

Implementation of Sanctions by Bank Indonesia on Banking Crimes (Case Study of Pt. Bpr Nusantara Abadi Mulia Kupang)

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Abstract: This writing is to find out the application of witnesses by Bank Indonesia against perpetrators of banking crimes at Rural Banks as regulated in the provisions of Law Number 10 of 1998 concerning Banking, in the interest of providing financial services for the lower middle class. The application of sanctions given to one of the Rural Banks in Kupang City is PT. BPR Nusantara Abadi Mulia (NAM) Kupang, because in carrying out its functions it is not in accordance with the provisions stipulated by the Banking Law. Where is PT. BPR NAM without or without conducting in-depth research or surveys on the validity of the debtor in pledging 3 (three) original Land certificates used as collateral for the loan application, has approved as collateral for a loan of Rp. 250,000,000.- without making a Mortgage Deed Bond at a Notary signed by the party or person as the original valid Land Certificate Guarantee Owner. The research method used is empirical normative, so the author can find and know that the application of banking crime sanctions can be seen from thirteen kinds of criminal acts regulated starting from Article 46 to Article 50A, namely: Criminal Acts Related to Licensing, Criminal Acts Relating to Bank Secrecy, Crime Relating to Bank Supervision and Guidance, and Crime Relating to Bank Business. As the data management in the field based on direct interviews regarding the authority of Bank Indonesia is to supervise banking, so that banking crimes do not occur, in addition to having supervisory authority regarding the imposition of administrative sanctions (administrative processes), while criminal sanctions are the authority of the state apparatus in the criminal justice system (police, Prosecutors, judiciary and correctional institutions) as regulated in the Criminal Procedure Code. Thus the application of witnesses to PT. BPR NAM Kupang which has been proven to have committed banking crimes, namely administrative sanctions and criminal sanctions, for having guaranteed credit without going through the procedures regulated by the Banking Law and the Liability Rights Act.

Keywords: Application of Sanctions, Criminals, Banking.

Introduction

Bank Indonesia in maintaining financial stability and developing financial services for economic growth through banking services has made banking policies. One of them is the policy of establishing a Rural Bank based on Law number 10 of 1998 concerning Banking, in the interest of providing financial services for the lower middle class.

Article 1 paragraph 2 of Law Number 10 of 1998 concerning banking, Rural Banks are banks that carry out conventional or sharia-based business activities whose activities do not provide payment traffic services. Rural Banks (BPR) carry out business activities such as raising funds in the form of savings, lending and time deposits, meaning that they are limited to simple transactions.

The existence of Rural Banks in carrying out their duties and functions does not only extend credit to micro, small and medium entrepreneurs, but also accepts deposits from the public. In disbursing credit to the public using the 3T principle, namely on time, right amount, and right on target, because the credit process is relatively fast, requirements are simpler, and really understands customer needs, but in fact there are still violations committed by PT. Rural Banks in the Kupang City area, namely PT. BPR Nusantara Abadi Mulia (NAM) Kupang in carrying out its functions is not as expected. Where is PT. BPR NAM without or without conducting in-depth research or surveys on the validity of the debtor in pledging 3 (three) original Land certificates used as collateral for the loan application, has approved as collateral for a loan of Rp. 250,000,000.- while 3 (three) Certificates The Original Land has not been made a Bond of Mortgage Deed at a Notary signed by the party or person as the owner of the original valid Land Certificate Guarantee, as has been regulated in the provisions of Law Number 4 of 1996 concerning Liability Rights on Land and Objects related to land. Therefore, for the actions or actions that have been carried out by PT. BPR NAM Kupang in receiving collateral for mortgage rights without the consent of the mortgage owner is a form of banking crime.

The existence of the banking crime problem, Bank Indonesia as the Central Bank that supervises banking services in handling follow up on the problem has given sanctions in accordance with the provisions of the applicable banking law.

Based on the foregoing, the authors are interested in writing a paper entitled Application of Sanctions by Bank Indonesia to Banking Crimes (Case Study of PT. BPR Nusantara Abadi Mulia (NAM) Kupang).

Problem Formulation

1. How are Sanctions Implemented by Bank Indonesia on Banking Crimes?
2. How is Law Enforcement for PT. BPR NAM Kupang which has received a mortgage guarantee without the procedures regulated in the Mortgage Law ?

Discussion

The type of research used by the author in this research is normative-empirical research, in order to see how the application of sanctions by Bank Indonesia to the perpetrators of banking crimes (Case Study of PT. BPR Nusantara Abadi Mulia (NAM) Kupang).

1. Position Case

In about November 2013, Eni Widayati has applied for a credit loan to PT. Bank BPR NAM Kupang in the amount of Rp.250,000,000,- (two hundred and fifty million rupiah) with a guarantee of SIUP PT. TIRTA ARUM GYPSUM owned by Eni Widayati and 3 (three) Certificates of Ownership of the original Land belonging to the Victim (Initials DK, RK and DD) obtained from Andreas Fernandes.

President Director at PT. BPR NAM Kupang in November 2013 without or not conducting in-depth research or surveys on the validity of Eni Widayati pledging the 3 (three) original Land certificates which were used as loan collateral, should have refused instead accepted and approved the loan application of Rp.250,000,000 by Eni Widayati with the guarantee of SIUP PT. Tirta Arum Gypsum and 3 (three) original Land Certificates. Although Eni Widayati and the President Director at PT. BPR NAM Kupang knows that the original 3 (pieces) of Collateral certificates have not or without a Mortgage Deed made at a Notary signed by the Victim as the owner of the original valid Land Certificate Collateral.

That it is clear that Eni Widayati's actions or actions made the Land Ownership Certificate owned by the Victim as collateral or loan collateral without the knowledge and approval of the Victim, as well as the actions of the President Director at PT. BPR NAM Kupang receiving 3 (three) Certificates of Ownership of the Victim's Land which was used as collateral by Eni Widayati without the knowledge and approval of the Victim as the legal Land Owner is an act against the law, because it is not in accordance with the provisions of Law Number 4 1996 concerning Mortgage on Land and objects related to land.

The rules and regulations clearly stipulate that the Granting of Mortgage is preceded by a promise to provide Mortgage as a guarantee for the repayment of certain debts, which is set forth in and is an inseparable part of the debt agreement concerned, another agreement that gives rise to the debt, and the granting of Rights. The mortgage is carried out by making the Deed of Granting Mortgage by PPAT (Article 10 paragraphs (1) and (2) of Law No. 4 of 1996), but by PT. BPR NAM Kupang does not comply with these rules.

Regarding this incident, the victims have reported it to law enforcement authorities in this case the police, then it has been reported to Bank Indonesia representatives of East Nusa Tenggara Province, and the Financial Services Authority of East Nusa Tenggara Province for legal action.

2. Reasons for PT. The People's Credit Bank of Nusantara Abadi Mulia Kupang Imposed by Sanctions

Crime or crime is an act of causing suffering, so it must be prevented or overcome until the application of sanctions. However, preventing or tackling crime is not easy or the steps are the same for every crime. Banking crimes or crimes, for example, cannot be prevented or dealt with in the usual ways, as are criminal acts in general.

Banking crimes or crimes have distinctive characteristics, which distinguish them from other criminal acts, so they must be prevented and dealt with in unique ways. Due to such circumstances, obstacles always arise in efforts to prevent and overcome banking crimes.

As the data obtained by the author from Bank Indonesia, several obstacles have been identified in handling banking crimes, namely:

- 1) There is no common view regarding the use of photocopied documents as evidence and in establishing laws or regulations that are violated in bank crimes;
- 2) The level of understanding of law enforcers towards different and uneven banking activities/operations as well as weak coordination in handling banking cases;

- 3) Ineffective follow-up on the handling of cases that have been submitted by Bank Indonesia to investigators;
- 4) There are several cases where the modus operandi is difficult to reveal, which is partly due to the rapid progress or development of information technology.

Of course, these obstacles are not only to be contemplated, but solutions need to be found, considering that these obstacles are in the ranks of law enforcement from upstream to downstream. From legislation that should be made flexible to accept all forms of new developments from technology to be used as evidence to trials in courts full of corruption, collusion and nepotism, as well as the firmness of Bank Indonesia in imposing sanctions on banks that commit crimes.

Law enforcement for crimes classified as banking crimes as regulated in the Banking Law, namely:

- 1) The crime of carrying out banking activities without a permit
- 2) Crimes regarding credit
- 3) Crimes regarding demand deposit traffic

The banking crimes can be categorized as banking crimes, namely:

- 1) A criminal act committed by a person or legal entity (PT., Foundation or cooperative) that practices banking without the approval of the Minister of Finance. The banking practice referred to here is for example: collecting funds from the public in the form of demand deposits, deposits, certificates of deposit, savings and others (article 46).
- 2) Criminal acts committed by bank employees, commissioners or directors who intentionally or negligently make reports to Bank Indonesia regarding their business as well as on profit and loss on a regular basis in accordance with the procedures determined by Bank Indonesia (article 48).
- 3) Criminal acts committed by commissioners, directors or bank employees by destroying, eliminating, obscuring, falsifying, changing to be untrue everything related to "all banking documents" (article 49 paragraph 1).
- 4) Criminal acts committed by commissioners, directors or bank employees that benefit themselves or their families (because of receiving commissions/granting credits that exceed the limit, bank guarantees and all kinds of banking transactions (article 49 paragraph 2).
- 5) A criminal act committed by an affiliate due to an intentional act that allows a violation of banking laws or other regulations (article 50).

Against the above crimes and violations, Law no. 7 of 1992 has stipulated the threat of a fine (which ranges from Rp. 1 to 10 billion) and a prison sentence of 1 year to 15 years. The acts as referred to in Law no. 7 of 1992 has stipulated that the threat of a fine (which ranges from Rp. 1 to 10 billion) and a prison sentence of 1 year to 15 years is classified as a criminal offense, meaning that the said acts will be subject to a more severe penalty. severe compared to if it was just a violation. This is considering that a bank is an institution that stores funds entrusted by the public to it, so that actions that can cause damage to public trust in banks, which basically will harm the bank and the community, need to be avoided at all times.

In addition to the above fines and imprisonment, banking penalties have determined administrative penalties in the form of revocation of the bank's license (article 50), namely: fines, namely the obligation to pay a certain amount of money as a result of non-compliance with the provisions of this law, Submission of written warnings, Prohibition of carrying out functions as directors or commissioners of banks, Prohibition of providing services to banks, Submission of proposals to authorized agencies to revoke or cancel business licenses as bank service providers.

The existence of banking crimes committed by PT. BPR Nusantara Abadi Mulia (NAM) Kupang, by Bank Indonesia as one of the parties providing administrative sanctions to banks that commit criminal acts. However, the sanction is only administrative in nature regarding the performance of BPR NAM Kupang which is considered to have violated banking administration procedures regarding mortgage rights. Associated with the guarantee of mortgages that have been received by PT. BPR NAM Kupang without going through the procedures regulated by the Banking Law and the Mortgage Law, after examining the type of crime, it is a crime in the form of a banking crime and is an individual fault and is not included as a corporate crime, so that the process of handling the crime has become the authority the police in tackling the banking crime.

Law enforcement in the form of sanctions given to PT. BPR NAM Kupang regarding banking crimes committed by PT. BPR NAM Kupang, it must be seen from the actions carried out according to the type of banking crime according to the Banking Law. President Director at PT. BPR NAM Kupang in November 2013 without or without conducting in-depth research or surveys on the validity of Eni Widayati as collateral for the 3

(three) original Land certificates which were used as loan collateral for loan applications amounting to Rp.250,000,000. In terms of the President Director at PT. BPR NAM Kupang knows that the original 3 (pieces) of Collateral certificates have not or without a Mortgage Deed made at a Notary signed by the Victim as the owner of the original valid Land Certificate Collateral. Action Director of PT. BPR NAM Kupang is an act against the law, because it is not in accordance with the provisions of Law Number 4 of 1996 concerning Mortgage on Land and objects related to land. The granting of Mortgage is preceded by a promise to provide Mortgage as a guarantee for the repayment of certain debts by making a Deed of Granting Mortgage by PPAT (Article 10 paragraphs (1) and (2) of Law No. 4 of 1996), Against this crime PT. BPR NAM Kupang has obtained administrative sanctions and criminal witnesses. Administrative sanctions applied to PT. BPR NAM Kupang is a sanction of warning and supervision of the finances of PT. BPR NAM Kupang, in addition to the administrative sanctions, PT. BPR NAM through the Kupang Court Decision Number: 55/PDT.G/2017/PN.Kpg has ordered PT. BPR NAM Kupaang to return 3 land certificates to their rightful owners without conditions.

The application of administrative sanctions that have been applied, the application of criminal sanctions are also carried out to PT. BPR NAM Kupang, where the former director of PT. BPR NAM Kupang because of his actions which are classified as criminal acts of fraud and embezzlement have been criminally processed and have been designated as suspects to account for their actions.

Based on the description above, it can be concluded that the application of witnesses to PT. BPR NAM Kupang which has been proven to have committed a banking crime, namely administrative sanctions and criminal sanctions, for having guaranteed credit without going through the procedures regulated by the Banking Law and the Liability Rights Act.

3. Application of Sanctions by Bank Indonesia to Banking Crime Actors

Bank Indonesia as the Supervisory Bank for banking activities in the Indonesian territory, always supervises banks identified as having committed banking crimes, including banks located in the Province of East Nusa Tenggara. Bank Indonesia Representative Office of East Nusa Tenggara Province in implementing sanctions for perpetrators if a banking crime has occurred.

Naek Tigor Sinaga, Head of Bank Indonesia Representative Office for East Nusa Tenggara Province (interview on 26 April 2021), revealed that: "Law no. 7 of 1992 as amended by Law no. 10 of 1998 concerning Banking (hereinafter referred to as the Banking Law) stipulates thirteen kinds of criminal acts which are regulated starting from Article 46 to Article 50A".

As explained by the sources mentioned above regarding Law no. 7 of 1992 as amended by Law no. 10 of 1998 concerning Banking (hereinafter referred to as the Banking Law) stipulates thirteen kinds of criminal acts which are regulated starting from Article 46 to Article 50A, which have been classified into four types, namely:

a. Criminal Acts Related to Licensing

This crime is also known as an illegal bank crime. Article 46 Paragraph (1) states that whoever collects funds from the public in the form of savings without a business license from the leadership of Bank Indonesia as referred to in Article 16, is threatened with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years.) years and a minimum fine of 10,000,000,000.00 (ten billion rupiah) and a maximum of 200,000,000,000.00 (two hundred billion rupiah). The provisions of paragraph (2) state that in the event that the activities as referred to in paragraph (1) are carried out by legal entities in the form of limited liability companies, associations, foundations or cooperatives, prosecution of the said bodies shall be carried out either against those who gave the orders to commit the acts. or who acts as a leader in the act or against both. This provision is the only provision in the Banking Law that imposes threats of punishment on corporations by prosecuting those who give orders or their leaders.

b. Crimes related to bank secrecy

Article 47 Paragraph (1) of the Banking Law stipulates that whoever without bringing a written order or permission from the leadership of Bank Indonesia as referred to in Article 41, Article 41A, and Article 42, intentionally forces a bank or an Affiliated Party to provide information as referred to in Article 40 , is threatened with imprisonment for a minimum of 2 (two) years and a maximum of 4 (four) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 200,000,000,000.00 (two hundred billion rupiah).

Paragraph (2) Members of the Board of Commissioners, Board of Directors, bank employees or other affiliated parties who intentionally provide information that must be kept confidential according to Article 40, are threatened with imprisonment for a minimum of 2 (two) years and a maximum of 4 (four) years and a fine at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah).

Article 47A. The Banking Law states that Members of the Board of Commissioners, Directors, or bank employees who intentionally fail to provide information that must be fulfilled as referred to in Article 42A and Article 44A, are threatened with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years, years and a fine of at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

c. Crimes Related to Bank Supervision and Guidance

Article 48 Paragraph (1) of the Banking Law states that a Member of the Board of Commissioners, Board of Directors, or bank employee who intentionally does not provide information that must be fulfilled as referred to in Article 30 paragraph (1) and paragraph (2) and Article 34 paragraph (1) and paragraph (2), is threatened with imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

Paragraph (2) of the Banking Law states that, Members of the Board of Commissioners, Board of Directors, or bank employees who fail to provide information that must be fulfilled as referred to in Article 30 Paragraph (1) and Paragraph (2) and Article 34 Paragraph (1) and Paragraph (2), is threatened with imprisonment for a minimum of 1 (one) year and a maximum of 2 (two) years and or a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 2,000,000,000.00 (two billion rupiah).

d. Crimes Related to Bank Business

Article 49 Paragraph (1) of the Banking Law states that, members of the Board of Commissioners, Board of Directors, or bank employees who intentionally :

1. Create or cause false records in the books or in reports, as well as in documents or reports on business activities, transaction reports or bank accounts.
2. Eliminate or exclude or cause non-recording in the books or in reports, as well as in documents or business activity reports, transaction reports or bank accounts;
3. Changing, obscuring, hiding, deleting, or eliminating the existence of a record in the books or in a report, or in a document or business activity report, transaction report or bank account, or intentionally changing, obscuring, eliminating, hiding or damaging the bookkeeping records.

Threatened with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 200,000,000,000.00 (two hundred billion rupiah).

Article 49 of the Law Paragraph (2) of the Banking Law states that, members of the Board of Commissioners, Directors or bank employees who intentionally :

1. Requesting or receiving, permitting or agreeing to receive a reward, commission, additional money, services, money or valuables, for his personal benefit or for the benefit of his family, in order to obtain or seek to obtain for others in obtaining a down payment, bank guarantee, or credit facilities from banks, or in the context of purchasing or discounting by banks on money orders, promissory notes, checks, and trading papers or other evidence of obligations, or in order to give approval for other people to carry out withdrawals of funds that exceed their credit limits. on the bank;
2. Not carrying out the necessary steps to ensure the bank's compliance with the provisions of this law and the provisions of other laws and regulations that apply to banks,

Threatened with imprisonment for a minimum of 3 (three) years and a maximum of 8 (eight) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

Furthermore, Article 50 of the Banking Law states that, an Affiliated Party who intentionally does not carry out the necessary steps to ensure the bank's compliance with the provisions of this Law and other laws and regulations applicable to banks, is threatened with imprisonment of at least 3 (three) years and a maximum of 8 (eight) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

Article 50A. The Banking Law stipulates that, a shareholder who intentionally orders the Board of Commissioners, Board of Directors, or bank employee to take or not to take an action that results in the bank not carrying out the necessary steps to ensure the bank's compliance with the provisions of this law and the prevailing laws and regulations. other regulations applicable to banks, shall be punished with imprisonment for a minimum of 7 (seven) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 200,000,000,000.00 (two hundred billion rupiah).

In addition to the types of banking crimes and criminal sanctions described above, Muhamad Syahrial as Deputy for Economics and Monetary Affairs also revealed that related to other criminal acts related to banking activities, namely: In fact, there are other criminal acts that are closely related to banking activities, namely: Capital Market Crimes and Money Laundering” (interview on April 26, 2021).

The explanation of the Head of the Economic and Monetary Division, can be analyzed more by the author based on the provisions of the Banking Act, then the Capital Market Crimes and Money Laundering Crimes in the banking sector will be described as follows:

a. Capital Market Crime

Formal policies regarding Capital Market Crimes (TPPM) are regulated in Law Number 8 of 1995 concerning Capital Markets (hereinafter referred to as UUPM), in chapter XV concerning criminal provisions (articles 103-110). According to Article 110, TPPM consists of two groups of types of criminal acts, namely: TPPM in the form of “crimes”, regulated in Article 103 Paragraph (1), Article 104, Article 106, and Article 107; and TPPM in the form of “violations”, are regulated in Article 103 Paragraph (2), Article 105, and Article 109”.

b. Money Laundering

The crime of money laundering can popularly be explained as the activity of transferring, using or carrying out other acts of the proceeds of criminal acts that are often committed by organized crime or individuals who commit acts of corruption, narcotics trafficking and other criminal acts with the aim of hiding or obscuring the origin of the money originating from the proceeds of the crime so that it can be used as if it were legal money without being detected that the money came from illegal activities.

Money laundering activities in the financial system in general and the banking system in particular carry enormous risks. These risks include operational risk, legal risk, transaction concentration risk, and reputation risk. For Indonesian banks, money laundering is a matter that is very vulnerable because first, the role of the banking sector in the financial system in Indonesia, as described earlier, is very important. Therefore, the banking system is a major concern in implementing the anti-money laundering regime. Second, the high level of technological development and globalization in the banking sector make the banking industry an easy ground for money laundering crimes and is the most effective means for conducting money laundering activities. Criminals can use banks for money laundering activities because banking services and products allow traffic or transfer of funds from one bank to another bank or financial institution, so that the origin of the money is difficult for law enforcement to trace”.

The involvement of banks in money laundering activities can be in the form of:

- a. Depositing the proceeds of crime under a false name;
- b. Deposits of money in the form of deposits/savings/giro;
- c. Exchange of denominations resulting from illegal acts;
- d. Submission of credit applications with guaranteed money deposited in the bank concerned;
- e. Use of transfer facilities;
- f. Falsification of documents in cooperation with the relevant bank officials; and establishment/utilization of illicit banks

This can happen given the ease in the process of managing the proceeds of crime in various bank business activities. In addition, because criminal organizations require financial management by placing their funds in banking business activities, the use of banks is something that is very necessary in an effort to obscure the origin of the source of funds. This shows the close relationship between criminal organizations and financial institutions, especially banks.

Starting from the description above, it can be concluded that the application of banking crime sanctions can be seen from thirteen kinds of criminal acts regulated starting from Article 46 to Article 50A, namely:

1. Criminal Acts Related to Licensing, the witness applied is in the form of imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least 10,000,000,000.00 (ten billion rupiah) and a maximum of 200,000,000,000.00 (two hundred billion rupiah).
2. Criminal Acts Related to Bank Secrecy, the witness applied is in the form of imprisonment for a minimum of 2 (two) years and a maximum of 4 (four) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.15,000,000,000.00 (fifteen billion rupiah)
3. Crimes Related to Bank Supervision and Guidance, the witness applied is in the form of imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp.

5,000,000,000.00 (five billion rupiahs)) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

4. Criminal Acts Related to Bank Business, the witness applied is in the form of imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.200,000,000,000.00 (two hundred billion rupiah).

4. Law Enforcement for PT. BPR NAM Kupang Which Has Received Mortgage Guarantee Without Procedures Regulated In The Mortgage Law.

1.1. The Authority of Bank Indonesia in the Application of Banking Sanctions as a Form of Law Enforcement.

Naek Tigor Sinaga as Head of Bank Indonesia Representative for East Nusa Tenggara Province, revealed that: "Bank Indonesia has issued various regulations regarding bank internal control which are summarized in the Standard Guidelines for Internal Control Systems for Commercial Banks" (interview on April 26, 2021).

Furthermore, it is also explained that "The internal control system can be in the form of policies and work procedures designed in such a way as to create a check and balance mechanism. The application of a check and balance mechanism can be applied if it is supported by all parties involved in it, an internal control system will run effectively and can be expected to close the opportunity for fraud to occur" (interview on April 26, 2021).

Based on this explanation, it can be analyzed that to support the creation of a good internal control system for commercial banks, one of the efforts made by the central bank is to require banks to implement a check and balance mechanism, so that the internal control system will run effectively and can be expected to cover opportunities for fraud".

Fauzi Amir, Director of the Administrative Services Unit (interview on 26 April 2021), also revealed that: "Law no. 7 of 1992 concerning Banking as amended by Law no. 10 of 1998, and Law no. 23 of 1999 has been amended by Law No. 3 of 2003 concerning Bank Indonesia, affirming the position of Bank Indonesia as a supervisor and supervisor of banking with duties and authorities, among others:

1. Granting and revoking bank business licenses;
2. Establish regulations in the banking sector;
3. Supervise banks;
4. Imposing sanctions on banks that violate banking regulations.

In addition to the above, by Muhamad Syahrial, revealed that the authority of BI as a bank supervisory authority to the occurrence of banking crimes is limited only to the prudential banking aspect with the authority to provide administrative sanctions. Meanwhile, for violations that are criminal acts (fraud) are fully under the authority of law enforcement officers (police, prosecutors and courts), (interview on April 26, 2021).

Based on this explanation, it can be analyzed that banking crimes without certainty and good and firm law enforcement, the bank supervision system will become dull, so that efforts to create a sound banking system must be carried out in line with efforts to improve and enforce law in this country.

Regarding violations, BI has the authority to impose administrative sanctions, including dismissal of bank management and the inclusion of management or shareholders in the list of disgraced people in the banking sector. affiliated parties, namely, management, employees, owners and shareholders of the bank, as well as other parties who use the bank as a means of committing criminal acts.

One of the factors that makes the national banking system porous and vulnerable to banking crimes is the result of bank managers and owners who tend to exploit and or ignore the precautionary principle. The implementation of the prudential principle is important in order to realize a healthy and strong and solid banking system. Crimes that arise in the banking world today show how weak the commitment to implementing the precautionary principle among banking business players is.

Based on this fact, it seems that banking cannot be entirely left to the market mechanism, because in reality the market is not always able to correct itself if something unexpected happens. With the application of the precautionary principle which is also required by Bank Indonesia, it is hoped that a healthy, strong and solid banking world will be created regardless of all kinds of problems.

The same thing was also expressed by Ni Putu Sri Sandi, as manager at the BI Checking section that: "The precautionary principle also focuses on the necessity of good management, be it financial management, credit management, control management and supervision, so that crime in the banking world can be minimized." (interview April 26, 2021).

Based on this explanation, one of the causes of crime in the banking world is due to the lack of effective supervision in the banking world, for that we need an effective supervision as a means to prevent and eradicate

crime in the banking world. Thus, with effective supervision, it is hoped that a healthy and strong banking sector will grow and ultimately the “public trust” in the banking world will increase.

The purpose of bank supervision is essentially to increase public confidence that the bank is financially sound, that the bank is managed properly and professionally and that there is no threat to the interests of the public who deposit their funds in the bank. The existence of bank supervision and development is to create a sound banking system, which fulfills three aspects, namely banking that can properly maintain the interests of the community and banking that develops fairly and is beneficial for the national economy.

Effective and independent supervision is very much needed by banks now and in the long term as a response to the increasing crime in the banking sector, whether carried out by bank administrators, bankers who use the banks they manage as tools to enrich themselves or their own interests or interests. in response to the increasing risks faced by banks.

The discovery of cases identified as banking crimes proves that the supervisory system at banks is not implemented properly and consistently and the guidance that should be carried out is not carried out properly, Bank Indonesia as an external supervisory bank and other commercial banks themselves as internal supervisors. Therefore, Bank Indonesia as the bank authority must continue to improve the supervisory system and consolidate the bank supervision organization in Bank Indonesia.”

Starting from the description of the opinion, it can be concluded that the authority of Bank Indonesia is to supervise banking, so that banking crimes do not occur, in addition to having supervisory authority regarding the imposition of administrative sanctions (administrative processes), while criminal sanctions are the authority of the state apparatus in the criminal justice system (police, Prosecutors, judiciary and correctional institutions) as regulated in the Criminal Procedure Code.

1.2. Law Enforcement in the Form of Application of Sanctions by Bank Indonesia for PT. BPR NAM Kupang Which Has Received Mortgage Guarantee Without Procedures Regulated In The Mortgage Law.

President Director at PT. BPR NAM Kupang in November 2013 without applying the principle of prudence in the banking business, has received mortgage guarantees by not conducting in-depth research or surveys on the validity of Eni Widayati as collateral for the 3 (three) original Land certificates as collateral for the loan.

Director of PT. BPR NAM Kupang should have rejected the loan application, because it was against the Banking Law and the Mortgage Law. but the President Director of PT. BPR NAM has received and approved the loan application of Rp.250,000,000 by Eni Widayati with the guarantee of SIUP PT. Tirta Arum Gypsum and 3 (three) original Land Certificates. Although Eni Widayati and the President Director at PT. BPR NAM Kupang knows that the original 3 (pieces) of Collateral certificates have not or without a Mortgage Deed made at a Notary signed by the Victim as the owner of the original valid Land Certificate Collateral.

Whereas the actions taken by the Director of PT. BPR NAM Kupang, which carries out banking business actions, has resulted in a banking crime, namely: criminal acts related to bank business. Crimes related to bank business are regulated in the provisions of Article 49 of the Banking Law with a penalty of imprisonment of at least 7 (seven) years and a maximum of 15 (fifteen) years, and a fine of at least Rp. 10,000,000,000., - (ten billion rupiah) and a maximum of Rp. 200,000,000,000,- (two hundred billion rupiah).

Banking crimes committed by the Director of PT. BPR NAM Kupang can be revealed on the basis of complaints from victims (owners of original land certificates) to law enforcement agencies, namely the police. Furthermore, from the results of the investigation and investigation process carried out by the police, the fact that 3 (three) original land certificates have been illegally used as collateral for credit guarantees at PT. BPR NAM Kupang.

Law enforcement in the form of sanctions by Bank Indonesia for PT. BPR NAM Kupang are administrative sanctions and criminal sanctions. Giving administrative sanctions because the Director of PT. BPR NAM Kupang has violated banking administration procedures regarding mortgage rights, so that PT. BPR NAM as conducting financial reporting based on banking business to Bank Indonesia.

The application of criminal sanctions by Bank Indonesia has been handed over to the competent authorities, namely the police. Therefore, according to the results of investigations and investigations carried out by the police, it was found that banking crimes were committed on the basis of individual crimes committed by the Director of PT. BPR NAM Kupang, criminal liability is personal and not classified as a corporate crime, so that the form of criminal liability is based on the decision of the judge who examines and tries in the competent court.

Conclusion

1. The application of banking crime sanctions can be seen from thirteen kinds of criminal acts regulated starting from Article 46 to Article 50A, namely:
 - 1) Criminal Acts Related to Licensing, the witness applied is in the form of imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least 10,000,000,000.00 (ten billion rupiah) and a maximum of 200,000,000,000.00 (two hundred billion rupiah).
 - 2) Criminal Acts Related to Bank Secrecy, the witness applied is in the form of imprisonment for a minimum of 2 (two) years and a maximum of 4 (four) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.15,000,000,000.00 (fifteen billion rupiah)
 - 3) Crimes Related to Bank Supervision and Guidance, the witness applied is in the form of imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiahs)) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).
 - 4) Criminal Acts Related to Bank Business, the witness applied is in the form of imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp.200,000,000,000.00 (two hundred billion rupiah).
2. The authority of Bank Indonesia is to supervise banking, so that banking crimes do not occur, in addition to having supervisory authority regarding the imposition of administrative sanctions (administrative processes), while criminal sanctions are the authority of the state apparatus in the criminal justice system (police, prosecutors, judiciary and correctional institutions.) as regulated in the Criminal Procedure Code.
3. Application of witnesses to PT. BPR NAM Kupang which has been proven to have committed banking crimes, namely administrative sanctions and criminal sanctions, for having guaranteed credit without going through the procedures regulated by the Banking Law and the Liability Rights Act.

Suggestion

Based on the conclusions that have been described, the suggestions that can be given by the author are as follows:

1. For Bank Indonesia, the supervisory and regulatory functions in the application of administrative sanctions against banks must be truly effective and maximal, in order to prevent and minimize banking crimes.
2. For law enforcers, in tackling banking crimes, it must be applied in accordance with the witnesses regulated in the banking law, so as to create a deterrent effect for the perpetrators of banking crimes.
3. For the public, in relation to wanting to use banking services, especially BPR services, they must first examine the legitimacy of the banking management, so that they do not become victims of banking crimes.

Daftar Pustaka

Books:

- [1]. Dale, Timpe. *Resource Management Series*. Yogyakarta: Gramedia, 1999
- [2]. AA. Anwar Prabu Mangkunegara, *Company Human Resource Management*, Remaja Rosdakarya, Bandung, 2013.
- [3]. Buletin Bank Indonesia, *Hukum Banking and Central Bank*, ISSN, Jakarta, 2012
- [4]. Chainur Arrasjid, *Banking Criminal Law*, Sinar Grafika, Jakarta, 2011.
- [5]. Indryanto Senoadji, *Money Laundering in the Perspective of Criminal Law*, CV Rizkita, Jakarta, 2001
- [6]. Ivancevich, John M, dkk. *Organizational Behavior and Management*. Jakarta: Erlangga, 2006
- [7]. Jan Rummelink, *Criminal Law (Comments on the Most Important Articles of the Dutch Criminal Code and their Equivalents in the Indonesian Criminal Code)*, Jakarta, Gramedia Pustaka. 2003
- [8]. Kasmir. *Banks and Other Financial Institutions*. Edisi Revisi. Jakarta: PT. Raja Grafindo Persada, 2008.
- [9]. -----(2005). *Banks and Other Financial Institutions*. Jakarta: PT Raja Grafindo Persada.
- [10]. M. Sholehuddin, *Sanction system in criminal law: the basic idea of double track system and its implementation*, Jakarta, Rajawali Pers, 2004
- [11]. Mangkunegara, Anwar Prabu. 2005. *Organizational Cultural Behavior*. Bandung: PT.Refika Aditama
- [12]. Marwan Effendy, *Typology of Banking Crimes From the Perspective of Criminal Law*, Referensi, Jakarta, 2012
- [13]. Purwanto, Ngalim, 1993. *Teaching Evaluation Principles and Techniques*, Bandung: PT. Remaja Rosdakarya.

[14]. Sinungan, ***Bank Fund Management***, Rineka Cipta, Jakarta, 1990.

[15]. Suyatno Thomas, ***Banking Institutions***, Gramedia Pustaka Utama, Jakarta, 1993.

[16]. Zulkarnain Sitompul, ***Banking Problems***, Books Terrace dan Library, Bandung, 2006.

Legislation:

- The 1945 Constitution of the Republic of Indonesia
- Law Number 10 of 1998 concerning Banking.
- Law Number 4 of 1996 concerning Land Rights and Objects Related to Land.