

Original Article

Legal Settlement Mechanisms for the Use of Blank Checks as Collateral in Information Technology-Based Funding Service Agreements

Eko Djoko Widiyatno ^{1*}, Theresia Anita Christiani ¹, Apribilli ¹

¹ Universitas Atma Jaya Yogyakarta, Yogyakarta – Indonesia

*Corresponding author: anita.christiani@uajy.ac.id

Abstract

This study aims to examine the most effective dispute resolution strategies when the debtor issues a blank check as collateral in information technology-based funding service agreements. The concept of justice in this case encompasses both the concept of justice within the positivism paradigm and the concept of justice from the natural law perspective. This type of research is normative/doctrinal research. The research focuses on secondary data, which includes both primary and secondary legal materials. The data analysis technique uses qualitative data analysis. The conclusion-drawing technique uses deductive reasoning. Based on the results of this research, the dispute resolution method chosen in the event of a case involving the issuance of blank checks by debtors used as collateral in information technology-based financing agreements is a settlement method through the criminal justice system.

Keywords: Blank Checks; Collateral; Information Technology-Based Funding; Legal Mechanisms

Introduction

Technology is a necessity, especially in economic activities. Information Technology-Based Funding Services are a platform in economic activities that address the weaknesses of credit agreements from conventional financial institutions, such as banks. Bank financial institutions are the financial institutions most widely chosen by people in Indonesia. Strict collateral requirements and administrator requirements are weaknesses of Bank financial institutions. Weaknesses and difficulties in obtaining funding through banks encourage economic actors to utilize funding from Information Technology-based Funding Services. Information Technology-Based Funding Services provide funding in the form of funding agreements. In the funding agreement, funding agreements with collateral in the form of checks are permitted. In information technology-based funding services, a legal relationship exists between the recipient of funds and the Funder, as stipulated in the funding agreement.

The legal relationship between the Funder and the Organizer is referred to as a user agreement. The funding agreement between the recipient of funds and the Funder is carried out with a check guarantee. Check That what is meant by a check as a means of payment based on the Commercial Code (KUHD) Article 178 - 229: regarding the definition of a check is not explicitly stated in the KUHD, but Article 178 states that a check must contain: 1. The name "check", which is included in its text and stated in the language used in the title; 2. an unconditional order to pay a certain amount of money; 3. the name of the person who must pay (drawee); 4. the designation of the place where buyer must make payment; 5. a statement of the date of signing along with the place where the check is drawn; 6. the signature of the person issuing the check (drawer). From the articles above, it can be concluded that a check is a letter containing the word 'check' issued on a specific date and place, with an unconditional order to the banker to pay a certain amount of money to the holder or bearer at a particular location. The function of collateral, including checks as collateral, is to guarantee the fulfilment of payments in the basic Agreement. If the borrower, as the debtor, does not fulfil the obligation to pay, the check guarantee can be cashed by the party concerned, the holder (lender).



Checks can be cashed if there are funds when the holder shows the check to the person concerned. There is a fact that the check used as collateral is a blank check. A blank check is a check that has no balance in the borrower's account, resulting in rejection from the bank as the Issuer. There is a Stipulation of PERPU Number 1 of 1971 concerning the Revocation of Law No. 17 of 1964 concerning the Prohibition of Withdrawal of Blank Checks into a Law, with the consequence that the issuance of blank checks is not considered a criminal act that this Law can sanction. However, the Revocation of the Blank Check Prohibition Law. If the facts in practice show a funding agreement with a blank check guarantee, it will be very detrimental to the Funder and their trust in the use of checks in business activities. The Regulation regarding the revocation of the blank check prohibition law creates an understanding that the issuance of blank checks is a civil matter between the parties. On the other hand, civil settlements contain many weaknesses in terms of providing legal protection. Based on this, the legal problems in this study are as follows: Can civil or criminal settlement efforts provide Justice for the parties? In this case, the Concept of Justice is based on the positivist paradigm and an understanding of natural Law. The specific objectives of this study are: To find and analyse civil or criminal settlement efforts that can provide Justice for the parties using the Concept of Justice in the positivist paradigm and the Concept of Justice from the Natural Law understanding.

The urgency of this study is that there is previous research that researchers, including Rizal and Haykal, have conducted ¹. The above research examines the use of blank checks and civil and/or criminal settlement efforts in business activities, but has not focused on the use of blank checks in funding agreements for Information Technology Based Funding Service Institutions, as will be done by the Researcher. It is the basis for the urgency of the research to be carried out, as legal protection for parties in economic activities is a priority that must always be addressed. Its previous research is also an element of novelty in this research. The previous research mentioned above in this research is used as the basis for discussing the analysis and answering the problem in more depth.

Method

The type of research chosen to answer the problem is Normative Juridical research ². Data types are Primary data and Secondary Data. Normative research focuses on secondary data ³. This Secondary Data consists of Primary Legal Materials and Secondary Legal Materials. The Primary Legal Materials used are: Articles 178 to Article 229 of the Commercial Law Code (KUHD), Fund Transfer Law (UUTD), Bank Indonesia Provisions regarding the Use of Checks. In contrast, the Regulation of the existence of blank checks is contained in the Provisions on the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Regulation Number 8/29/PBI/2006 concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Regulation Number 18/43/PBI/2016 dated December 22, 2016, concerning Amendments to Bank

¹ Haykal Rizal, 'Blank Cheques Commercial Law Perspective', *International Asia Of Law and Money Laundering (LAML)*, 1.4 (2022), 247–52 <<https://doi.org/10.59712/iaml.v1i4.46>>; M Sriastuti Agustina, 'Legal Review of the Issuance of Blank Checks', *Yustitiabelen Journal*, 7.1 (2021), 20–50 <<https://doi.org/10.36563/yustitiabelen.v7i1.324>>; Dwi Tatak Subagiyo, 'Legal Protection For Blank Check Holder', *Perspektive*, 10.1 (2006), 60 <<https://doi.org/10.30742/perspektif.v10i1.522>>; Dwi Arina Fahrur Nisa, Widya Elfareda Putri and Sumriyah Sumriyah, 'Legal Protection for Recipients of Blank Giro Bills', *ALADALAH: Journal of Politics, Social, Law and Humanities*, 1.3 (2023), 51–63 <<https://doi.org/10.59246/aladalah.v1i3.328>>; Sarip Hidayat and others, 'Legal Analysis Of Legal Responsibility For Economic Crimes Regarding The Issuance Of Blank Cheques', *Galuh Justisi Scientific Journal*, 11.1 (2023), 73 <<https://doi.org/10.25157/justisi.v11i1.9951>>.

² Andistya Pratama, Dwi Ratna Indri Hapsari and Listiyani Wulandari, 'Bridging Regulation and Reality: Comparative Study of Artificial Intelligence Regulation in the Financial Sectors', *Legality: Scientific Journal of Law*, 33.2 (2025), 307–33 <<https://doi.org/10.22219/ljih.v33i2.38908>>; Theresia Anita Christiani and Chryssantus Kastowo, 'Increased Financial Literacy and Inclusion Indexes versus the Number of Unlicensed Financial Institutions in Indonesia', *Foresight*, 25.3 (2023), 465–73 <<https://doi.org/10.1108/FS-01-2021-0003>>.

³ I Wayan Gde Wirawan and others, 'Unprotected and Unparticipation Mental Health in Regulation Worker', *Bestuur*, 12.2 (2024), 124 <<https://doi.org/10.20961/bestuur.v12i2.94378>>; Francesco Viola, 'Aquinas, Thomas: On Natural Law', in *Encyclopedia of the Philosophy of Law and Social Philosophy* (Dordrecht: Springer Netherlands, 2023), pp. 119–27 <https://doi.org/10.1007/978-94-007-6519-1_364>.



Indonesia Regulation Number 8/29/PBI/2006 concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Circular Letter Number 9/13/DASP dated June 19, 2007, concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Circular Letter Number 17/12/DPSP dated June 5, 2015, Amendments to Bank Indonesia Circular Letter Number 9/13/DASP dated June 19, 2007, concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Circular Letter Number 18/39/DPSP dated December 28, 2018, concerning the Second Amendment to Bank Indonesia Circular Letter Number 9/13/DASP dated June 19, 2007, concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Data collection techniques using literature studies. Data analysis employs qualitative techniques, which involve describing one legal fact in relation to another and analyzing it through various interpretations and legal arguments, ultimately concluding with deductive reasoning.

Results and Discussions

The Concept of Justice from the Perspective of Legal Positivism and Natural Law

In the Classical Era (Aristotle, Cicero, etc.), Justice was known as the goal of Law associated with natural Law. The approach to Justice was influenced by natural Law with the Concept of an ethical and systematic cosmos, which became the basis of the philosophy of the legislators, and moved towards a more rational understanding of Justice by pouring the Concept of the philosophy of Justice into the level of positive Law that could resolve disputes at that time in society. While in the Middle Ages, which were influenced by Thomas Aquinas' understanding of natural Law⁴. Justice was understood as influenced by natural Law. In the Summa Theologize, the issue is discussed in the context of Justice and injustice⁵. Justice as the goal of Law that is concretized in positive Law in the Middle Ages must be based on divine truth (eternal Law), which is a manifestation of natural Law. The Concept of Justice in the two eras demonstrates the influence of natural Law in shaping the Concept of Justice as the ultimate goal of Law. Morals must support the rule of Law⁶. In the era of Legal Positivism, it developed like the opinions of figures such as Hans Kelsen⁷. Thomas Hobbes, John Locke, Austin, etc. The Concept of Law is the Law resulting in Justice, which is "statutory" Justice. The Concept even separates Law from morals⁸ so Justice, as the goal of Law, is based on Law. One of the figures from this school of thought is Hans Kelsen, famous for the Stufenbau Theory⁹.

Cash and Non-Cash Payment Systems

The payment system is a system that includes a set of rules, institutions, and mechanisms used to carry out the transfer of funds to fulfil an obligation arising from an economic activity. The payment system comprises three key elements: rules, institutions, and mechanisms. The Payment System was formed along with the birth of the Concept of 'money' as a medium of exchange or intermediary in goods, services, and financial transactions. In principle, the payment system has three processing stages: authorization, clearing, and final settlement. The payment system can be divided into cash and non-cash payment systems. Cash Payment System: is a payment system that uses fiat money (namely, paper money and coins) as a means of payment. Non-Cash Payment System: a payment system that uses card payment instruments (APMK), checks, giro bills, debit notes, or electronic

⁴ Rastislav Nemeč and Andrea Blaščíková, 'The Virtue of Religio in Thomas Aquinas: Between Justice and Love', *Religions*, 14.5 (2023), 571 <<https://doi.org/10.3390/rel14050571>>.

⁵ T. R. S. Allan, 'Law, Reason, and Justice: A Defence of the Declaratory Theory of Judicial Decision', *Jurisprudence*, 2025, 1–25 <<https://doi.org/10.1080/20403313.2025.2473166>>.

⁶ Phil Edwards, 'Hans Kelsen, International Law and the "Primitive" Legal Order', *Jurisprudence*, 2025, 1–30 <<https://doi.org/10.1080/20403313.2025.2457805>>.

⁷ Carmen Chas, 'Hans J. Morgenthau's Critique of Legal Positivism: Politics, Justice, and Ethics in International Law', *Jus Cogens*, 5.1 (2023), 59–84 <<https://doi.org/10.1007/s42439-023-00076-x>>.

⁸ M Zalewska, 'Empowerment and the Act of Will in Hans Kelsen's General Theory of Norms', in *Law and Philosophy Library*, 2023, CXL, 305–16 <https://doi.org/10.1007/978-3-031-28555-4_15>.

⁹ Sainul and others, 'Legal Reform and Mediation in Non-Litigation Dispute Resolution: A Case Study of Sebambangan Tradition', *Journal of Law and Legal Reform*, 6.2 (2025), 1047–78 <<https://doi.org/10.15294/jllr.v6i2.20872>>.



money (card-based and server-based). The scope of non-cash payment systems is grouped into large-value (wholesale) and retail transactions. The fact is that payment instruments continue to develop from cash-based payment instruments to non-cash payment instruments, such as paper-based payment instruments, such as checks and giro bills, which are processed using a clearing/settlement mechanism. In addition, paperless payment instruments such as electronic fund transfers and payment instruments using ATM cards, credit cards, debit cards, and prepaid cards (card based) are also known.

The term giral is interpreted as a term that refers to the type of giral (non-cash) and cash payment instruments. Examples of giro payment instruments are checks, giro bills, etc. At the same time, examples of non-giro (cash) payment instruments are paper money and coins. Now there is a development regarding payment instruments with a shift in instruments that originally used paper-based instruments, such as checks and giro bills, to the use of card-based and electronic-based instruments, as seen from the increasing habit of people transacting with credit cards, ATM/Debit cards, electronic money, both chip-based and server based, as payment instruments. If the question is what is meant by the instrument referred to by the instrument of payment in the form of a giro, then there is a payment instrument that is not in the form of cash (non-cash), for example, checks and giro bills. If what is meant by Checks and Giro Bills, then the regulations are contained in the Regulation of checks, including: 178 to Article 229 of the Commercial Law Code (KUHD) Fund Transfer Law (UUTD) Bank Indonesia Provisions regarding the Use of Checks While the Regulation of the existence of blank checks is contained in the Provisions on the National Blacklist of Drawers of Blank Checks and/or Giro Bills. Bank Indonesia Regulation Number 8/29/PBI/2006 concerning the National Blacklist of Drawers of Blank Checks and/or Giro Bills.

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Cash and Non-Cash Payment Systems

There are two ways to resolve business disputes, namely non-litigation and litigation. Non litigation settlement¹⁰ is an effort to resolve disputes using mechanisms outside the court [18]. Litigation settlement is a dispute resolution mechanism through civil lawsuits or criminal dispute resolution. Dispute resolution through civil channels must be based on the civil legal relationship between the borrower and the IT-based funding service provider. However, civil dispute resolution has weaknesses, including its limited ability to resolve systemic issues, its lack of deterrent effect for perpetrators, and its decisions being difficult to enforce. Meanwhile, elements of criminal dispute resolution include: enforceable by the state (imprisonment), upholding moral values and public order, not merely private matters between individuals that are inherently detrimental to society.

The act of issuing a bad check can be categorized as a criminal act and, therefore, can be resolved criminally if it meets the elements contained in Article 376 of the Criminal Code. The elements of the crime of fraud under Article 378 of the Criminal Code regarding checks are as follows: First, the element of "Whoever" Refers to the legal subject as the perpetrator of the crime who can be held accountable for their actions under criminal Law. No justification can eliminate the unlawful nature of the act. No excuse can absolve the perpetrator of guilt. Second, with the intent to gain unlawfully: This element indicates the intention to obtain a benefit, either for oneself or another person, by means that violate the Law. The element of intent is the primary element in fraud. Intention includes

¹⁰ Ayup Suran Ningsih, 'Alternative Insitutions on Dispute Settlement For Financial Services Sector (LAPS SJK) in Banking Disputes', *Fiat Justisia: Jurnal Ilmu Hukum*, 17.3 (2023), 279–92 <<https://doi.org/10.25041/fiatjustisia.v17no3.2967>>.



a conscious intention to commit fraud. (The absence of a balance in the drawer's account is an intentional act that causes the check to fail to be cashed by the holder.) Issuing a bad check is unlawful. Third, the element of using a false name or false identity, artifice, trickery, or false speech: This refers to actions, whether verbal or not, that create false trust or hope in the victim. A "chain of lies" refers to several complementary statements that appear to be true, but are actually lies. These lies are interconnected and create a false image that is perceived as truth. Facts show that issuing a check as collateral creates false hope, as the check turns out to have no balance or is actually a bad check. Fourth, inducing someone to hand over goods, grant a loan, or write off a receivable. In this case, the creditor in a relationship with the debtor is persuaded to hand over money as a result of the debtor's/drawer's deception. The debtor's deception is manifested by the existence of a check as collateral, which should be cashable as collateral if the debtor fails to make payment as agreed. This deception is apparent when the bank rejects a check that should be cashable. The act of issuing a bad check constitutes an additional agreement to the basic obligation.

The issuance of this blank check qualifies as a criminal act of fraud because a person who submits a check, even though he knows that the check has no funds, commits an element of false statement, with tricks and deception as referred to in Article 378. Since the nature of a check is a cash payment, the Issuer must always guarantee payment when presented. The drawer is required to provide sufficient funds when the holder presents the check. The presentation of the check by the holder can be done within the presentation period, which is 70 days since the Issuer issued the check. The check will expire 6 (six) months from the end of the presentation period. If the drawer does not cancel the check after the presentation period, the drawer is still required to provide funds until the check is no longer valid. Based on this explanation, efforts to resolve criminal disputes will better support the legal objectives of legal certainty and uphold moral values and public order, in accordance with the theory of natural Law, which states that morals must support the rule of Law.

Conclusion

The concept of justice in this case is the concept of justice in the positivism paradigm and the concept of justice from the natural law understanding. Based on the results of this research, the dispute resolution method chosen in the event of a case involving the issuance of blank checks by debtors used as collateral in information technology-based financing agreements is a settlement method through the criminal justice system. It is because a settlement method through the criminal justice system can uphold social justice and moral values, and create a deterrent effect for perpetrators. It is in accordance with the justice established by natural Law.

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