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Judicial Reasoning on Force Majeure in Banking Credit Agreements Following Natural Disasters

Pertimbangan Hakim terhadap Force Majeure dalam Perjanjian Kredit Perbankan Akibat Bencana Alam

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Abstract

This article examines judicial reasoning in determining whether a debtor's failure to perform obligations under a banking credit agreement following a natural disaster constitutes force majeure or breach of contract. It applies normative legal research using statutory, conceptual, and case approaches, with a comparative analysis of Decision Number 9/Pdt.G/2019/PTA.Gtlo of the Gorontalo Religious High Court and Decision Number 97/Pdt.G/2020/PA.Pal of the Palu Religious Court. The study finds that the Gorontalo decision recognized relative overmacht and restricted collateral execution, whereas the Palu decision rejected force majeure because the contractual object remained usable and the debtor lacked sufficient good faith. These differing approaches create uncertainty for creditors in debt recovery, restructuring, and collateral execution. The article proposes assessment indicators based on causation, the condition of the collateral, the temporary or permanent nature of the impediment, debtor good faith, restructuring efforts, and proportional creditor action.

Abstrak

Artikel ini mengkaji pertimbangan hakim dalam menentukan apakah kegagalan debitur memenuhi kewajiban kredit perbankan akibat bencana alam merupakan force majeure atau wanprestasi. Penelitian hukum normatif ini menggunakan pendekatan perundang-undangan, konseptual, dan kasus melalui analisis komparatif terhadap Putusan PTA Gorontalo Nomor 9/Pdt.G/2019/PTA.Gtlo dan Putusan PA Palu Nomor 97/Pdt.G/2020/PA.Pal. Hasil penelitian menunjukkan bahwa Putusan Gorontalo mengakui overmacht relatif dan membatasi eksekusi jaminan, sedangkan Putusan Palu menolak force majeure karena objek akad masih dapat digunakan dan debitur tidak menunjukkan itikad baik yang memadai. Perbedaan tersebut menimbulkan ketidakpastian bagi kreditur dalam penagihan, restrukturisasi, dan eksekusi jaminan. Artikel ini merumuskan indikator penilaian berdasarkan hubungan kausal, kondisi jaminan, sifat hambatan, itikad baik debitur, upaya restrukturisasi, dan tindakan proporsional kreditur.

A. INTRODUCTION

1. Background

Natural disasters always entail complex legal consequences in civil relations, including banking and credit relations.[1] Natural events such as floods, earthquakes, landslides, and tsunamis can stop the debtor's economic activities, damage business assets, and even eliminate the source of income on which the ability to pay credit is based.[2] In the context of banking, this situation not only touches the interests of the debtor as a directly affected party but also affects the interests of creditors, who still have to maintain the smooth return of funds, credit quality, and the operational stability of banks. Therefore, natural disasters in credit agreements Therefore, we must view natural disasters in credit agreements as a legal issue that requires balancing debtor protection with the certainty of creditor rights. a legal issue that demands a balance between debtor protection and certainty of creditor rights.[3]

The condition becomes even more relevant when it is associated with the experience of areas with high disaster vulnerability. The massive floods that hit Gorontalo province in July 2024, for example, have had a far-reaching impact on society and economic activities.[4] Data shows that Gorontalo City experienced an impact on 41,164 people and 4,686 houses, while Gorontalo Regency recorded 19,513 affected people spread across several districts. Disruption to agriculture, trade, and small business activities directly has the potential to reduce the ability of debtors to meet credit obligations.[5] It is at this point that a credit relationship that was originally normal can turn into a dispute over whether failure to pay is a default or force majeure.[6] Within the

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[1] Ketut Sukawati Lanang Putra Perbawa, "Has Financial Policy Intervention Benefited Local Society Affected by Natural Disaster?: Questioning the Utilitarian Approach," *Udayana Journal of Law and Culture* 3, no. 2 (2019): 204, https://doi.org/10.24843/UJLC.2019.v03.i02.p05.
[2] Agus Sugiarto, Ni Nyoman Puspani, and Mustika Septiyas Trisilia, "The Shocks of Climate Change on Bank Loans," *International Journal of Energy Economics and Policy* 13, no. 5 (2023): 493–514, https://doi.org/10.32479/ijeep.14773.
[3] Pita Permatasari, "KLAUSUL FORCE MAJEURE AKIBAT COVID-19 DALAM PERJANJIAN KREDIT BANK," *IBLAM LAW REVIEW* 1, no. 1 (2021): 18–38, https://doi.org/10.52249/ilr.v1i1.4.
[4] Fitrah Frizkila Abdul, Sri Maryati, and Syahrizal Koem, "ANALISIS PERSEPSI DAN STRATEGI ADAPTASI MASYARAKAT TERHADAP BENCANA BANJIR DI KOTA GORONTALO," *GEOGRAPHY Jurnal Kajian Penelitian Dan Pengembangan Pendidikan* 12, no. 1 (2024): 493, https://doi.org/https://doi.org/10.31764/geography.v12i1.17652.
[5] Muhammad Fathul Mujib, Noor Fatmawati, and Dany Miftah M Nur, "Mitigasi Bencana Banjir Di Karanganyar Demak: Kajian Sosial Dan Edukatif Dalam Pendidikan IPS," *INFOMATEK* 27, no. 2 (2025): 203–14, https://doi.org/10.23969/infomatek.v27i2.26046.
[6] Dewi Sulistianingsih et al., "Juridical Consequences of Anticipatory Breach as a Form of Breach of a Contract," *Journal of Indonesian Legal Studies* 9, no. 1 (2024): 131–54, https://doi.org/10.15294/jils.vol9i1.4537.

framework of civil law, the distinction between tort and force majeure is crucial because of their different legal implications for the contractual obligations of the parties.[7]

Normatively, a credit agreement is a legal relationship between a bank as a creditor and a customer as a debtor born from the agreement of the parties. A valid agreement is binding, as the principle of pacta sunt servanda in Article 1338 of the Civil Code. Thus, the debtor is basically still obliged to fulfill the performance according to the agreement, including the payment of principal, margin, interest, or other obligations that have been agreed upon. On the other hand, credit activities must also pay attention to the precautionary principle as stipulated in the banking law, especially the obligation of banks to assess the ability and capacity of debtors to pay off credit. The problem is that the ability of debtors who have been assessed as worthy at the time the credit is granted can change drastically when a natural disaster occurs.

The Civil Code allows for the exclusion of liability by recognizing force majeure circumstances. Articles 1244 and 1245 of the Civil Code allow debtors to avoid compensation for performance failures due to unpreventable events. In the practice of credit agreements, natural disasters are often the basis for applying for a deferment of payments, restructuring, or restrictions on the execution of guarantees. However, natural disasters do not automatically remove the debtor's obligations. The judge must still evaluate the disaster's impact on the failure to pay, the nature of the obstacles, the state of the agreement or guarantee, and the parties' good faith.

Legal issues become more complex when the collateral object is damaged or destroyed as a result of a disaster.[8] Under normal circumstances, the creditor of the material security holder has a strong position to obtain repayment through the execution of the guarantee.[9] However, if the collateral object is no longer usable or no longer has economic value due to a disaster, the creditor protection mechanism becomes

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[7] Kafi Habibillah, Kristina Sulatri, and Istijab Istijab, "TINJAUAN YURIDIS TERHADAP PASAL 7 AYAT (1) POJK No. 45/POJK.03/2017 TENTANG PERLAKUAN KHUSUS TERHADAP KREDIT ATAU PEMBIAYAAN BANK BAGI DAERAH TERTENTU DI INDONESIA YANG TERKENA BENCANA ALAM," *Yurijaya Jurnal Ilmiah Hukum* 7, no. 3 (2026): 440–53, https://doi.org/10.51213/yurijaya.v7i3.232.

[8] Alfi Hidayat, Sukanda Husin, and Ulfanora Ulfanora, "Legal Protection for the Creditor as the Mortgage Holder for Granting Loan Using Collateral Land and Building Against Bad-Loan Debtor," *International Journal of Multicultural and Multireligious Understanding* 6, no. 3 (2019): 766, https://doi.org/10.18415/ijmmu.v6i3.902.

[9] Sugih Ayu Pratitis, "Upaya Hukum Pihak Ketiga Untuk Melakukan Perlawanan Terhadap Sita Jaminan," *Jurnal Hukum Kaidah Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 18, no. 2 (2019): 115–29, https://doi.org/10.30743/jhk.v18i2.1169.

ineffective.[10] Several studies indicate that the guarantee law has not expressly provided for the protection of creditors when the object of mortgage or fiduciary security is destroyed due to natural disasters.[11] This void creates uncertainty because the creditor retains the receivables, but the means of recovery through guarantees can be inadequate. Differences in the application of force majeure also appear in judicial practice. The Gorontalo Religious High Court Decision No. 9/Rev.G/2019/PTA addresses the issue of relative overmacht in disaster financing disputes. Gtlo recognizes the relative overmacht in disaster financing disputes and considers that bail execution should not be maintained under these circumstances. Instead, the decision from the Palu Religious Court, numbered 97/Rev.G/2020/PA, was made. Pal rejected the postulate of force majeure because the object of the contract still exists, it can still be occupied, and the debtor is considered not to have shown sufficient good faith in settling his obligations.[12] The two rulings show that deciding on force majeure depends not just on the disaster happening, but also on how the judge views its impact on the debtor's responsibilities and the creditor's rights.

Previous research that is relevant to this study can be grouped into three main focuses. This study can be grouped into three main focuses based on previous research. into three main focuses. First, Pita Permatasari reviewed the force majeure clause due to the COVID-19 pandemic in bank credit agreements.[13] The study confirms the importance of force majeure arrangements in credit contracts as well as the possibility of granting relief to debtors when extraordinary circumstances occur. However, the study focuses on the construction of contractual clauses in the context of a pandemic and has not yet analyzed how judges assess the postulates of force majeure in credit disputes arising from natural disasters.

Second, Faisal Santiago discussed the credit relaxation policy during COVID-19 from a force majeure perspective.[14] The study shows that credit restructuring or relaxation can be a settlement instrument for debtors who experience payment obstacles due to extraordinary circumstances. However, the study focuses more on credit relaxation

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[10] Ariel Doni Dharmawan and Maryanto Maryanto, "Kekuatan Hukum Sertifikat Hak Tanggungan Dalam Hal Musnahnya Obyek Hak Tanggungan Karena Bencana Alam Di Kabupaten Grobogan," *Jurnal Akta* 5, no. 1 (2018): 167, https://doi.org/https://dx.doi.org/10.30659/akta.v5i1.2545.
[11] Hidayat, Husin, and Ulfanora, "Legal Protection for the Creditor as the Mortgage Holder for Granting Loan Using Collateral Land and Building Against Bad-Loan Debtor."
[12] Pengadilan Agama Palu, "Putusan Nomor 97/Pdt.G/2020/PA.Pal," 2020.
[13] Permatasari, "KLAUSUL FORCE MAJEURE AKIBAT COVID-19 DALAM PERJANJIAN KREDIT BANK."
[14] Faisal Santiago, "Credit Relaxation Policy During Covid-19 Reviewed from the Force Majeure Aspect," in *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021, Jakarta, Indonesia*, 2021, https://doi.org/10.4108/eai.6-3-2021.2306389.

policies and has not examined the juridical consequences of differences in judges' consideration of collection rights and the implementation of guarantees by creditors.

Third, Ariel Doni Dharmawan and Maryanto analyzed the legal strength of mortgage certificates as mortgage objects. Ariel Doni Dharmawan and Maryanto conducted an analysis of the legal strength of mortgage certificates in Grobogan Regency when natural disasters destroyed mortgage objects.[15] This analysis was conducted in response to natural disasters that occurred in Grobogan Regency. The study is important because it shows the problem of creditor protection when the collateral object loses economic value due to disaster. However, the study focuses on the existence and legal force of the guarantee, so it has not yet connected the destruction or disruption of the guarantee object with the determination of whether the debtor's failure to fulfill obligations can be qualified as force majeure or default.

Based on these three studies, there is a specific area that has not been addressed: the comparison of how judges consider accepting or rejecting force majeure claims related to natural disasters in credit or financing disputes and the implications of these decisions for the Gorontalo Religious High Court Number 9 / Pdt.G / 2019 / PTA.Gtlo and the Palu Religious Courts regarding the legal certainty of creditors. This article fills this gap by comparatively analyzing the decisions of the Gorontalo Religious High Court Number 9 / Pdt.G / 2019 / PTA.Gtlo and the Palu Religious Court decision Number 97 / Pdt.G / 2020 / PA.Pal. The two rulings show a different approach: the Gorontalo PTA ruling recognizes the relative overmacht and limits the execution of the guarantee, while the Palu PA ruling rejects the force majeure proposition because the contract object can still be used and the debtor is considered not to have shown sufficient good faith. Thus, the novelty of this article lies not only in the discussion of force majeure, credit restructuring, or guarantee protection separately but rather in a comparative analysis of the standards of consideration of judges in post-disaster credit disputes. Through the analysis, this article formulates assessment indicators that include the existence and impact of disasters; causal relationships with payment failures; the condition of the contract or guarantee object; the nature of obstacles; the debtor's genuine faith; and restructuring efforts, as well as their consequences on the creditor's right to collect and execute guarantees.

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[15] Dharmawan and Maryanto, "Kekuatan Hukum Sertifikat Hak Tanggungan Dalam Hal Musnahnya Obyek Hak Tanggungan Karena Bencana Alam Di Kabupaten Grobogan."

2. Problem Formulation

Based on this background, the problem addressed in this article is as follows: First, how does the judge consider the debtor's failure due to natural disasters as a force majeure in a bank credit agreement? This article formulates the problem based on this background as follows: First, how does the judge consider a debtor's failure due to natural disasters as a force majeure in a bank credit agreement? Second, what are the implications of differences in judges' considerations for legal certainty for creditors in banking credit agreements due to natural disasters?

3. Research Methodology

This study is a prescriptive normative law study that explores the application of force majeure in banking credit agreements related to natural disasters, using a statutory, conceptual, and case approach. The legislative approach examines contractual norms and creditor protection, as well as regulations related to natural disasters, such as articles 1244, 1245, and 1338 of the Civil Code. The conceptual approach builds an analytical framework regarding force majeure and default, while the case approach compares two different court decisions. The decision of the Gorontalo religious high court recognizes overmacht, while the decision of the Palu religious court rejects the proposition of force majeure. The research used primary and secondary legal materials, with data collection techniques through literature studies. The analysis was carried out with six comparison parameters to assess the impact of the disaster and the condition of the contract object. The results of the analysis aim to provide legal certainty and formulate indicators for resolving bank credit disputes due to natural disasters consistently.

B. DISCUSSION

1. Consideration of judges in determining force majeure on a banking credit agreement due to a natural disaster

Force majeure in Indonesian civil law departs from the idea that a person should not be burdened with responsibility for the failure of achievements that occur due to events beyond his fault and ability.[16] Article 1244 of the Civil Code assigns the debtor the burden of proof to show that the failure to fulfill the engagement was caused by unforeseen circumstances and cannot be attributed to him.[17] Article 1245 of the Civil

[16] Abdul Rahman, Taufan Fajar Riyanto, and Siti Rodhiyah Dwi Istinah, "Juridical Review of Force Majeure Clause in Credit Bank Agreements When Covid-19 Disaster," *Sultan Agung Notary Law Review* 4, no. 1 (2022): 89, https://doi.org/10.30659/sanlar.4.1.89-100.
[17] Santiago, "Credit Relaxation Policy During Covid-19 Reviewed from the Force Majeure Aspect."

Code confirms that the debtor is not obliged to pay costs, losses, and interest if it is prevented from fulfilling obligations due to force majeure circumstances. Thus, force majeure is not just a difficult circumstance but a circumstance that legally limits or negates the debtor's ability to fulfill the feat.[18]

In a credit agreement, the application of force majeure has a different character from other agreements in that the main object of the debtor's obligations is the payment of money.[19] In general, the obligation to pay money is not easily considered to be destroyed just because of a disaster, because the obligation can still be continued after the condition improves.[20] Therefore, force majeure in bank credit is more often relative or temporary, rather than absolute. Natural disasters can delay the ability to pay but do not always erase the debt. This assessment is in line with the doctrine that distinguishes permanent force majeure and temporary force majeure.

The difference between default and force majeure lies in the element of fault.[21] Default occurs when the debtor does not fulfill obligations, is late in fulfilling obligations, or fulfills obligations improperly due to negligence or errors that can be accounted for. On the contrary, force majeure occurs when the failure to fulfill an obligation is caused by events beyond the debtor's control. In contrast, force majeure arises when events beyond the debtor's control cause the failure of the feat. by events beyond the debtor's control. Therefore, the postulate of force majeure must be proven in concrete terms, not just stated in general terms that a natural disaster has occurred.

In the matter of banking credit due to natural disasters, there are several important elements that a judge should examine. First, it is important to determine whether the natural disaster actually occurred and whether it had an impact on the debtor. Second, is there a direct relationship between the disaster and the debtor's inability to pay? Third, it is necessary to determine whether the obstacle is temporary or permanent. Fourth, whether the contract object or guarantee object is destroyed, severely damaged, or can still be used. Fifth, it is important to consider whether the debtor demonstrates genuine faith by communicating, applying for restructuring, or making payments according to

[18] Rahman, Riyanto, and Istinah, "Juridical Review of Force Majeure Clause in Credit Bank Agreements When Covid-19 Disaster."
[19] Perbawa, "Has Financial Policy Intervention Benefited Local Society Affected by Natural Disaster?: Questioning the Utilitarian Approach."
[20] Pratitis, "Upaya Hukum Pihak Ketiga Untuk Melakukan Perlawanan Terhadap Sita Jaminan."
[21] Rizka Rizka et al., "PANDANGAN ISLAM TERHADAP FORCE MAJEUR DALAM RELAKSASI KREDIT DI MASA PANDEMI COVID-19," *Profetika Jurnal Studi Islam* 23, no. 1 (2021): 127–40, https://doi.org/10.23917/profetika.v23i1.16800.

their ability.[22] These elements determine whether the debtor's failure is more correctly considered default or force majeure.

Gorontalo Religious High Court Decision No. 9 / Rev.G/2019/PTA. Gtlo exhibits an approach that allows for the recognition of relative overmacht. In the case, the debtor experiences circumstances that are considered beyond his normal ability to meet financing obligations. The judge saw that natural disasters cannot be ignored in assessing the debtor's failure, especially when these conditions impact the economic capacity and implementation of the contract.[23] With such an approach, the judge does not necessarily position the debtor as a negligent party but takes into account objective conditions that impede the fulfillment of obligations.

An important consideration in this ruling is the restriction on the execution of the guarantee. In principle, the creditor is entitled to execute the guarantee if the debtor defaults. However, the judge believed that executing the guarantee under the circumstances of force majeure did not adequately reflect the balance of legal protection. Therefore, the settlement is directed at restructuring or adjusting the obligation, not at forcing the execution of the guarantee.[24] This consideration indicates that the judge puts force majeure as a reason for delaying or reorganizing the execution of obligations, not as a reason for writing off the entire legal credit relationship.

From the perspective of legal protection, this ruling protects debtors affected by the disaster but at the same time imposes restrictions on the rights of creditors. Legal protection for creditors continues to exist because the debt relationship remains intact. The debt relationship remains intact, ensuring legal protection for creditors, but the execution of guarantees delays the recovery process. Within the framework of the theory of legal protection, it can be understood as a repressive attempt by the court to proportionally resolve the dispute after exceptional circumstances have occurred.

The advantage of the Gorontalo PTA decision approach is the sensitivity to the factual circumstances of post-disaster debtors. However, the disadvantage lies in the unclear parameters used to determine when the overmacht is relatively strong enough to limit the execution of the guarantee. If these parameters are not formulated in a measurable way, then creditors will have difficulty estimating the legal consequences when facing debtors who propose reasons for natural disasters.

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[22] Pratitis, "Upaya Hukum Pihak Ketiga Untuk Melakukan Perlawanan Terhadap Sita Jaminan."
[23] Pengadilan Tinggi Agama Gorontalo, "Putusan Nomor 9/Pdt.G/2019/PTA.Gtlo," 2019.
[24] Pratitis, "Upaya Hukum Pihak Ketiga Untuk Melakukan Perlawanan Terhadap Sita Jaminan."

Unlike the Gorontalo PTA decision, the Palu Religious Court decision number 97 / Pdt.G / 2020 / PA rejected the postulate of force majeure submitted by the debtor. Pal rejected the postulate of force majeure submitted by the debtor. The judge considered that despite the disaster, the object of the contract remained intact and usable. The judge determined that the contract's object remained intact and usable, despite the disaster. and could still be used. This circumstance leads the judge to judge that the agreement remains valid, the debtor's obligations are still in effect and the debtor's obligations have not expired. In other words, a natural disaster is considered sufficient to remove or delay an obligation only if it is proven to directly eliminate the debtor's ability to fulfill the achievement.

The ruling also highlights the debtor's genuine faith as a significant factor. The judge considered that the force majeure proposition required the debtor to show a cooperative attitude in resolving the obligation. Good faith becomes an important measure because force majeure should never be used as an excuse to irresponsibly evade obligations. If the creditor has offered restructuring or relief but the debtor fails to follow the plan, the failure is more like default than force majeure.

The PA Hammer ruling provides stronger protection to creditors. The creditor's right to collect and maintain the guarantee The debtor's obligation remains intact, as no circumstances exist to remove the creditor's right to collect and maintain the guarantee. because there are no circumstances that remove the debtor's obligation. This approach asserts that in banking credit, the existence of natural disasters must be proven to have a concrete influence on achievement. Disasters should not be understood as common reasons that automatically delay or eliminate payment obligations.

The advantages of the PA Palu decision approach are the emphasis on legal certainty and contractual discipline. However, this approach also needs to be careful not to ignore the condition of debtors who are really heavily affected by the disaster. Therefore, this decision shows the importance of balancing the principles of pacta sunt servanda, genuine faith, and protection of those affected by force majeure.

Table 1. Comparison of court decisions

Assessment Aspect	Gorontalo Religious High Court Decision	Palu Religious Court Decision
Position on force majeure	Recognized relative force majeure arising from a natural disaster.	Rejected the debtor’s force majeure claim.

Subject matter of the contract or collateral	Enforcement of the collateral was restricted because the debtor was considered to have been affected by the disaster.	The subject matter of the contract remained intact and could still be used.
Good faith	Placed greater emphasis on the debtor's objective circumstances following the disaster.	Emphasized the debtor's lack of good faith in fulfilling contractual obligations.
Consequences for the creditor	The creditor's right to enforce the collateral was postponed, and the dispute was directed toward restructuring.	The creditor's right to demand payment and retain the collateral remained recognized.
Judicial orientation	Corrective justice for a debtor affected by a disaster.	Contractual certainty and protection of the creditor's rights.

Source: processed from PTA Gorontalo decision number 9 / Pdt.G / 2019 / PTA.Gtlo and verdict PA Hammer number 97/Rev.G/2020 / PA.Pal.

The table shows that the two verdicts differ in both their final result and their reasoning. The Gorontalo PTA decision looks at the debtor's situation in a more general way, while the Palu Pa decision looks at proving force majeure and good faith in a stricter way. This difference shows that judges do not have the same standard in measuring the legal consequences of natural disasters on bank credit agreements.

The difference isn't that one decision is wrong; it just means that the facts of each case are different. Facts of each case differ. However, from the perspective of legal certainty, differences in approaches without clear indicators can lead to problems. The creditor cannot estimate with certainty whether the execution of the guarantee will be maintained or restricted when the debtor invokes the reason for the natural disaster. The Debtor also does not obtain clear guidance on what evidence must be submitted for the force majeure proposition to be accepted. Thus, the main problem is not merely the difference in the results of the verdict but the absence of a consistent standard of assessment.

2. Implications of differences in the judge's consideration of the legal certainty of creditors

Legal certainty is one of the basic values in law. In Gustav Radbruch's view, laws must provide clarity, be enforceable, and be applied consistently so that people can estimate the legal consequences of their actions. In a credit agreement, legal certainty is necessary so that the creditor can determine the appropriate steps when the debtor fails to fulfill obligations. The certainty includes certainty regarding the status of the debtor, the right to collect, the restructuring room, and the guarantee execution mechanism.

Creditors in banking credit relations basically obtain protection through contracts, material guarantees, precautionary principles, and dispute resolution mechanisms. The mortgage, for example, gives priority to the creditor to obtain repayment from the sale of the collateral if the debtor defaults.[25] However, such protection becomes not entirely certain when the debtor invokes force majeure grounds due to a natural disaster. In such circumstances, the creditor's rights may be limited by considerations of fairness, restructuring, or protection of the affected debtor.

The regulation of the Financial Services Authority indicates that the settlement of credit or financing affected by natural disasters is not solely carried out through the collection or execution of guarantees but also through special treatment in the form of restructuring and credit or financing quality assessment. In the context of the analyzed case, POJK number 45 / POJK.03 / 2017 stipulates that restructured loans or financing for debtors who have been proven to be affected by the disaster and still demonstrate a positive intention to complete their payments can be classified as high quality, provided that the restructuring occurs within three years after the natural disaster and the debtor has experienced or is expected to experience payment difficulties due to the disaster's impact. Thus, the regulation provides space for banks to take more adaptive solutions to post-disaster debtor conditions.

However, special treatment under OJK regulations does not equate to a juridical determination that the debtor is in a state of force majeure. However, OJK regulations do not equate special treatment with a juridical determination of the debtor's force majeure status. This special treatment does not include a juridical determination that the debtor is in a state of force majeure. Restructuring is an instrument of asset quality management and credit risk for the bank, while the acceptance of force majeure arguments still requires a legal assessment of the causal relationship between the disaster and the failure to fulfill the achievement, the nature of the obstacles experienced by the debtor, the condition of the object of the contract or guarantee, and the genuine faith of the parties. Therefore, restructuring does not automatically remove the debtor's obligations, and a refusal of restructuring does not necessarily indicate a default.

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[25] Putu Devi Yustisia Utami, I Made Pasek Diantha, and I Made Sarjana, "KEDUDUKAN HUKUM GROSSE AKTA PENGAKUAN HUTANG NOTARIIL DALAM PEMBERIAN KREDIT PERBANKAN," *Acta Comitas* 3, no. 1 (2018): 201, https://doi.org/10.24843/ac.2018.v03.i01.p15.

The restructuring policy The bank's Prudential principle also relates to the restructuring policy. to the prudential principle of the bank. Before determining the collection step or implementing the guarantee execution, the creditor needs to assess the impact of the disaster on the debtor's business activities, their ability to pay the guarantee execution, the condition of the guarantee object, the feasibility of adjusting payments, and the risk of recovering receivables. The precautionary principle does not mean that the bank must suspend its rights indefinitely but rather demands that the creditor's actions be based on an adequate and proportionate examination of the debtor's factual conditions. In this framework, restructuring can be a reasonable first step before execution is carried out against debtors who are proven to be affected by the disaster and still show good faith to complete their obligations.

The difference in the judge's judgment caused uncertainty in three aspects. Firstly, there is no unequivocal measure of the degree of impact of a disaster that can change the status of failure to pay from default to force majeure. Whether it is enough that there is a disaster in the debtor's area or direct damage to the debtor's business and sources of income must be proven has not been clearly regulated. Secondly, there is no uniform measure yet regarding the legal consequences of relative force majeure in bank credit, especially whether the consequences are only delays in payments, restructuring, or restrictions on the execution of guarantees. Third, there are no definite parameters regarding the position of the collateral object if it is damaged, has reduced economic value, or still exists but the debtor's ability to pay decreases dramatically.[26]

This uncertainty directly affects the position of creditors. Creditors may have difficulty determining whether to grant restructuring, perform collection, or apply for bail execution. If the execution is too fast, the creditor risks overlooking force majeure circumstances. Conversely, if you delay legal action for too long, credit quality can deteriorate and recovery of receivables becomes more difficult. Such conditions indicate that legal certainty is not only needed by the debtor but also by the creditor as the party who bears the financial risk.

Uncertainty can also pose a moral hazard. Debtors who actually still have the ability to pay can use the excuse of a natural disaster to delay the obligation. On the other hand, creditors can refuse restructuring even if the debtor is really affected by the disaster.

[26] Dharmawan and Maryanto, "Kekuatan Hukum Sertifikat Hak Tanggungan Dalam Hal Musnahnya Obyek Hak Tanggungan Karena Bencana Alam Di Kabupaten Grobogan."

Without clear standards, dispute resolution relies heavily on the subjective judgment of the parties and the judge. This is less than ideal because credit relationships require predictability and legal consistency. The most obvious implication of the difference in judges' judgment is the uncertainty in the collection of receivables. If force majeure The creditor cannot immediately sue the debtor as a party to the default if they receive force majeure. The creditor cannot immediately sue the debtor as a party to the default. Claims for damages, fees, and interest may be limited, and even the performance of obligations may be delayed. In the Gorontalo PTA decision, this approach appears through the recognition of relative overmacht and settlement directives via restructuring. As a result, the creditor's rights remain, but their implementation is subject to restrictions.

Conversely, if force majeure is rejected, as in the Palu Pa decision, the creditor obtains a stronger basis to maintain the collection and guarantee rights. The debtor is still considered obliged to fulfill the achievement because the object of the contract still exists and it is not proven that the disaster erases the ability to fulfill obligations. Decisions like this provide greater certainty for creditors but must still be based on careful examination so as not to ignore debtors who are seriously affected by the disaster.

In the case of the execution of the guarantee, the acceptance of the force majeure proposition does not automatically write off the receivable or negate all the creditor's rights to the guarantee. Article 1244 and Article 1245 of the Civil Code are essentially related to the release of the debtor from the obligation to pay costs, losses, and interest if the failure to fulfill the performance can be proven to have occurred due to compelling circumstances that cannot be accounted for by him. Therefore, when the debtor's obstacles due to the disaster are relative or temporary, the restriction of execution is more correctly understood as a proportional measure to make room for restructuring or adjusting the execution of obligations rather than as the elimination of the legal relationship between the creditor and the debtor.

The difference between the Gorontalo PTA decision and the Palu Pa decision shows the importance of this measure. In the PTA Gorontalo No. 9 / Rev.G / 2019 / PTA.Gtlo decision, recognition of overmacht is relatively the basis for limiting the implementation of guarantee execution because the debtor's condition is considered to be affected by the disaster. Instead, in the verdict Pa Hammer number 97/Rev.G/2020/PA.Pal, the proposition of force majeure was rejected because the object of the contract could still be used and the debtor was judged not to have shown sufficient good faith in completing his obligations.[27] Thus, the restriction on the execution of the guarantee should be considered if there is evidence of a direct catastrophic impact on the ability to fulfill the performance, accompanied by the debtor's good faith to pursue the settlement of obligations.

The judge's authority in assessing the implementation of the guarantee execution must be placed as an effort to maintain a balance between the protection of debtors affected by the disaster and the certainty of creditors' rights. The judge is not enough just to check the presence or absence of a natural disaster; it is also necessary to assess the causal relationship with the failure to pay, the condition of the collateral object, the nature of obstacles, and attempts at restructuring, as well as the attitude of the parties during the process of settling obligations. If the debtor can prove that the disaster significantly hinders the fulfillment of the achievement and remains in good faith, the restriction of execution for a while can be considered a proportionate form of protection. On the other hand, if the causal relationship is not proven or the debtor is not cooperative after obtaining the opportunity for settlement, the creditor's right to collect and carry out the guarantee execution must still be protected.

With the construction, legal certainty for creditors is not only realized through the recognition of collection and guarantee rights but also through a standardized clarity of when restructuring needs to take precedence and when execution can proceed. The standard is important so that force majeure is not used as an excuse to evade obligations, while preventing execution actions that ignore the real condition of the debtor as a result of a natural disaster. To reduce the difference in judges' considerations, clearer legal standards are needed in assessing force majeure due to natural disasters in bank credit agreements.

The standard should include at least seven indicators. First, there should be official evidence confirming the occurrence of a natural disaster. Second, the existence of a causal relationship between the disaster and the debtor's failure to pay. Third, the extent of damage to the debtor's business, assets, or sources of income. Fourth, the condition of the contract object and the guarantee object after the disaster. Fifth, the nature of obstacles, whether temporary or permanent. Sixth, the debtor's genuine faith in applying for restructuring and carrying out obligations according to ability. Seventh, the creditor's actions in providing a reasonable opportunity for settlement prior to execution. The standard is not intended to necessarily relieve the debtor of obligations. Rather, the

[27] Pengadilan Tinggi Agama Gorontalo, "Putusan Nomor 9/Pdt.G/2019/PTA.Gtlo."

standard is necessary so that force majeure is not overused and so that creditors do not lose their rights without a clear basis.

With measurable indicators, judges can distinguish debtors who are completely incapacitated due to disasters from those who only use disasters as an excuse to avoid their obligations. At the same time, creditors also obtain guidelines in determining restructuring policies and legal steps. In the long run, legislators and banking regulators need to formulate stricter rules regarding the legal consequences of natural disasters on credit and guarantee agreements. Such arrangements may include a mandatory restructuring procedure, a postponement of execution deadlines, and protection against damaged or destroyed guarantees, as well as a mechanism for proving force majeure. Thus, the settlement of non-performing loans due to natural disasters depends not only on the casuistic judgment of judges but is also sustained by more predictive and consistent norms.

C. CONCLUSION

The judge's consideration in determining force majeure due to natural disasters in bank credit agreements has not shown a uniform standard, as seen from the Gorontalo PTA decision Number 9/Pdt.G/2019/PTA. The Gtlo recognizes the relative overmacht and limits the execution of bail, in contrast to the hammer judgment PA number 97/Pdt.G/2020/PA. Pal who rejected the proposition of force majeure because the object of the contract can still be used and the debtor is considered not in good faith. The difference indicates that the presence of a natural disaster does not in itself write off the debtor's obligations but should be assessed on the basis of the causal relationship between the disaster and the failure to pay, the condition of the object of the contract or guarantee, the nature of the obstacles, and the good faith of the debtor, as well as the presence of restructuring efforts. For the creditor, the clarity of such parameters is necessary to proportionally determine the choice between restructuring, collection, and execution of guarantees based on the precautionary principle. Therefore, a more consistent assessment standard is needed so that the protection of debtors affected by disasters is balanced with the certainty of creditors' rights.

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