradicts the principle of legal certainty stipulated in the Civil Code and UUJN, where APKW should be sufficient as valid evidence without the need for additional verification. Other challenges include the lack of transparency of information from banks and the lengthy disbursement process, which is often exacerbated by disputes between heirs. Therefore, harmonization is needed between regulatory compliance and ease of access for heirs. Implementing banking prudential principles with legal protection for heirs. Implementing multi-layered verification procedures, regular monitoring, and customer education are key to minimizing the risk of fraud and disputes. Banks must increase transparency by clearly communicating requirements from the outset, including document classification based on deposit value. Furthermore, collaboration between banks, notaries, and relevant authorities can expedite the verification process.

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without compromising security. This approach protects the interests of all parties—both banks and heirs—while maintaining the stability of the banking system. Ultimately, a balanced implementation of prudential principles will create legal certainty and justice for all stakeholders.

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