

## LEGAL PROTECTION FOR BANKS AGAINST NON-CERTIFIED LAND COLLATERAL

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### Abstract

This study examines legal protection for banks in facing bad loans with non-certificate land as collateral, particularly in the context of distributing Working Capital Credit (KMK) to MSMEs. In banking practice, non-certificate land such as girik, petok D, or segel is still widely used as collateral even though it does not meet the formal requirements as an object of Mortgage Rights as regulated in Law Number 4 of 1996. This condition creates vulnerability for banks as creditors, because non-certificate land documents only function as proof of control, not proof of rights, so they do not have executorial power. This study uses a normative juridical method with a statutory and conceptual approach to examine the gap between positive law and banking practice. The results show that preventive legal protection for banks is reflected in the provisions on collateral assessment, the bank's obligation to apply the principle of prudence, and the bank's internal regulations regarding credit risk mitigation. Repressive legal protection is realized through legal remedies that can be taken if the debtor defaults, including through simple lawsuits, risk transfer through debt acknowledgment agreements, and civil execution based on debt-receivable relationships. This study also formulates a conceptualization of dispute resolution that includes mediation, credit restructuring, and litigation as a last resort. The results of this study confirm that the use of non-certificate collateral requires strengthened regulations and harmonization between agrarian and banking law to ensure legal certainty and protection for creditors.

**Keywords:** *Legal Protection, Bad Credit, Non-Certificate Collateral, Bank, Mortgage Rights.*

### INTRODUCTION

Economic development in Indonesia is a process involving various strategic sectors capable of driving improvements in public welfare. One of the main sectors that plays a central role in the national economic cycle is the banking sector, which functions as a financial intermediary by collecting funds from the public and redistributing them in the form of financing. Lending is a core banking activity that plays a role in encouraging business growth, creating jobs, and increasing community productivity. Therefore, the credit mechanism must be implemented based on the principle of prudence as mandated by the Banking Law, so that the disbursed funds can be returned within the agreed timeframe. In practice, credit provision is always accompanied by the submission of collateral or guarantees as a means of security for the bank, should the debtor later be unable to fulfill their payment obligations. On the other hand, the social and administrative dynamics of Indonesian society show that much land owned by the community is not officially registered and therefore lacks certificates; however, this land is still commonly used as collateral for credit. The imbalance between the community's economic needs and the demand for legal certainty is one of the main contexts that gives rise to the problems discussed in this thesis.

Credit agreements, as legal relationships between creditors and debtors, are based on the principles of freedom of contract, good faith, and legal certainty. In these relationships, banks are required to ensure the debtor's capacity through an analysis of the 5C principle (Character, Capacity, Capital, Collateral, and Condition of Economy) as a form of implementing the principle of prudence. One of the most important elements of this principle is collateral. Ideally, collateral in the form of land can only be encumbered with a Mortgage Right if the land is registered and has a certificate as stipulated in Law Number 4 of 1996 concerning Mortgage Rights. However, the reality on the ground shows that banks still accept uncertified land, such as girik, petok, or segel as collateral, especially in MSME financing. These documents are essentially only proof of ownership, not proof of rights, and therefore do not provide adequate executorial power in the event of default. The legal weakness of this collateral places banks in a vulnerable position, especially when the debtor fails to pay their installment obligations.

Non-Performing Loans (NPLs) are one of the biggest risks facing banks. Bank Indonesia has even set a maximum NPL ratio limit of 5% to maintain banking health. If this ratio exceeds the specified limit, the bank's stability and liquidity can be disrupted, even threatening its operational continuity. Financial Services Authority (OJK) data shows that MSME loans have increased annually, but at the same time, the level of non-performing loans has also increased. This situation indicates that although credit distribution has a positive impact on the development of community businesses, the risk of non-performing loans remains a serious threat. In the context of non-certified collateral, this risk is further complicated because banks lack adequate legal instruments to quickly and legally enforce collateral. As a result, the resolution of non-performing loans often ends in lengthy litigation processes or simple lawsuits, but still without any guarantee of certainty of execution of the collateral.

In addition to enforcement issues, the use of non-certificate collateral also raises issues regarding land title security. Based on the Basic Agrarian Law and Government Regulation No. 18 of 2021, land with a title (*girik*), title (*petok*), or seal (sealed) must be registered to obtain a certificate to ensure legal certainty regarding the owner's rights. However, in reality, many people have not registered their land due to lack of information, administrative costs, or historical factors. This situation creates a gap between agrarian regulations and banking practices, resulting in banks accepting collateral that legally does not meet the requirements for mortgage rights. On the other hand, legal doctrine, as proposed by Munir Fuady and Boedi Harsono, emphasizes that legal protection for creditors must prioritize the certainty of the legal status of the collateral object. This discrepancy demonstrates the importance of establishing more adaptive regulations, so that the economic needs of the community can align with the guarantee of legal certainty for financial institutions (Indonesia, 1998).

One concrete example of this issue is the small claims lawsuit filed at the Ciamis District Court in 2024, where the majority of cases involved lawsuits filed by banks against debtors who failed to fulfill their obligations after receiving working capital credit facilities secured by uncertified land. One case illustrates how banks had to resort to lawsuits due to the lack of an executorial instrument attached to the collateral. The land pledged by the debtor was unregistered and therefore could not be encumbered with a mortgage. Consequently, when the debtor defaulted, the bank could not immediately execute the land and had to bear greater legal risks. This case illustrates the systemic weaknesses inherent in the practice of providing credit with uncertified land, while also demonstrating the urgency of stronger legal protection for banks as creditors.

This research focuses on two main issues: the form of legal protection for banks against non-performing loans secured by non-certified land, and how banks can conceptualize dispute resolution in such situations. This research uses a normative juridical approach, analyzing existing laws and regulations, legal doctrine, and banking practices. The aim of this research is to provide a more comprehensive understanding and offer a realistic and implementable concept for dispute resolution. Therefore, this research is expected to contribute to the development of the national guarantee legal system, while providing a theoretical and practical basis for banks and regulators in formulating more effective and equitable policies.

## **LITERATURE REVIEW**

### **1.1. Legal Protection Study**

#### **1.1.1. Definition of Legal Protection**

Legal protection is a concept that describes how law plays a role in providing a sense of security, certainty, and justice to society as legal subjects. This protection exists to prevent rights violations, provide limits on the actions of certain parties, and ensure that everyone receives proper treatment if they experience a loss. According to experts, legal protection not only functions to maintain social order but also ensures that every right stipulated in legislation can be enforced through legitimate and objective mechanisms (Djumhana, 2011).

#### **1.1.2. Types of Legal Protection**

Legal protection consists of preventive and repressive measures. Preventive protection is provided before a violation occurs, through clear regulations, administrative procedures, and control mechanisms that allow the public to file objections before government or other party decisions are enforced. Repressive protection, on the other hand, is provided after a violation occurs, usually through judicial proceedings, dispute resolution, sanctions, or other legal remedies aimed at restoring the rights of the injured party. Both forms of protection work continuously to maintain stability and justice in society.

### **1.2. Agreement Review**

#### **1.2.1. Definition of Agreement**

An agreement is a legal agreement between two or more parties that creates rights and obligations and binds the parties, as stipulated in Article 1313 of the Civil Code. An agreement forms the basis for a legal

relationship, containing reciprocal promises, in which each party is obligated to fulfill the agreed-upon provisions. The essence of an agreement lies in the agreement and free will of the parties to create certain legal consequences.

### **1.2.2. Types of Agreements**

Agreements can be classified based on their form, nature, and provisions. Named agreements are those regulated by the Civil Code, such as sales and leases, while unnamed agreements are those that arise from social practice. By their nature, agreements are divided into consensual and real, and unilateral or reciprocal. Furthermore, there are standard agreements, the contents of which are determined by one party and are typically used in financial or commercial transactions.

### **1.2.3. Terms of Agreement**

The requirements for a valid agreement under Article 1320 of the Civil Code include four elements: agreement between the parties, legal capacity, a clear object, and a lawful cause. Agreement refers to free will without coercion; capacity means the parties involved have met legal requirements; the object must be identifiable and tradable; and the cause must be in accordance with law and not contrary to morality or public order. These four elements determine the validity of an agreement.

### **1.2.4. Elements of an Agreement**

The elements of an agreement consist of the parties binding themselves, agreement or meeting of wills, certain objects that are the material of the agreement, and the legal objectives to be achieved. These elements emphasize the basic framework of legal relations arising from the agreement, so that their existence is a requirement to ensure that the agreement can be executed legally and does not give rise to disputes in the future (Warman, 2022).

## **1.3. Banking Studies**

### **1.3.1. Definition of Bank**

A bank is an intermediary institution that collects funds from the public in the form of deposits and then redistributes them in the form of credit, loans, and other financial services. The Banking Law defines banks as institutions whose purpose is to support the national economy through stable financial activities. The existence of banks is fundamental to modern life because they play a role in maintaining the smooth flow of money and economic transactions.

### **1.3.2. Types of Banks**

Banks in Indonesia are divided into commercial banks and rural banks (BPR). Commercial banks provide a broad range of financial services, including deposits, credit, transfers, and international transactions. BPRs, on the other hand, offer limited services, such as deposits and credit, but do not offer payment services like checking accounts. Both serve the financial needs of the public, in accordance with their respective roles and regulations.

### **1.3.3. Bank Functions**

The primary function of banks is to collect public funds, redistribute them in the form of credit, and provide various services such as fund transfers, clearing, and business financing. Banks also play a strategic role in maintaining monetary stability and supporting economic growth through sound credit distribution policies that adhere to prudent principles.

## **1.4. Credit Review**

### **1.4.1. Definition of Credit**

Credit is the provision of money or debt based on an agreement between a bank and a debtor, with the obligation to repay a specified amount within an agreed timeframe, along with interest or a return. Credit is a driving force of the economy because it helps people obtain capital for business, consumption, or other financing.

### **1.4.2. Types of Credit**

Loans are divided into consumer loans, working capital loans, and investment loans, depending on their intended use. Furthermore, loans can be categorized by term into short-, medium-, and long-term loans. There are also loans based on business sectors, such as agriculture, trade, and MSME loans, each tailored to the specific needs of the borrower.

### **1.4.3. Elements of Credit**

The elements of credit include the bank's trust in the debtor, the inherent risk of default, the repayment period, the performance in the form of funds provided, and the counter-performance in the form of loan repayment with interest. All of these elements demonstrate that a credit relationship is one of trust that requires careful planning and analysis.

**1.4.4. Credit Principles**

Credit disbursement follows the prudent principle, implemented through a 5C analysis: Character, Capacity, Capital, Collateral, and Economic Condition. These five principles ensure that the credit disbursed is feasible, safe, and does not pose a risk to the bank.

**1.4.5. Credit Function**

Credit serves to increase economic activity, provide capital for businesses, expand employment opportunities, and stimulate national economic growth. Furthermore, credit helps equalize income distribution by expanding access to financing for lower-middle-class groups.

**1.4.6. Credit Agreement**

A credit agreement is a legal document between a bank and a borrower that outlines the terms of the loan, including the loan amount, term, interest rate, rights and obligations, and provisions regarding collateral. This agreement serves as the basis for a legally binding relationship between the two parties.

**1.5. Collateral Review****1.5.1. Definition of Collateral**

Collateral is an asset or property that a debtor hands over to a creditor as security for a loan. Collateral serves to protect the creditor in the event the debtor is unable to fulfill their obligations, thus providing a sense of security in the distribution of credit.

**1.5.2. Types of Collateral**

Collateral can be tangible collateral such as land, buildings, vehicles, or other movable property, as well as non-tangible collateral such as personal guarantees. Each type of collateral has a different level of security and liquidation value in the credit assessment process.

**1.5.3. Collateral Function**

The primary function of collateral is to reduce the risk of bad debt, provide certainty for creditors, and ensure that the loan can be recovered through enforcement if the debtor defaults. Collateral also helps banks determine the eligibility and credit limit.

**1.5.4. Benefits of Collateral**

The benefits of collateral include increasing bank trust in the debtor, facilitating credit approval, and providing legal guarantees for both parties. Collateral can also increase the loan value based on the value of the assets pledged.

**1.5.5. Collateral Assessment Mechanism**

Collateral valuation is conducted through an appraisal process by an appraiser to determine market value, liquidation value, document legality, and the physical condition of the collateral. This mechanism ensures that the collateral is truly suitable for use as credit security.

**1.6. Soil Study****1.6.1. Land Rights**

Land rights are rights granted by the state to individuals or legal entities to control, use, and utilize land in accordance with legal provisions, such as Ownership Rights, HGU, HGB, and Use Rights. These rights provide legal certainty for their holders regarding land control and use.

**1.6.2. Definition of Land Certificate**

A land certificate is authentic proof issued by the National Land Agency as legal proof of land ownership. This document provides legal certainty, protection, and strong evidentiary power for the owner in land disputes.

**1.6.3. Non-Certified Land**

Uncertified land is land that has not been officially registered in the land system and typically only has proof of ownership such as a girik (land title deed), petok D (land title deed), or seal. This type of land presents a legal shortfall, particularly in financing transactions, as it cannot be encumbered with mortgages.

**RESEARCH METHODOLOGY**

The research method used in this study is a qualitative method with a case study approach, namely a research approach that focuses on the in-depth exploration of a legal, social phenomenon, or institutional practice that occurs in a specific context and on a specific subject. In qualitative research, researchers seek to understand reality holistically through a descriptive and analytical approach that prioritizes the meaning, process, and interpretation of the actors involved. Case studies provide an opportunity for researchers to examine an event, legal problem, or conflict situation in detail by collecting data from various sources such as documents, regulations, archives, court decisions, interviews, and field observations. With this approach, researchers can capture how the phenomenon of

legal protection, credit practices, the use of non-certified land collateral, or the resolution of bad debts occurs concretely and realistically in the lives of people or in certain institutions such as banking institutions. The case study approach was chosen because it can reveal causal relationships, interaction patterns, regulatory imperfections, and the consequences experienced by the parties, so that research findings are richer, contextual, and in-depth compared to other methods ( Sjahdeini & Sutan Remy, 1999).

Qualitative research using case studies allows researchers to systematically analyze problems by exploring the perspectives of both authorized parties and those directly affected. Through source triangulation, for example, by comparing data from laws and regulations, legal doctrine, interviews with banking practitioners, and court decisions, researchers can build strong scientific arguments regarding how legal protection for bad debts secured by non-certified land is applied in practice. Case studies also emphasize the importance of the social, economic, and administrative context surrounding the problem, so that research results describe not only what happened, but also why and how it happened. Thus, the qualitative case study method can produce a comprehensive understanding that cannot be achieved through quantitative approaches, while also enabling researchers to provide legal recommendations that are more realistic, applicable, and aligned with the needs of field practice. This approach is highly relevant for use in empirical legal research because it can bridge the gap between ideal legal norms and their implementation in practice, particularly in the context of banking and collateral cases such as those examined in this research.

## **RESEARCH RESULTS AND DISCUSSION**

### **A. Legal Protection for Banks Against Bad Loans with Non-Certificate Land Collateral**

Legal protection for banks against bad debts secured by non-certified land is essentially a crucial need arising from the strategic role of banks as intermediary institutions that collect public funds. In carrying out this function, banks bear a significant responsibility to safeguard public funds from loss due to the risk of non-performing loans. When the land collateral used by debtors does not have an official certificate, the bank's position becomes more vulnerable because the land does not have legal force as collateral that can be directly executed. Therefore, this legal protection is present as an effort to strengthen the bank's position through legal instruments, regulations, principles of agreements, and dispute resolution mechanisms that can be used when the debtor defaults. Non-certified land that only has proof of ownership such as girik or petok D does not provide preferential guarantees for banks, so additional legal instruments are needed to ensure that the credit can still be recovered ( Kasmir, 2012).

In the context of preventive legal protection, banks are required to apply the principle of prudence as stipulated in the Banking Law and the POJK. Credit analysis using the 5C principle is a crucial step in assessing a debtor's creditworthiness before granting credit. For non-certified land collateral, banks must enhance due diligence by conducting ownership history checks, checking the land status at the village or sub-district office, ensuring that the land is not in dispute, and conducting a direct physical survey to confirm actual ownership by the debtor. In addition, banks can also request supporting documents such as a statement of physical ownership, proof of land and building tax payment, or a certificate of no dispute. This step is crucial to ensure that the bank has a strong administrative basis to anticipate legal action if the debtor fails to fulfill its obligations.

Legal protection is also provided through the regulation of the legal relationship between debtors and creditors in credit agreements. Written credit agreements contain important clauses such as the rights and obligations of the parties, collection mechanisms, sanctions for delays, and legal action that can be taken if the debtor defaults. In the context of non-certificate collateral, credit agreements must be drafted in more detail by including clauses strengthening the collateral in the form of a statement of land ownership, a prohibition on transferring land to another party without the bank's approval, and the debtor's obligation to safeguard the land from disputes. Furthermore, banks can request additional collateral in the form of a personal guarantee or fiduciary guarantee to strengthen their legal position when the primary collateral execution process cannot be carried out easily. These clauses serve as the bank's initial defense in proving default and its right to collect debtor obligations.

The conflict between banking practices and agrarian regulations regarding uncertified land is also a reason why legal protection is so essential. Uncertified land cannot be subject to mortgage rights under Law No. 4 of 1996, thus banks lose the privilege of executorial title, which allows for execution without a lengthy lawsuit process. Consequently, when debtors default on payments, banks must resort to lengthy and costly litigation. In this situation, legal protection comes in the form of a civil law framework that gives creditors the right to file a default lawsuit, request the seizure of the debtor's assets, and file an auction request through

the courts. Although the process is lengthier, this regulation still provides room for banks to recover their losses.

Repressive legal protection becomes crucial when a loan has been categorized as non-performing and the debtor has failed to demonstrate good faith. Banks can take direct collection measures, issue warning letters, and even attempt credit restructuring in accordance with the Financial Services Authority (OJK) regulations. If the debtor continues to fail to fulfill their obligations, the bank has the right to take the case to court through a simple lawsuit or a general civil lawsuit. At this stage, the bank can request a collateral seizure of uncertified land as a form of legal legitimacy to prevent the land from being transferred to another party. Even if the land lacks a certificate, the court can still recognize its economic value, allowing the court decision to be used as a basis for the bank to auction the land once it has final legal force. This stage is a form of legal protection frequently used by banks ( Muis et al., 2021).

Legal protection for banks against non-performing loans secured by non-certified land reflects the importance of harmony between banking and agrarian law. Although non-certified land does not have the same legal force as a land title, the legal system still provides channels for banks to defend their rights through agreement mechanisms, administrative investigations, civil regulations, and dispute resolution procedures. This legal protection not only ensures the continuity of banking activities but also maintains economic stability, allowing banks to continue their intermediary function without being hampered by the risk of irrecoverable non-performing loans. Therefore, despite the legal limitations of non-certified land collateral, the available regulatory tools still allow banks to protect their interests and obtain legal certainty in resolving non-performing loans.

Legal protection for banks can also be seen in the existence of internal banking regulations that require banks to have Standard Operating Procedures (SOPs) in granting credit, especially for collateral objects that do not meet full legal requirements, such as non-certified land. These SOPs usually include much stricter verification steps, such as the requirement to conduct regular field inspections, an independent assessment of the land's economic value, and the involvement of a notary or PPAT to draw up a debt acknowledgment deed or additional agreements that strengthen the bank's position. Through these internal regulations, banks obtain administrative legal protection that can be used as evidence in the event of a dispute, because it proves that the bank has implemented the principle of prudence. Thus, the existence of SOPs is not merely a technical regulation, but also a form of preventative legal protection that ensures banks are not considered negligent in the credit granting process ( Budiono, 2010).

In the realm of collateral law, legal protection for banks can also be obtained through the use of additional collateral included in credit agreements, such as personal guarantees (*borgtocht*), fiduciary guarantees on other assets belonging to the debtor, or double collateral in the form of movable property that can be executed more quickly. When the primary collateral, in the form of uncertified land, cannot be encumbered with a mortgage, this additional collateral becomes an effective means of protection to offset the weaknesses of the primary collateral. In the context of civil law, additional collateral gives creditors the right to collect debtor obligations through multiple asset sources simultaneously, thereby minimizing bank losses. In other words, the use of additional collateral is not only a business strategy, but also a form of legal protection that is recognized and can be legally enforced in the collection and execution process.

Another aspect of legal protection is evident in the use of administrative evidence attached to uncertified land. Although the land is not officially registered with the National Land Agency (BPN), documents such as *girik* (land title), *petok D* (land title), *letter C* (land title), or certificate of physical control of the land (*Sporadik*) have civil evidentiary value that can be used as a basis for collateral seizure through the courts. With these documents, banks can file a collateral seizure application and demonstrate that the land is truly controlled by the debtor. Courts generally do not reject seizure applications for uncertified land, as long as the bank can prove a legal relationship and economic value to the object. This process also serves as a form of repressive legal protection, as it provides a legal avenue for banks to recover some of their losses through collateral enforcement even though there is no mortgage attached.

Banks also enjoy legal protection through the existence of a dispute resolution mechanism in the form of small claims lawsuits. Small claims lawsuits significantly assist banks in resolving non-certified loans because the process is fast, simple, and inexpensive. In many cases, small claims lawsuits are preferred by banks because the demands typically involve compensation for default, rather than land rights disputes. This allows banks to file claims against debtors without having to engage in lengthy debates over the status of uncertified land, which is generally an agrarian issue. This more efficient judicial process ultimately

provides legal certainty and practical protection for banks, as it facilitates their obtaining of decisions that can be used as the basis for enforcement or collection.

Legal protection for banks is also strengthened through collaboration with local government officials, such as village heads, sub-district heads, or district heads, to issue land status certificates. While these certificates are not equivalent to land certificates, they still serve an important role as administrative evidence recognized in legal proceedings. This collaboration creates a coordinating relationship between banks and local governments, thereby minimizing the risk of future ownership disputes. In many cases, certificates issued by village or sub-district officials serve as strong evidence that the land is truly owned and controlled by the debtor, allowing banks to use them in the verification process in the event of a loan default. This form of legal protection is crucial because it provides administrative legitimacy for land that lacks a certificate.

These forms of legal protection reflect the comprehensive efforts undertaken by the Indonesian legal system to maintain the sustainability of the banking industry, despite imperfections in collateral practices such as the use of uncertified land. Legal protection comes in preventative forms through agreements, credit analysis procedures, and the use of administrative documents; and in repressive forms through lawsuits, collateral seizures, mediation, and asset execution. Although uncertified land does not have full legal force as collateral, banks can still maximize legal protection through a combination of civil, administrative, and court proceedings. Thus, legal protection for banks is maintained and provides certainty in the settlement process for bad debts, thereby maintaining banking stability and public trust in financial institutions.

### **B. Conceptualization of Dispute Settlement by Banks Regarding Bad Loans with Non-Certificate Land Collateral**

The conceptualization of dispute resolution by banks regarding bad loans secured by non-certificate land is basically based on the need to present a mechanism that can provide a balance between legal protection for banks as creditors and respect for the rights of debtors, while also considering the legal limitations of non-certificate land that cannot be burdened with Mortgage Rights. In this context, dispute resolution cannot be carried out through direct execution such as parate executie or executorial title, so banks must formulate a conceptual approach that is more flexible, adaptive, and in accordance with the characteristics of collateral that does not have perfect legal certainty. Therefore, dispute resolution regarding bad loans secured by non-certificate land must be understood as a gradual process that combines persuasive, administrative, non-litigation, and litigation steps, with the ultimate goal of guaranteeing the return of bank funds and maintaining the continuity of the legal relationship between the bank and the debtor ( Yunita, 2016).

The first stage in conceptualizing dispute resolution is an internal resolution effort through persuasive, non-litigation mechanisms. Banks typically begin by issuing written warnings, conducting direct collections, and holding meetings with debtors to determine the cause of the bad debt. In many cases, bad debt is not solely caused by incompetence, but also by managerial negligence or changing economic conditions. Therefore, internal solutions such as extended deadlines, amicable settlements, and even installment payment agreements are the most effective initial steps. This approach aims to avoid lengthy dispute processes and also provides debtors with the opportunity to maintain a good relationship with the bank. Although persuasive, this mechanism is still based on the credit agreement and administrative evidence that supports the bank's position ( Language Center, Ministry of National Education, 2008).

The next step is credit restructuring as part of a non-litigation alternative dispute resolution. Restructuring can be carried out through rescheduling, reconditioning (changing certain terms without changing the principal debt), or restructuring (changing the financing structure). The practice of restructuring is particularly relevant for loans secured by non-certificate collateral, given that collateral enforcement cannot be carried out quickly. Through restructuring, banks can restore the possibility of debt repayment and avoid greater losses. From a legal perspective, restructuring is a form of dispute resolution that prioritizes the principles of expediency and proportionality, thus preventing the bank or debtor from being placed at an extreme disadvantage. This step is also in line with the Financial Services Authority (OJK) regulations, which provide banks with flexibility in handling problem loans (Tria Agustia et al., 2020).

However, if internal efforts and restructuring fail to yield an adequate resolution, the next conceptualization of dispute resolution is the use of alternative dispute resolution (ADR) mechanisms, such as mediation, negotiation, or conciliation. The ADR model is highly beneficial because it provides a faster, lower-cost, and more flexible process than litigation. In mediation, the bank and debtor can reach an agreement to voluntarily sell uncertified land, make the land the object of debt compensation, or transfer payment obligations to a third party. The advantage of ADR is the involvement of a mediator or independent party who can objectively reconcile the interests of both parties, thus creating a win-win solution. Although

the results of mediation are consensual, the mediation agreement can be outlined in a peace deed that has executory power when registered in court.

The conceptualization of dispute resolution for bad loans secured by non-certified land must be understood as an integration of complementary preventive, administrative, non-litigation, and litigation approaches. Banks cannot rely on a single mechanism but must utilize all available instruments under contract law, civil law, agrarian law, and banking regulations. Each stage of dispute resolution reflects efforts to maintain banking system stability, protect customer funds, and maintain public trust in financial institutions. Although non-certified land has legal limitations, the Indonesian legal system still provides a way for banks to obtain protection and effectively resolve problem loans through a combination of cooperative and litigation efforts based on the principles of justice, legal certainty, and expediency.

The resolution of non-performing loan disputes with non-certified land as collateral also plays an important role in the prudential principles and banking risk management, which serve as the foundation for all settlement mechanisms. Banks are required to establish robust risk mitigation systems, including at the dispute resolution stage, to prevent further decline in asset quality and disrupt the bank's soundness. Conceptualizing dispute resolution at this stage encompasses the bank's ability to identify the debtor's risk profile, estimate the asset recovery rate, measure potential credit losses (loss given default), and design a credit recovery strategy that best suits the characteristics of the non-certified collateral. In other words, dispute resolution is understood not only as a legal process but also as a managerial process involving the management of the bank's credit portfolio. This emphasizes that non-performing loan resolution involves complex dynamics between legal and business aspects, requiring banks to balance both to ensure operational continuity and financial stability.

Resolving non-performing loan disputes secured by non-certified land also requires collaboration between banking institutions, local government officials, and land agencies to ensure a more effective settlement process. Local governments, such as villages or sub-districts, play a crucial role in providing information regarding land status, ownership history, potential disputes, and the legal relationships of previous landowners. This information significantly assists banks in enforcing claims when disputes reach litigation, as it can strengthen evidence of the debtor's physical control over the land. Furthermore, synergy with the National Land Agency (BPN) can provide legal space for the land certification process if the debtor is willing to complete land administration after the loan restructuring agreement. This process, if successful, can facilitate the bank's legal enforcement of collateral in the future. This cross-institutional synergy is a crucial component in conceptualizing dispute resolution because it demonstrates that legal protection for banks comes not only from the judicial process but also from administrative support that strengthens the bank's legal standing.

The conceptualization of dispute resolution for non-performing loans secured by non-certified land must be viewed as an integral part of efforts to maintain financial system stability and the health of the banking industry. Effective dispute resolution aims not only to recover funds lent to debtors but also to maintain public confidence in the national banking system. A comprehensive dispute resolution mechanism, ranging from persuasive approaches to restructuring, the use of ADR, and litigation, reflects the importance of a flexible legal framework that still provides certainty for banks. Non-certified land does have structural limitations within the agrarian legal system, but through a planned and systematic conceptualization of dispute resolution, banks can still obtain adequate legal protection. Thus, the resolution of non-performing loan disputes secured by non-certified land not only reflects formal law enforcement but also reflects the legal adaptation to the social and economic realities of a society that still widely uses non-certified land as an asset of economic value.

## CONCLUSION

Legal protection and conceptualization of dispute resolution for bad loans secured by non-certificated land demonstrate that although non-certificated land does not have full legal force as collateral because it cannot be encumbered with a Mortgage Right as regulated in the Mortgage Law, banks still obtain legal protection through various preventive and repressive instruments that include the application of the principle of prudence in credit analysis, the preparation of detailed and binding credit agreements, the use of supporting administrative documents such as girik or sporadic, requests for additional collateral, and the preparation of internal SOPs that strengthen evidence that the bank has acted in accordance with banking standards. At the repressive stage, banks can take steps to resolve disputes in stages starting from direct collection, credit restructuring, mediation and negotiation, to settlement through simple lawsuits or general civil lawsuits with a request for collateral seizure, which allows banks

to still obtain recovery of losses even though the collateral cannot be executed directly. The conceptualization of dispute resolution in this context is integral and involves collaboration between banks, local governments, the National Land Agency (BPN), and judicial institutions so that the process of resolving bad loans can be effective and not detrimental to banks as holders of public funds. This entire mechanism demonstrates that legal protection for banks can still be achieved even if the collateral object has legal weaknesses, as long as the bank implements the principle of prudence, complies with applicable legal provisions, and utilizes all available civil and administrative legal instruments; so that ultimately banking stability, legal certainty, and public trust can still be maintained in the practice of providing and resolving credit in Indonesia.

### REFERENCES

- Budiono, Herlien, 2010, *Ajaran Umum Hukum Perjanjian dan Penerapannya di Bidang Kenoktariatan*, Bandung: Citra Aditya Abadi”.
- Indonesia. Undang-Undang Perbankan Nomor 10 tahun 1998 tentang Perubahan atas Undang-Undang Nomor 7 tahun 1992 Tambahan Lembar Negara Republik Indonesia Nomor 3790”.
- Kasmir, 2012, *Dasar-Dasar Perbankan*, Jakarta: Raja Grafindo Persada.
- M. Djumhana, 2011, *Hukum Perbankan di Indonesia*, Bandung: Citra Aditya Bakti.
- Muis, Abdullah Ahadish Shamad, dan Lailatul Mukarromah, 2021, *Penilaian Agunan Dalam Keputusan Pemberian Pembiayaan Di BMT Mandiri Ukhuwah Persada Surabaya*.
- Pusat Bahasa Departemen Pendidikan Nasional. 2008. *Kamus Bahasa Indonesia*. Jakarta: Pusat Bahasa.
- Sjahdeini, Sutan Remy, 1999, *Hak Tanggungan: Asas-Asas, Ketentuan-Ketentuan Pokok dan Masalah yang Dihadapi oleh Perbankan*. Cet. 1. Bandung: Alumni”.
- Tria Agustia, Yulia Mirwati, dan Busyra Azheri, “Perlindungan Hukum Terhadap Kreditur dalam Pembebanan Hak Tanggungan Objek yang Belum Terdaftar,” *DE LEGA LATA: Jurnal Ilmu Hukum* 5, no. 1 (Januari 2020). 111–112.
- Warman, Penerapan Asas Itikad Baik dalam Perjanjian Hutang Piutang (Studi Kasus Perkara Nomor 16/Pdt.G/2014/PN.Prm), *Junal Das Sollen*, Volume 7, Nomor 2, Desember 2022.
- Yunita Krysna Valayvi, *Jaminan Hak Tanggungan Atas Tanah Milik Pihak Ketiga Dalam Perjanjian Kredit Di Lembaga Keuangan Perbankan Berdasarkan Undang-Undang Nomor 4 Tahun 1996 tentang Hak Tanggungan*, *Private Law*, Vol. 4 No. 2, Solo, 2016”.