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Legal Consequences of Breach of Contract and Creditor Protection in Business Capital Loan Agreements

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Original Article

Abstract

Business capital loan agreements play a crucial role in supporting economic activities. However, their implementation is often vulnerable to breaches of contract, potentially resulting in financial losses for creditors and legal uncertainty between the contracting parties. This study aims to examine the legal consequences of contractual breaches in relation to creditors' rights and analyze the forms of legal protection afforded to creditors under the Indonesian Civil Code. This study employs a normative legal research methodology using statutory, conceptual, and case approaches. The legal materials are analyzed qualitatively through legal interpretation and legal reasoning. The findings indicate that a breach of contract may take the form of failure to perform contractual obligations, improper performance, delayed payment, or violation of agreed contractual terms. In such circumstances, creditors are entitled to demand specific performance, claim damages, and seek contract rescission in accordance with applicable legal provisions. Legal protection for creditors may be provided through contractual safeguards, general and specific security interests, and dispute resolution mechanisms, both judicial and extrajudicial. This study concludes that integrating preventive contractual safeguards with effective legal remedies is essential to strengthening legal certainty, protecting creditors' rights, and maintaining a fair balance of interests between the parties to business capital loan agreements.

Keywords: *Breach of Contract, Business Capital Loan Agreements, Creditor Protection, Legal Remedies*

Abstrak

Perjanjian pinjaman modal usaha memiliki peran penting dalam mendukung aktivitas ekonomi, tetapi pelaksanaannya rentan terhadap wanprestasi yang dapat merugikan kreditur dan menimbulkan ketidakpastian hukum. Penelitian ini bertujuan menganalisis akibat hukum wanprestasi terhadap hak-hak kreditur serta mengkaji bentuk perlindungan hukum berdasarkan Kitab Undang-Undang Hukum Perdata (KUHPerdata). Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Bahan hukum dianalisis secara kualitatif melalui interpretasi dan argumentasi hukum. wanprestasi meliputi tidak terpenuhinya prestasi, pelaksanaan yang tidak sesuai, keterlambatan pembayaran, dan pelanggaran kewajiban kontraktual. Kreditur berhak menuntut pemenuhan prestasi, ganti rugi, dan pembatalan perjanjian. Perlindungan hukumnya mencakup klausul kontraktual, jaminan umum dan khusus, serta penyelesaian sengketa litigasi maupun nonlitigasi. Penelitian menyimpulkan bahwa integrasi instrumen kontraktual dan mekanisme pemulihan hak diperlukan untuk memperkuat kepastian hukum dan keseimbangan kepentingan para pihak.

Kata kunci: *Wanprestasi, Pinjaman Modal Usaha, Perlindungan Hukum, Kreditur*

1. INTRODUCTION

Contracts constitute fundamental legal instruments in civil law, serving to establish legal relationships, define the rights and obligations of the parties, and provide legal certainty regarding their respective interests. Under Indonesian law, contractual provisions are primarily governed by Book III of the Indonesian Civil Code. Specifically, Article 1313 defines an agreement as an act by which one or more persons bind themselves to one or more other persons. The legal significance of a contract, however, extends beyond the mere existence of mutual consent, as it also gives rise to legally binding obligations to perform certain acts, as stipulated in Article 1234 of the Indonesian Civil Code. The proper fulfillment of these obligations is essential to maintaining the equilibrium of contractual relationships and ensuring legal certainty for all parties involved.

Among the various types of contracts that facilitate economic activities, loan agreements play a particularly significant role, especially in meeting business capital requirements. Pursuant to Article 1754 of the Indonesian Civil Code, a loan agreement involves one party providing another party with a specified quantity of goods that are consumed through use, subject to the borrower's obligation to return an equivalent quantity of goods of the same kind and quality. Within this contractual relationship, the creditor acts as the lender, while the debtor assumes the role of the borrower and is legally obligated to repay the borrowed funds in accordance with the agreed amount, repayment period, and contractual terms. For micro, small, and medium-sized enterprises (MSMEs), as well as large-scale corporations, access to adequate capital is a critical determinant of business continuity, increased production capacity, and the expansion of commercial activities.

Despite being founded on mutual consent and trust, business capital loan agreements do not always operate under conditions of contractual equality. Urgent financing needs may place debtors in a comparatively weaker bargaining position, whereas creditors may exercise greater influence in determining the terms and conditions of loan agreements.[1] Such disparities may affect both the formation and performance of contractual obligations, particularly when the underlying business risks are not adequately assessed. Business failures, ineffective financial management, unfavorable economic developments, and the debtor's inability or lack of good faith may ultimately result in the nonfulfillment of repayment obligations.[2]

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[1] Jauw Shinta Dewi and Yuyut Prayuti, "Rekonstruksi Keseimbangan Kontraktual Dalam Perjanjian Kredit Perbankan: Kritik Terhadap Dominasi Klausula Baku Pasca Pojk Perlindungan Konsumen 2023," *Jurnal Hukum Lex Generalis* 7, no. 4 (2026): 1–31, https://doi.org/10.56370/jhlg.v7i4.3247.

[2] Dewi Kartika et al., "Menganalisis Faktor Penentu Kegagalan Wirausaha Di Indonesia: Sebuah Pendekatan Kualitatif," *Jurnal Ilmu Pendidikan Dan Sosial* 4, no. 1 (2025): 9–20, https://doi.org/10.58540/jipsi.v4i1.786.

The failure to fulfill contractual obligations constitutes a breach of contract, which may cause financial losses to creditors. Under Article 1238 of the Indonesian Civil Code, a debtor is generally considered to be in default following a formal notice or declaration of default, except where the contract or applicable legal provisions establish that default occurs automatically upon the expiration of a specified period. Such a breach gives rise to several legal consequences, including the creditor's right to claim damages under Article 1243, demand performance or termination of the agreement under Article 1267, and seek satisfaction of outstanding claims against the debtor's assets, which constitute general security for creditors pursuant to Articles 1131 and 1132 of the Indonesian Civil Code.

The central legal issue extends beyond determining whether a breach of contract has occurred; it also concerns the extent to which the existing legal framework provides effective protection for creditors' interests. An examination of the legal consequences of contractual breaches and the mechanisms available to protect creditors in business capital loan agreements is therefore necessary to assess whether existing civil law instruments adequately ensure legal certainty and a fair balance of interests between the contracting parties.

Research on breach of contract and creditor protection has developed across various financing arrangements, including banking transactions, conventional loan agreements, collateral-based financing, and digital financial services. Pangaribuan et al., for instance, examined the legal protection afforded to creditors under credit agreements based on the Indonesian Civil Code and regulations issued by the Financial Services Authority. Their findings demonstrate that the Indonesian Civil Code establishes the fundamental legal framework for creditor protection through contractual relationships, while Financial Services Authority regulations strengthen preventive and remedial mechanisms by incorporating the principles of prudence, transparency, and dispute resolution.[3] These findings highlight the importance of harmonizing general civil law provisions with sector-specific regulations to strengthen legal certainty and safeguard creditors' interests. Nevertheless, the study primarily focuses on credit relationships within the formal banking sector and does not specifically examine creditor protection in business capital loan agreements that may arise outside the institutional banking framework.

With respect to business capital loan agreements, Burhan et al. examined cases of breach of contract based on South Jakarta District Court Decision No. 461/Pdt.G/2023/PN Jakarta Selatan.[4] The validity of an agreement, as determined

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[3] Ariel Zefanya Romaito Lhomak Pangaribuan et al., "Perlindungan Kreditur Dalam Perjanjian Kredit Menurut Kuhperdata Dan Peraturan OJK," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 4 (2025): 4558–65, https://doi.org/10.61104/alz.v3i4.1974.

[4] Hafifa Laila Burhan et al., "Analisis Yuridis Wanprestasi Dalam Perjanjian Pinjaman Modal Usaha Dan Implikasinya Terhadap Perlindungan Kreditur," *Quantum Juris: Jurnal Hukum Modern* 8, no. 3 (2026): 166–76.

under Article 1320 of the Indonesian Civil Code, constitutes a fundamental basis for establishing whether a breach of contract has occurred and determining the debtor's legal liability. Although the court granted several claims for payment, it rejected other claims submitted by the creditor, including collection costs, provisional attachment of assets, and coercive fines. These findings demonstrate that a judicial determination of default does not necessarily ensure the creditor's full recovery of the losses claimed.

Other studies have broadened the discussion of creditor protection by examining the role of collateral as a form of security. Permana and Marsitiningsih (2025) investigated loan agreements secured by movable assets owned by third parties, emphasizing the importance of verifying the collateral, ensuring the validity of supporting documentation, and complying with the enforcement procedures prescribed under the Fiduciary Security Law.[5] Similarly, Djafar observed that although fiduciary security and land mortgages provide a legal basis for creditor protection, their implementation continues to encounter technical and procedural challenges.[6] Taken together, these studies demonstrate that the effectiveness of creditor protection depends not only on the existence of a valid contractual relationship but also on the legal certainty, enforceability, and reliability of the underlying security instruments.

Developments in financial technology have further complicated the legal landscape of creditor protection. Kartodiprodjo et al. found that defaults arising from online lending transactions may give rise to compensation obligations, which can be pursued through either judicial or extrajudicial dispute resolution mechanisms.[7] Meanwhile, Pane et al. highlighted the limited protection afforded to concurrent creditors (unsecured creditors) in the implementation of court-approved composition agreements (homologation) and bankruptcy proceedings.[8] In other financing contexts, Bittie, Lestari et al., and Sholeha and Rahman emphasized the importance of compliance with lending procedures, the implementation of preventive and remedial legal safeguards, and the application of dispute resolution mechanisms appropriate to the specific characteristics of each financing relationship.[9] These studies provide an

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5 Yudhistira Gilang Permana and Marsitiningsih Marsitiningsih, "Perlindungan Hukum Bagi Kreditur Akibat Wanprestasi Dalam Perjanjian Pinjam Meminjam Dengan Jaminan Benda Bergerak Milik Pihak Ketiga," *Jurnal Penelitian Serambi Hukum* 18, no. 2 (2025): 337–45, https://doi.org/10.59582/sh.v18i02.1345.

6 Tasya Djafar, "Tanggung Jawab Dan Perlindungan Hukum Terhadap Kreditur Dalam Kasus Wanprestasi Utang Piutang," *Jurnal Hukum Caraka Justitia* 6, no. 1 (2026): 1–12, https://doi.org/10.30588/jhcj.v6i1.2250.

7 Mikhael Putra Kartodiprodjo et al., "Perlindungan Hukum Terhadap Kreditur Akibat Debitur Wanprestasi Pada Perjanjian Pinjaman Online," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 14, no. 2 (2025): 113–23, https://doi.org/10.28946/rpt.v14i2.5271.

8 Anina Syahwita Pane et al., "Perlindungan Hukum Kreditur Atas Debitur Wanprestasi Perjanjian Perdamaian Yang Telah Dihomologasi Dalam Proses Penundaan Kewajiban Pembayaran Utang," *Jurnal Hukum Lex Generalis* 7, no. 4 (2026): 1–29, https://doi.org/10.56370/jhlg.v7i4.2847.

9 Karmelia Angelina Bittie, "Aspek Hukum Perjanjian Kredit Usaha Rakyat: Prosedur Dan Pelaksanaannya," *Lex Administratum* 12, no. 2 (2024): 1–13; Ni Made Mirah Dwi Lestari et al., "Upaya Perlindungan Hukum Terhadap Kreditur Atas Debitur Wanprestasi Dalam Perjanjian Kredit Pada Masa Pandemi Covid-19," *Jurnal Interpretasi Hukum* 3, no. 1 (2022): 176–81, https://doi.org/10.22225/juinhum.3.1.4740.176-181; Baiq Ulvia Sholeha and Arief Rahman, "Perlindungan Hukum Terhadap Kreditur Atas Wanprestasi Debitur Dalam Akad Murabahah

important foundation for understanding breach of contract, debtor liability, collateral arrangements, and mechanisms for creditor protection. Nevertheless, the relationship between the legal consequences of default and the framework for creditor protection in business capital loan agreements governed by the general provisions of the Indonesian Civil Code remains insufficiently examined from an integrated legal perspective.

Previous studies have predominantly focused on creditor protection within the banking sector, online lending transactions, secured financing arrangements, or specific judicial cases. In contrast, this study offers a novel contribution by providing an integrated analysis of the legal consequences of default and the protection of creditors in business capital loan agreements under the Indonesian Civil Code. Its novelty lies in examining the interrelationship between the legal basis for debtor liability, the consequences of contractual default, creditors' contractual rights, and the preventive and remedial mechanisms available for creditor protection. Unlike previous studies, this research does not confine its analysis to a particular financing institution or a specific form of collateral but instead examines the broader civil law framework governing business capital loan relationships.

This study aims to analyze the legal consequences of default in business capital loan agreements, particularly in relation to the enforcement and fulfillment of creditors' rights under the Indonesian Civil Code. It also seeks to examine the legal protection available to creditors through contractual provisions, general claims against debtors' assets, and judicial and extrajudicial dispute resolution mechanisms.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method that focuses on examining legal norms, principles, doctrines, and statutory provisions governing contractual relationships and creditor protection in cases of breach of contract arising from business capital loan agreements. The research is descriptive-analytical and prescriptive in nature and employs three complementary legal approaches: the statutory approach, the conceptual approach, and the case approach. The statutory approach examines the relevant provisions of the Indonesian Civil Code, particularly Articles 1234, 1238, 1243, 1267, 1320, 1338, 1754, 1131, and 1132, as well as other applicable legislation governing contractual relationships and security interests. The conceptual approach is used to examine fundamental legal concepts, including agreements, contractual performance, breach of contract, contractual liability, good faith, and creditor protection. Meanwhile, the case approach involves examining relevant court decisions to identify how the

Pembelian Rumah Dengan Pembiayaan Syariah: Studi BSI Lombok Praya," *Jurnal Rekomendasi Hukum* 1, no. 3 (2025): 412–21.

applicable legal principles and statutory provisions are interpreted and applied in judicial practice.

Legal materials, consisting of primary, secondary, and tertiary sources, are collected through library research. These materials are subsequently analyzed using qualitative legal analysis, applying grammatical, systematic, and teleological methods of legal interpretation. The analysis focuses on identifying the legal consequences of breach of contract, determining the debtor's legal liability, and evaluating the effectiveness of legal instruments available to protect creditors, including contractual safeguards, general security over the debtor's assets, and judicial and extrajudicial dispute resolution mechanisms. The findings are presented through legal argumentation and prescriptive analysis to formulate a framework for creditor protection that promotes legal certainty and ensures a fair balance of interests between the parties to business capital loan agreements.

3. RESEARCH RESULT AND DISCUSSION

3.1. Legal Consequences of Default in Business Capital Loan Agreements and Their Implications for Creditor Rights under the Indonesian Civil Code

A breach of contract in a business capital loan agreement constitutes more than a debtor's failure to fulfill repayment obligations; it also represents a violation of the contractual allocation of rights and obligations agreed upon by the parties. This legal relationship is governed by Article 1754 of the Indonesian Civil Code, which establishes the legal basis for a loan agreement involving the transfer of consumable goods or funds from one party to another, subject to the borrower's obligation to return an equivalent amount of the same kind and quality. In the context of a monetary loan, the creditor's provision of funds consequently gives rise to an enforceable right to demand repayment, while the debtor assumes a corresponding legal obligation to fulfill that repayment in accordance with the terms of the agreement.

A breach of contract in a business capital loan agreement may generally take four forms. First, the debtor fails to perform the contractual obligation altogether, including the obligation to repay the principal loan amount or other additional obligations expressly agreed upon by the parties. Second, the debtor performs the obligation improperly, such as by making only a partial payment without the creditor's consent or in a manner inconsistent with the agreed repayment terms. Third, the debtor performs the obligation after the stipulated deadline, thereby constituting a delay in contractual performance. Fourth, the debtor engages in conduct that contravenes the contractual obligations, including violating specific provisions that expressly prohibit particular actions. These four forms demonstrate that breach of contract encompasses various forms of nonperformance and cannot be restricted solely to the debtor's inability to repay the loan. Accordingly, determining whether a breach has occurred requires an

assessment of the conformity between the contractual performance agreed upon by the parties and the debtor's actual conduct during the performance of the agreement.

The legal basis for debtor liability is intrinsically connected to the binding force of contracts, as established under Article 1338 of the Indonesian Civil Code. This provision stipulates that legally valid agreements have the force of law between the contracting parties and must be performed in good faith. Accordingly, a debtor's failure to fulfill contractual obligations may give rise to contractual liability when the elements of breach of contract have been established and no legally recognized grounds for exemption from liability apply, particularly force majeure (overmacht), as addressed in Articles 1244 and 1245 of the Indonesian Civil Code. Business failure, declining revenues, or inadequate financial management do not automatically release debtors from their contractual obligations. Rather, such circumstances must be assessed by examining their causal relationship with the failure to perform and determining whether they satisfy the applicable legal requirements for exemption from contractual liability.

The determination of default must also take into account the requirements established under Article 1238 of the Indonesian Civil Code. In principle, a debtor is considered to be in default following the issuance of a formal notice or an equivalent legal demand, unless the agreement expressly provides that default occurs automatically upon the expiration of a specified period. In this context, a formal notice serves two essential legal functions: providing the debtor with an opportunity to fulfill the outstanding obligation and establishing the commencement of the debtor's default. Once default has been legally established and the obligation remains unfulfilled, the creditor acquires a legal basis for pursuing remedies in accordance with the applicable statutory provisions.

The first legal consequence of default is the creditor's right to demand specific performance. This right is grounded in the principle of *pacta sunt servanda*, under which the debtor remains legally bound to repay the principal loan amount in accordance with the terms and repayment schedule stipulated in the agreement.[10] In business capital loan agreements, specific performance constitutes a primary legal remedy because it directly seeks to restore the creditor's contractual right to recover the outstanding debt. Second, the creditor is entitled to claim damages under Article 1243 of the Indonesian Civil Code when the debtor fails to perform the obligation after being declared in default or when performance is no longer possible within the agreed period and can only be rendered after the deadline has expired. Such damages may include costs (kosten), losses (schaden), and interest (interesten), as recognized under Article 1246 of the Indonesian Civil Code, provided that the claimed amounts are legally recoverable and supported by sufficient evidence. More specifically, with respect to obligations involving the payment

[10] Evi Evi, *Hukum Perjanjian: Konsep, Pembentukan Dan Pelaksanaan Dalam Praktik Perdata*, 1st ed. (PT Media Penerbit Indonesia, 2026).

of money, Article 1250 of the Indonesian Civil Code provides a legal basis for claiming interest as compensation for delayed payment, subject to the applicable statutory requirements and any valid agreement between the parties.

Third, creditors may seek rescission of the agreement pursuant to Articles 1266 and 1267 of the Indonesian Civil Code. Rescission constitutes an alternative legal remedy when a breach of contract undermines the basis for continuing the contractual relationship. In principle, Article 1266 requires a request for rescission to be submitted to a court, whereas Article 1267 entitles the aggrieved party to choose between demanding performance of the agreement, provided that performance remains feasible, and seeking rescission accompanied by damages.[11] The remedies of specific performance and rescission are alternative primary remedies and should not be construed as simultaneously available for the same contractual obligation. However, a claim for damages may be pursued alongside either remedy, provided that the applicable legal grounds and requirements are satisfied.[12]

Creditor protection is not derived exclusively from contractual rights but is also reinforced by Articles 1131 and 1132 of the Indonesian Civil Code, which establish the principle of general security over a debtor's assets. Under these provisions, all of a debtor's assets, whether existing or acquired in the future, constitute general security for the debtor's personal obligations. The proceeds from the sale of such assets are distributed among creditors proportionally according to the respective amounts of their claims, unless applicable legal provisions establish preferential rights or other legitimate grounds for priority. Although these provisions strengthen creditors' legal positions in seeking the satisfaction of their claims, they do not confer an unrestricted right to enforce claims directly against the debtor's assets without complying with the applicable legal procedures. Furthermore, delayed payment may expose debtors to legal and economic consequences. The allocation of risk cannot be interpreted as automatically transferring all business risks or the consequences of currency depreciation to the debtor. The application of risk-allocation principles must instead be assessed in light of the relevant provisions of the Indonesian Civil Code and the specific nature of the contractual obligation.

The Indonesian Civil Code establishes a relatively comprehensive framework for creditor protection through several legal mechanisms, including the enforcement of contractual obligations, the recovery of damages, the rescission of agreements, and general security over debtors' assets. This framework is consistent with the findings of Pangaribuan et al., who emphasize the importance of strengthening creditor protection

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[11] Juan Matheus and Ariawan Gunadi, "Pembentukan Lembaga Pengawas Perlindungan Data Pribadi Di Era Ekonomi Digital: Kajian Perbandingan Dengan KPPU," *JUSTISI* 10, no. 1 (2024): 20–35, https://doi.org/https://doi.org/10.33506/jurnaljustisi.v10i1.2757.

[12] Andini Cahaya Rani Putri Syahlendra et al., "Penerapan Asas Ganti Rugi Dalam Perkara Wanprestasi Di Pengadilan Negeri: Analisis Pertimbangan Hakim," *Jurnal Hukum Progresif* 9, no. 2 (2026): 90–100.

through the harmonization of the Civil Code with sector-specific regulations.[13] It also reinforces the findings of Burhan et al., which demonstrate that a judicial determination of breach of contract does not necessarily result in the granting of all remedies sought by creditors.[14] Unlike these previous studies, the present research integrates the various forms of breach of contract, the legal foundations of debtor liability, and the resulting legal remedies into a comprehensive framework for contractual creditor protection. Accordingly, the effectiveness of creditor protection depends not merely on the existence of applicable legal norms but also on the clarity of contractual provisions, the adequacy of evidence establishing the breach, the appropriate application of legal remedies, and the creditor's ability to pursue available mechanisms of recovery in a legally proportionate manner.

3.2. Forms of Legal Protection for Creditors in Business Capital Loan Disputes Arising from Breach of Contract under the Indonesian Civil Code

Creditor protection encompasses two complementary dimensions: preventive and remedial legal protection. Preventive protection aims to mitigate the risk of a debtor's failure to fulfill contractual obligations from the outset of the contractual relationship.[15] By contrast, remedial protection seeks to restore creditors' rights and provide legal remedies after a breach of contract has occurred.[16] These two dimensions demonstrate that the effectiveness of legal protection depends not only on the availability of enforcement mechanisms following a contractual breach but also on the parties' ability to establish adequate legal safeguards from the formation of their contractual relationship.

Preventive protection is primarily grounded in Article 1131 of the Indonesian Civil Code, which stipulates that all of a debtor's assets, whether movable or immovable and whether currently owned or acquired in the future, constitute general security for the fulfillment of the debtor's obligations. This provision establishes a legal basis for creditors to seek repayment through the debtor's assets. The protection afforded by this provision is subject to certain limitations. Article 1132 of the Indonesian Civil Code provides that the proceeds from the sale of a debtor's assets must generally be distributed proportionally among creditors, unless a valid legal basis establishes preferential rights for particular creditors. Consequently, creditors who rely exclusively on general security are generally classified as concurrent creditors (unsecured creditors)

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13 Pangaribuan et al., "Perlindungan Kreditur Dalam Perjanjian Kredit Menurut Kuhperdata Dan Peraturan OJK."

14 Burhan et al., "Analisis Yuridis Wanprestasi Dalam Perjanjian Pinjaman Modal Usaha Dan Implikasinya Terhadap Perlindungan Kreditur."

15 Yusmita Yusmita et al., "Perlindungan Hukum Terhadap Debitur Dan Kreditur Dalam Melakukan Perjanjian Baku," *DiH: Jurnal Ilmu Hukum* 15, no. 1 (2019): 59–67, https://doi.org/10.30996/dih.v15i1.2265.

16 Sherina Darius et al., "Kajian Perlindungan Hukum Terhadap Korban Wanprestasi Dalam Putusan Nomor: 9/Pdt.G.S/2024/PN.Bpp," *Journal of Golden Generation Legal Science* 2, no. 2 (2026): 349–73, https://doi.org/10.65244/jggls.v2i2.529.

and may face reduced recovery prospects when the debtor has outstanding obligations to multiple creditors. General security, therefore, does not necessarily guarantee full recovery of the business capital advanced, particularly when the value of the debtor's assets is insufficient to satisfy all outstanding claims.

A stronger form of creditor protection may be established through specific security interests. A land mortgage, as regulated under Law No. 4 of 1996, grants the secured creditor a preferential right over the relevant land rights and associated objects covered by the security arrangement. Similarly, fiduciary security (jaminan fidusia), governed by Law No. 42 of 1999, and pledges (gadai), regulated under the relevant provisions of the Indonesian Civil Code, provide security mechanisms for movable assets, subject to their respective statutory requirements. These specific security arrangements generally confer a preferential right (droit de préférence) and, where recognized by the applicable legal framework, a right to follow the collateral (droit de suite). Accordingly, the valid creation and proper registration or perfection of a security interest, where required by law, constitute essential mechanisms for strengthening a creditor's legal position. Nevertheless, the classification of a creditor as a preferential creditor or a separate creditor (kreditor separatis) cannot be applied uniformly to all forms of security. The creditor's legal status, priority, and enforcement rights depend on the specific characteristics and statutory provisions governing each security instrument.

Preventive protection is also established through the formulation of contractual clauses in accordance with Article 1338 of the Indonesian Civil Code. Clear and comprehensive provisions concerning the loan amount, repayment period, agreed interest or other forms of remuneration, payment procedures, consequences of late payment, and dispute resolution mechanisms are essential to minimizing the potential for contractual disputes. Creditors may also incorporate provisions requiring financial disclosure, restricting certain transactions involving the collateral, or establishing cross-default clauses, provided that such provisions are clearly formulated, proportionate, and consistent with applicable legal requirements. The principle of freedom of contract does not grant creditors unrestricted authority to impose loan conditions unilaterally. Rather, its exercise must remain consistent with the principles of good faith, fairness, and the equitable balance of contractual interests. A transparently drafted and legally enforceable agreement therefore serves not only as an instrument for mitigating contractual risks but also as an important evidentiary basis for resolving disputes should a breach of contract occur.

Within the remedial dimension of creditor protection, legal action may begin with the issuance of a formal notice of default pursuant to Article 1238 of the Indonesian Civil Code. Such notice provides the debtor with an opportunity to fulfill the outstanding contractual obligations while formally establishing the debtor's default, unless the agreement or applicable legal provisions stipulate that default occurs

automatically upon the expiration of a specified period. Beyond its legal function, a formal notice may also serve as a basis for negotiation between the parties to facilitate payment restructuring, modification of contractual terms, or installment-based settlement of outstanding obligations. If an amicable settlement cannot be reached, the creditor may initiate a civil lawsuit before the competent District Court, seeking a judgment ordering the debtor to perform the contractual obligations or pay damages, as appropriate. Furthermore, the creditor may apply for a provisional attachment of the debtor's assets (conservatoir beslag) pursuant to Article 227 of the Indonesian Revised Regulation on Civil Procedure (Herziene Indonesisch Reglement or HIR), provided that sufficient grounds exist to establish a reasonable concern that the debtor may transfer, conceal, or otherwise dispose of assets to evade repayment obligations. Such attachment constitutes a provisional protective measure rather than a transfer of ownership to the creditor, and its implementation remains subject to judicial assessment and authorization.

In addition to litigation, nonjudicial dispute resolution through negotiation, mediation, and other alternative dispute resolution mechanisms under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution may offer more flexible and efficient means of resolving contractual disputes. These mechanisms enable the parties to negotiate repayment arrangements and reach mutually acceptable settlements without undergoing judicial proceedings, which may involve considerable time and expense. Where a loan is secured by a specific security interest, the creditor may also pursue enforcement mechanisms in accordance with the statutory provisions governing the relevant security instrument. Enforcement cannot invariably proceed through direct execution without regard to the applicable procedural requirements, particularly in light of Constitutional Court Decisions No. 18/PUU-XVII/2019 and No. 2/PUU-XIX/2021 concerning the execution of fiduciary security. Accordingly, the exercise of the right to execute collateral independently (parate executie) and the conduct of public auctions through the State Asset and Auction Services Office must comply with the applicable executorial requirements and procedural safeguards.

This analysis is consistent with the findings of Permana and Marsitiningsih, who emphasize the importance of valid security documentation and proper enforcement procedures in strengthening creditor protection.[17] It also reinforces the findings of Lestari et al. and Sholeha and Rahman, which highlight the significance of preventive and remedial legal protection, as well as nonjudicial dispute resolution mechanisms.[18] However, the present study extends these discussions by integrating contractual

[17] Permana and Marsitiningsih, "Perlindungan Hukum Bagi Kreditur Akibat Wanprestasi Dalam Perjanjian Pinjam Meminjam Dengan Jaminan Benda Bergerak Milik Pihak Ketiga."

[18] Lestari et al., "Upaya Perlindungan Hukum Terhadap Kreditur Atas Debitur Wanprestasi Dalam Perjanjian Kredit Pada Masa Pandemi Covid-19"; Sholeha and Rahman, "Perlindungan Hukum Terhadap Kreditur Atas Wanprestasi Debitur Dalam Akad Murabahah Pembelian Rumah Dengan Pembiayaan Syariah: Studi BSI Lombok Praya."

safeguards, general and specific security arrangements, and the available mechanisms for enforcing and restoring creditors' rights into a unified framework of legal protection. Effective creditor protection requires the interaction of clearly formulated contractual provisions, legally valid and enforceable security interests, sufficient evidence establishing the debtor's default, and the selection of appropriate dispute resolution and enforcement mechanisms. This integrated approach provides a basis for strengthening legal certainty and ensuring the effective restoration of creditors' rights while maintaining the principles of good faith, proportionality, and balance in contractual relationships.

4. CONCLUSION

Breach of contract may take several forms, including complete nonperformance, improper performance, delayed payment, and violations of contractual obligations. A debtor's contractual liability is founded on the binding force of the agreement, the legally established occurrence of default, and the failure to fulfill contractual obligations in the absence of valid legal grounds for exemption from liability. Consequently, creditors are entitled to seek specific performance, claim damages, or request rescission of the agreement in accordance with Articles 1238, 1243, and 1266–1267 of the Indonesian Civil Code. Creditor protection is further strengthened through contractual safeguards, general security over debtors' assets under Articles 1131–1132, specific security interests, and judicial and extrajudicial dispute resolution mechanisms. These findings demonstrate that integrating contractual safeguards with effective legal remedies is essential to ensuring legal certainty and maintaining a fair balance of interests between the contracting parties.

This study contributes theoretically to the development of civil law scholarship by integrating the legal consequences of breach of contract with the framework for creditor protection in business capital loan agreements. Practically, its findings provide a reference for drafting legally sound loan agreements and formulating effective creditor protection mechanisms. Nevertheless, the study is limited by its normative legal research design, which does not include empirical examination of how creditor protection operates in actual business financing practices. Accordingly, further policy development is necessary to promote the standardization of creditor protection clauses and strengthen legal certainty in the enforcement of security interests. Future research should adopt an empirical approach to assess the practical effectiveness of creditor protection mechanisms in business financing relationships.

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