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Implementing The Retention of Debtor Objects by Biak's *Pegadaian* Limited Liability Companies

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Original Article

Abstract

The purpose of this study was to determine the actions taken by Biak's *Pegadaian* when the debtor defaulted. In addition, to find out various kinds of obstacles in the implementation of retention rights at *Pegadaian* Biak and efforts to resolve them. This type of research is empirical juridical research. Data were obtained from primary data sources, through interviews and observations, and secondary data through the study of various documents related to research. The descriptive and qualitative analysis was carried out. The results obtained are that Biak's *Pegadaian* conducts an auction of goods if the debtor defaults. Customers who are not authorized to redeem goods that have been pawned will be auctioned after the due date of 120 days or 4 months from the date of credit. Some of the difficulties faced by the Biak's *Pegadaian* include the pawned objects do not belong to the debtor, there is no agreement between the creditor and the debtor on the compensation.

Keywords: *Implementing The Retention, The Debtor Objects, Pegadaian Limited Liability Companies*

Abstrak

Tujuan penelitian ini adalah guna mengetahui tindakan yang dilakukan oleh *Pegadaian* Biak Numfor bilamana debitur melakukan wanprestasi. Selain itu untuk mengetahui berbagai macam kendala dalam pelaksanaan hak retensi di *Pegadaian* Biak Numfor serta upaya penyelesaiannya. Jenis penelitian ini ialah Penelitian yuridis empiris. Data diperoleh dari sumber data primer yakni melalui wawancara dan observasi, dan data sekunder melalui pengkajian berbagai dokumen yang terkait penelitian. Data kemudian dianalisis secara deskriptif kualitatif. Hasil yang diperoleh yakni *Pegadaian* Biak melakukan lelang terhadap barang bila debitur berbuat wanprestasi. Nasabah yang tidak kuasa untuk menebus barang yang telah digadaikan akan dilaksanakan lelang setelah jatuh tempo 120 hari atau 4 bulan terhitung sejak tanggal dilakukan kredit. Beberapa kesulitan yang dihadapi pihak *Pegadaian* Biak antara lain benda yang digadaikan bukan milik debitur, tiada kesepakatan antara kreditur dan debitur terkait ganti kerugian.

Kata kunci: *Pelaksanaan Retensi, Obyek Debitur, Perseroan Terbatas Pegadaian.*

1. INTRODUCTION

Humans in their lives always try to meet their daily needs. In certain circumstances, humans cannot be separated from urgent problems and require them to make a loan in the form of money to fulfill their life. The state plays an important role in the development of the political and economic sectors. So that the State plays a role in determining how to obtain credit opportunities from existing credit institutions. In economic development, including the development of the political and economic sector, the State also plays an important role in determining the methods of providing credit opportunities by credit institutions. Related to credit matters, debt and receivables in their existence are very necessary in social life. Debts and receivables are still carried out by various parties to fulfill their lives if they experience a shortage. However, getting the expected loan is not a simple task. This is considered reasonable because the creditor is not willing to make a loan if it is not based on certainty on the repayment of the loan. So that the creditor will ask for guarantees from the debtor in paying off his debts as the certainty.

Pegadaian is a credit pawnshop aimed at achieving goals and objectives as well as special arrangements. Among other things, the aim is to prevent people from money loans so that they do not fall into the moneylenders, which is in this case lending charges very high interest rates.¹ Many people still use this company in terms of lending and borrowing money in finding all kinds of problems or the needs of human life. Pawning is a material right to guarantee debt and movable objects. It is regulated in the Civil Code.² It can be interpreted as a real agreement. In addition to an agreement, a real action is required (like the transfer of power over the pawned goods).

Pegadaian is a State-Owned Enterprise Public Company (PERUM BUMN) as regulated in Law No. 9/1969 which stipulates the three forms of State business; Service Companies (PERJAN), Public Companies (PERUM), and Limited Liability Companies (PERSERO).³ In accordance with Government Regulation⁴ where *Pegadaian* is to aimed to distribute loans particularly to the lower middle class, micro, small and medium enterprises. In conducting transactions at *Pegadaian*, of course there are several conditions that must be met in order to reach the agreement. Among them is the existence of a guarantee made by the creditor to the debtor at a designated institution. The guarantee can be in the form of objects that will be used as collateral in a fiduciary form.

Fiduciary can be interpreted as ownership of the debtor's property which is transferred to the creditor which is given to the creditor on the basis of trust, with other conditions that the object whose ownership rights have been given to the creditor remains in the control of the object owner, the debtor.⁵ The object used to guarantee a loan depends on the type of object. So, if the object that is used as collateral is an immovable object, then the burden is using the mortgage. Meanwhile, if the collateral is an object, including movable property, the binding shall use the Fiduciary Law.⁶ However, in practice, there are often misunderstandings between creditors and debtors. For example, there is often a default by the debtor. So, this is a violation that often occurs in the

¹ Fareid Wijaya, *Financial Institutions and Banks, Development, Theory and Policy* (Yogyakarta: BPFE, 1995).

² Indonesia, "KUHPerdata, Pasal 1150-1160" (2000).

³ Indonesia, "Undang-Undang No.9 Tentang Tiga Bentuk Usaha Negara; Perusahaan Jasa (PERJAN), Perusahaan Umum (PERUM), Dan Perseroan Terbatas (PERSERO)" (1969).

⁴ Indonesia, "Peraturan Pemerintah No. 51, Tentang Perubahan Bentuk Badan Hukum Perusahaan Umum (Perum) Pegadaian Menjadi Perusahaan Perseroan (Persero)." (2011).

⁵ I Gusti Ayu, Luh Putu Suryani, and Putu Gede Seputra, "Kekuatan Hukum Sertifikat Jaminan Fidusia Yang Didaftarkan Setelah Terjadinya Wanprestasi," *Kerta Wicaksana: Sarana Komunikasi Dosen Dan Mahasiswa* 13, no. 2 (2019): 69-72, <https://doi.org/10.22225/kw.13.2.2019.69-72>.

⁶ Ayu, Suryani, and Seputra.

agreement. If the pledge holder has good intentions, he is protected against the pawnbroker who is not authorized to control it. The measure of good faith here is that the pledge holder is the real owner and the right of the lien is not in doubt.⁷ Creditors get protection because of these rights creditors will feel guaranteed in the fulfillment of their receivables. In order to protect customers who have defaulted, Pegadaian as a creditor is given the authority to take repayment of the pawned goods by parate execution.⁸ Parate execution is also known as "simple execution" which is regulated in the Civil Code.⁹

The holder of the pawn in this case the Pegadaian has the power to execute or sell the pawned goods without court mediation, based on the execution parate or without the need to ask for help from a bailiff. The holder here can sell on his own power over the object of the pledge, if the debtor is in default of the main agreement.¹⁰ In addition, as long as the pawnshop does not misuse the pawned goods, the customer (debtor) has no right to demand the return of the pawned goods. Perum Pegadaian withholds goods that are used as collateral for pawning if the debtor at maturity only pays the interest, so that new debts arise until the debt is paid off by the customer. Such rights are called retention rights. While the right of retention is the right granted to certain creditors to hold the debtor's object until the bills related to the object are paid off.

Regulations regarding Perum Pergadain were first enacted on March 12, 1901 with Stb No. 131 in 1901, successively held in Stb No. 490 of 1905, Stb No. 64 of 1928, Stb No. 81 of 1928, Stb No. 266 in 1930 this institution got the status as a ministry, PP no. 178 of 1961 the pawnshop service became a state company, Presidential Decree no. 180 of 1965, PP No. 7 of 1969, PP No. 10 of 1990 the pawnshop was changed to a public company (PERUM), and PP no. 103 of 2000 concerning public companies (PERUM).¹¹

Several empirical studies related to the retention of debtor objects have never been carried out, most of them are carried out normatively. Research by Adjie¹² in 2015, which discusses legal protection for creditors if the debtor defaults. Based on his normative analysis, it is known that the right of retention is a right that provides a guarantee by controlling the object before the debt is paid off. In a pawn, the retention rights owned by the creditor or pawnee are the rights used in executing the collateral belonging to the debtor or pawnbroker by conducting an auction. The auction is carried out by the creditor because the debtor or pawner is in default. It means that Pegadaian Public Company as the creditor or Pawnee has the authority or right to carry out direct execution of the object as collateral if the debtor or pawnbroker defaults.

Another study was conducted by Slamet¹³ in 2015. The results of his normative study confirm that in a credit agreement, the creditor wants a guarantee of debt repayment certainty by the debtor, where to obtain legal certainty, it is not enough just to provide general guarantees as stipulated in Articles 1131 and 1132 of the Civil Code. Creditors need protection in the form of material guarantees. Due to the nature of the receivables guaranteed by material guarantees, they are separatist or prioritized which gives the creditor a position as a separatist creditor who has the

⁷ J. Satrio, *Hukum Jaminan Kebendaan Fidusia* (Jakarta: Sinar Grafika, 2002).

⁸ Indonesia, KUHPerdata, Pasal 1150-1160.

⁹ Indonesia, "KUHPerdata, Pasal 1155 Tentang Perlindungan Hukum Bagi Pemilik Objek Gadai Atas Pelelangan Objek Gadai" (2000).

¹⁰ M. Yahya Harahap, *Ruang Lingkup Permasalahan Eksekusi Bidang Perdata* (Jakarta: Sinar Grafika, 2006).

¹¹ J. Satrio, *Hukum Jaminan, Hak-Hak Kebendaan* (Jakarta: PT Citra Aditya Bakti, 1993).

¹² Habib Adjie, "Perlindungan Hukum Bagi Pemilik Objek Gadai Atas Pelelangan Objek Gadai," *Jurnal Hukum Bisnis* 1, no. 1 (2015): 52–65, <https://doi.org/10.33121/hukumbisnis.v1i1.57>.

¹³ Sri Redjeki Slamet, "Perlindungan Hukum Dan Kedudukan Kreditor Separatis Dalam Hal Terjadi Kepailitan Terhadap Debitor," *Lex Jurnalica* 13, no. 2 (2016): 104–14, <https://ejournal.esaunggul.ac.id/index.php/Lex/article/view/1538>.

right to obtain prepayment from the execution of the guarantee, where the bankruptcy, the separatist creditor is in a state as if there was no bankruptcy.

The last study by Keso¹⁴ in 2019, where the results of a normative study showed that *Pegadaian* public company, is a financial institution whose main activity is distributing loan money on the basis of pawn laws, in order to help people with low incomes. The procedure for implementing the right of retention occurs after the existence of a pledge agreement or the granting of a mortgage loan. A pawn agreement is a credit agreement that is stated in a Letter of Credit (SBK). The object is handed over to *Pegadaian* when signing the SBK with real delivery so that the conditions in *bezitselling* are met. Obstacles that may be faced by *Pegadaian* in the exercise of retention rights, that the pawned object turns out to be stolen, the pawned object does not belong to the debtor, the pawned object is damaged in storage, there is no compensation agreement between the debtor and *Pegadaian*, the pawn credit made is not in accordance with the provisions and norms set by the company, the increasing number of business entities engaged in credit will create competition, and many customers or debtors do not take their collateral until maturity. The solution to the problems faced is that *Pegadaian* will hand over the embezzled objects to the court if stolen objects are found, bear all the damage if an unexpected situation occurs, and increase productivity in service to customers and play an active role in providing counseling about the institution to the community.

From the rational explanation above, this study seeks to explore the implementation of *Pegadaian* especially in Biak Numfor. This research is expected to become empirical evidence related to the implementation of the provisions on creditor retention rights when there is a default by the debtor. Based on the background, it can be found a formulation of the problem as follows: 1) What are the actions taken by *Pegadaian* in Biak if the debtor is in default? 2) What are the obstacles faced by *Pegadaian* in Biak in implementing the retention rights and efforts to resolve them? Meanwhile, the research objectives are aimed to find out the actions and legal consequences of debtors who are in default by *Pegadaian* Public Company in Biak and to find out the obstacles faced by *Pegadaian* Public Company in Biak in carrying out the Detention (retention rights) of the pawned object.

2. RESEARCH METHODOLOGY

The research method used in this research is normative and empirical legal research. The data were obtained from primary data through interviews with related respondents and observations in the research field and secondary data by studying various related documents to the research. Descriptive-qualitative analysis is carried out to interpret research data.

3. RESULTS AND DISCUSSION

3.1 The actions held by Biak's *Pegadaian* Limited Liability Companies if the debtor defaults

The purpose of the money-lending agreement is to fulfill a performance. The performance is defined as obligations that must be fulfilled by the debtor in every engagement, where it can be in the form of giving something or do nothing.¹⁵ Along with the uncontrolled progress of the times,

¹⁴ Grafy Fikri Keso, "Analisis Penahanan Benda Gadai Milik Debitur Oleh PT (Persero) Pegadaian Akibat Wanprestasi," *Lex Et Societatis* 7, no. 11 (2019): 33–39, <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/27367>.

¹⁵ Muhammad, *Hukum Perikatan* (Bandung: Citra Aditya Bakti, 1990).

the lack of available job vacancies has an impact on people's behavior in their daily lives. This can be seen from the necessities of life. So that someone always strives to meet these needs in various ways and efforts. A way and an effort that can be achieved is the pawning.

Pawning activities have existed since the time of the Prophet Muhammad even he practiced this pawning economic activity.¹⁶ Pawning activities are still ongoing and are also common habits. This is indicated from the number of national institutions that oversee the issues. For example, there are two types of pawnshops, both Conventional Pawnshops and Sharia Pawnshops. *Pegadaian* Public Company referred to the conventional pawnshop where many are interested in borrowing loans there. This is caused for relatively small interest rates if compared to the interest charged by other financial institutions. This is in line with its motto associated with *Megatasi Masalah Tanpa Masalah* (problem solutions without problems).

Pegadaian public company is regulated based on the government regulation¹⁷ which is aimed to provide services for public benefit funds and at the same time generate management principles company-based profits, the lien law-based lending money to a society used as the basis of *Pegadaian* public company.¹⁸ *Pegadaian* is an official business entity and has a license to carry out activities such as financing either loans or channeling funds to the public on the basis of pawning law.¹⁹ The conventional and sharia pawning are regulated in the Government Regulation²⁰ Basically, *Pegadaian* determines several elements of a binding agreement between the debtor and the debtors who carry out legal actions. The agreement is the engagement between a person and another has an interest of each. Engagement or *verbintenissen* is a relationship between two people or two parties so that one party has the right to demand the other party and the other party is obliged to fulfill the claim.²¹

Furthermore, Article 1131 of the Civil Code explains that it is related to the position of the borrower's property where the borrower's property is fully guaranteed or dependent on his debt. So that all loans are made by the debtor, then he must pledge the object to the creditor as a form of dependents on the debt. Similarly, in borrowing, an individual also has to pawn the objects to the creditor as collateral for the loan he has made. As mentioned above, a customer who has entered into an engagement can be regarded that he has entered into a mutual agreement or an agreement based on predetermined matters. According to Medika, agreement is an event where a person promises to carry out or do something so that a relationship arises between the two parties from that performance.²² The rights obtained by someone who makes receivables on a movable item and others are a definition associated with pawning. Pawning occurs when the debtor or pawnbroker submits movable objects as collateral to the creditor or pawnbroker and the creditor is given the power to take repayment by selling the collateral if the debtor defaults.

¹⁶ Luky Andariesta Ismail, "Pengaruh Pegadaian Syariah Terhadap Perekonomian Masyarakat," *Jurnal Perbankan Syariah Universitas Muhammadiyah Sidoarjo*, 2018, 1–13, <http://eprints.umsida.ac.id/3472/>.

¹⁷ Indonesia, "Peraturan Pemerintah No. 103 Tentang Perusahaan Umum (Perum) Pegadaian" (2000).

¹⁸ Asuan, "Penyelesaian Terhadap Debitur Wanprestasi Dalam Perjanjian Gadai," *Solusi* 18, no. 1 (2020): 121–38, <https://doi.org/10.36546/solusi.v18i1.254>.

¹⁹ Frengky Apolos Banefar, "Wanprestasi Dalam Perjanjian Kredit Perbankan Dengan Jaminan Sertifikat Tanah Ditinjau Dari Undang-Undang Nomor 4 Tahun 1996," *Jurnal Ilmu Hukum Kyadiren* 1, no. 2 (2020): 139–56, <https://doi.org/10.46924/jihk.v1i2.127>; I Putu Eka Juliawan and I Made Dedy Priyanto, "Wanprestasi Dalam Perjanjian Pengaturan Barang Dan Jasa," *Jurnal Kertha Wicara* 9, no. 9 (2020): 1–11, <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/62478>.

²⁰ Indonesia, Peraturan Pemerintah No. 103 tentang Perusahaan Umum (Perum) Pegadaian; Indonesia, "Undang-Undang No. 7 Tentang Perbankan" (1992).

²¹ Lathifah Hanim and M S Norman, "Penyelesaian Perjanjian Kredit Bank Sebagai Akibat Force Majeure Karena Gempa Bumi," *Jurnal Pembaharuan Hukum* 3, no. 2 (2016): 161–71, <https://doi.org/10.26532/jph.v3i2.1406>.

²² Mendika Andarika Adati, "Wanprestasi Dalam Perjanjian Yang Dapat Di Pidana Menurut Pasal 378 KUHP," *Lex Privatum* 6, no. 4 (2018): 5–15, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/20514>.

Default is an action conducted by a creditor for committing a violation. According to Medika, default is negligence that is distinguished into three types; 1) not doing what was promised, 2) doing what was promised, but not as promised, 3) doing what was promised but late.²³ So that if a party is unable to fulfill its performance, it will result in non-fulfillment of a performance and a default will occur. Default can also be defined as doing no performance, or fulfilling the performance, but any delay and inappropriate with what it should be.²⁴ So the debtor has defaulted because he did not or late to carry out the performance, or not in accordance with what is previously promised. Default is an act that is not justified in an agreement. So that it certainly can break the deal that has been made. Default can be understood as unfulfilled performance or obligations that have been imposed by the parties based on the applicable provisions in an engagement, either an engagement derived from an agreement or a law.²⁵ In fact, several existing customers, at Biak’s *Pegadaian* public company, are still in default. It occurs because customers forget the debts. (see the table)

Table 1.
The Customer forgot to Pay off the debt at Biak’s Pegadaian Public Company

No	Respondent's Answers	Amount	Percentage
1	Forgetting about the debt	5	25%
2	Deliberately not paying	5	25%
3	Remembering no money debt borne	20	100
Total		20	100

Based on the answers obtained from the respondents, some people know that they have debts but they have no money to pay off the debt. In addition, there are some customers who forget that they have debts at *Pegadaian*. This happens due to the length of duration taken by customers so that they forget their obligations to pay debts. In essence, there are several principles of agreement that must be fulfilled by the parties; the principle of consensualism (a conformity of will related to the birth of an agreement), the principle of power to bind an agreement, and the principle of freedom of contract (which relates to the contents of the agreement).²⁶ Therefore, in terms of carrying out an agreement, the principle must be fulfilled completely.

Article 1313 of the National Civil Code states that an agreement is an act where one or more people remind themselves of another person. On the other hand, the agreement arises because of the deal and also the things that the interested parties want to achieve. In addition, Article 1320 related to the validity of an agreement further states that there is an agreement between the parties; the competence of each party in making an engagement, the existence of certain issues, and the existence of certain legal reasons.²⁷ The emergence of an agreement of course is also based on mutual consent.

Pegadaian’s customers, of course, provide credit guarantees. Credit based on the national law²⁸ explains the provision of money or claims based on an agreement and loan agreement between

²³ Adati.

²⁴ Putri Alam Prabancani, Desak Gde Dwi Arini, and I Gusti Ketut Sri Astiti, “Penyelesaian Wanprestasi Dalam Perjanjian Pinjam Meminjam Uang,” *Jurnal Analogi Hukum* 1, no. 1 (2019): 67–70, <https://doi.org/10.22225/ah.1.1.2019.67-70>.

²⁵ Abdulkadir Muhammad, *Hukum Perdata Indonesia* (Bandung: Citra Aditya Bakti, 2000).

²⁶ Hanim and Norman, “Penyelesaian Perjanjian Kredit Bank Sebagai Akibat Force Majeure Karena Gempa Bumi.”

²⁷ Aditya Surya Bratha, Ngakan Ketut Dunia, and A.A. Ketut Sukranatha, “Perjanjian Gadai Yang Dijamin Dengan Barang Yang Berasal Dari Hasil Kejahatan: Studi Pada PT. Pegadaian Cabang Sesetan,” *Jurnal Kertha Semaya* 5, no. 2 (2017): 1–5, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/19810>.

²⁸ Indonesia, “Undang-Undang No. 10, Pasal 1 Angka 11 Tentang Perubahan Atas UU No. 7 Tahun 1992 Tentang Perbankan” (1998).

the bank and another party or the borrower, to pay off the debt. So that the essence of credit can be defined as the party making the loan must pay off at a predetermined time. However, if the creditor is unable to make repayments within the particular time, he will receive the consequences determined by the intended party. The actions taken by *Pegadaian* are very diverse due to the number of violations and existing customers. However, in essence, they are inseparable from the applicable law. *Pegadaian* as the creditor has the authority to carry out an action such as conducting an auction if the debtor defaults so as to suspend the debtor's collateral.

The auction will be directly carried out by *Pegadaian* (*Staatsblad* 1920 No. 133) while the auction has been stated and regulated in the Minister of Finance Regulation.²⁹ However, the auction conducted by *Pegadaian* is different from the State auction office, but is still oriented to the regulation of the Minister and the circular letter³⁰ of the *Pegadaian*'s directors. Collateral goods that have been pawned by debtors who default are allowed to auctioned by *Pegadaian*. This has been regulated in the Basic Rules of *Pegadaian* (ADP). *Pegadaian* can conduct an auction when the customer is no longer able to extend and redeem the pawned goods. The implementation is carried out after the due date of 120 days or 4 months from the date of credit. The proceeds from the sale of the auction after deducting the auction fees that become the mortgage are borrowed money and capital rental money while the rest remains the customer's rights. Meanwhile, the auction fee is directly collected by *Pegadaian* and then deposited directly to the State.

3.2 The obstacles in the implementation of retention rights and efforts to solve them by Biak's *Pegadaian* Limited Liability Companies

Customers who make loans to *Pegadaian* are a group of people where they have bound themselves with various provisions set by the company. So that if the debtor commits an act of default, he must bear the causes and consequences of what he has done. Default is a form of violation of the debt agreement as a source of disputes between creditors and debtors.³¹ The default can be classified into three forms; unable to fulfill the performance, late to fulfill the performance, and different from what is previously agreed.³² Retention rights are regulated in Article 575, 578, 715, 725, 1616, 1729, 1812, and 1364 of the Civil Code. Retention rights are indivisible. If the debt is not paid, the goods cannot be returned but you have to pay in full. Article 575 and 576 paragraph (2) of the Civil Code state the right to hold debtor's objects with the aim that the debtor fulfills his obligations, paying his debts or carrying out his engagement to the creditor with the retention right. So that the retention is a binding accessory right, attached to an obligation on the determined or agreed provisions.

Pegadaian performs retention or detention when the debtor acts in default or breaks the promise. Yahya Harahap said that default is carrying out an improper obligation according to the due date the debtor should pay. A debtor is found in default if he is negligent and late in the determined payment schedule and the appropriate regulations.³³ In this case, Biak's *Pegadaian* has determined the due time for the return of the dependents owned by the debtor. This can be seen from the following table below. Biak's *Pegadaian* in carrying out its duties, provides firm action

²⁹ Kementerian Keuangan, "Peraturan Menteri Keuangan No. 40/PMK.07 Tentang Petunjuk Pelaksanaan Lelang" (2006).

³⁰ Direksi Pegadaian, "Surat Edaran No. 6 Tentang Prosedur Pelaksanaan Eksekusi Lelang Barang Jaminan Gadai" (2001).

³¹ Putu Gandiyasa Wijartama and Ibrahim, "Cara-Cara Penagihan Hutang Dalam Perspektif Hukum Perdata," *Kertha Semaya: Jurnal Ilmu Hukum* 4, no. 2 (2018): 1–16, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/43547>.

³² Sedyo Prayogo, "Penerapan Batas-Batas Wanprestasi Dan Pembuatan Melawan Hukum Dalam Perjanjian," *Jurnal Pembaharuan Hukum* 3, no. 2 (2016): 280–87, <https://doi.org/10.26532/jph.v3i2.1453>.

³³ M. Yahya Harahap, *Segi-Segi Hukum Perjanjian* (Bandung: Alumni, 1986).

against customers who default, of course also encounters various kinds of obstacles because many customers are reluctant to pay their obligations in terms of debt loans. However, Biak' *Pegadaian* continues to strive to pay off debts made by customers.

Table 2.

Duration of Debt Repayment

No	Respondent's Answer	Amount	Percentage
1	Three months	1	5%
2	Four months	17	85%
3	Five months	2	10%
Total		20	100%

Based on the table above, it can be seen that the due time of the debt repayment debtor takes time from 3 to 5 months even though the due time of repayment is 120 days or 4 months for all types of loans according to the proof of credit (SBK). If the debtors have not paid off till the specified time limit, the goods will be auctioned by *Pegadaian*. Some of the obstacles experienced by Biak's *Pegadaian* include:

- a) The pawned goods are not the debtor's, it happens because the owner of the collateral has authorized his property to another party to pawn it because he is ashamed to come himself to *Pegadaian*. There are several provisions in borrowing if the loan value is above millions, which must be accompanied by a power of attorney (PoA).
- b) The pawned object is stolen, the principle that states that those who accept dependents cannot be held accountable. So that if the person who gave the item must have good intentions.
- c) The pawned goods are damaged, the pawned objects are of course damaged due to humidity, temperature and so on over time. It does not even rule out the possibility of being lost due to theft and embezzlement carried out by *Pegadaian's* Employees. So, *Pegadaian* is fully responsible for the customer's losses by providing compensation. If it is not responsible, then it takes default actions, not taking the agreed action that maintains the goods.
- d) There is no compensation agreement between the debtor and creditor, this has been regulated in The National Government Regulation³⁴ in which in the damage, loss and so on occurs, compensation will be received by the debtors.

4. CONCLUSION

Biak's *Pegadaian* will take action by holding an auction if the debtor defaults. The auction is carried out if the customer is unable to extend or redeem the pawned goods. The obstacles experienced by the company in the retention rights are that the pawned goods do not belong to the debtor, the pawned goods are stolen, the pawned object is damaged, there is no compensation agreement between the debtor and creditor. For that reason, it is possible for the company to add their contents of the agreement clause movable property guarantees and the nominal value of compensation. In addition, it is necessary to put another agreement clause related to sanctions for debtors or customers who violate so as to reduce violations committed by debtors.

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