

The Role of Legal Audit in Collection Loan Debts through State Attorney (Study at Bambang Santoso & Partners Law Firm)

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Informasi Artikel

Abstract

Keywords

*Customer Orientation;;
Brand Risk;;
Brand Commitment;
Brand Loyalty*

This study aims to analyze the Role of Legal Audit in Debt Collection Through State Attorney (Study on Law Firm Bambang Santoso & Partners) . This study is a qualitative descriptive study with a case study approach. Data collection through interviews, observations and document studies. Based on the results of the study Legal audit or commonly called Legal audit is a legal examination and analysis of the implementation of various provisions of laws and regulations by certain parties who are the targets of legal audits, both individuals and institutions. Legal audits are intended to determine the level of compliance or violation of the company against applicable laws, including in violations of bad debts. Bad debts are conditions where debtors, both individuals and business entities, are unable to pay installments or debts they have to the lender on time. In essence, handling bad debt cases through the courts is not a simple process. In handling a fiat execution application for bad debt cases through the district court, there are several stages that must be followed.

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1. Introduction

Accounting is (*accounting*) is a field of study that focuses on the activities of managing financial transactions of a company / entity into financial information , which is useful for parties interested in the entity concerned. The input of accounting is the financial transactions of a company or entity, while the output of accounting is technical financial information.

Accounting acts as a process, the accounting process consists of identifying transaction evidence, recording , grouping, summarizing , and reporting financial transactions of a company/entity. The role of accounting also includes analyzing financial information, so that the resulting figures can be interpreted and are relevant in making company decisions and economic decisions for users of financial information. (Muhammad Khafid, et al. , 2022)

The development of a complex business world makes progress, in the economic field accompanied by the emergence of fraud by irresponsible parties. This forces auditors to understand the fraud that exists. The fraud referred to here is fraud that violates the law that is carried out intentionally by irresponsible parties to generate a profit so that it can harm various parties.

An auditor is required to have good quality so that he can identify fraud that occurs, so that he can solve the existing problem. Auditor experience is very necessary in assessing existing fraud because auditors

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who have been auditing fraud cases for a long time will know better what actions they will take. In carrying out their duties, auditors also need good audit quality, but good audit quality does not guarantee that auditors will produce good audits. Audit quality is very important for accountants. An auditor will produce good audit quality when an auditor carries out his duties by paying more attention to applicable financial standards, the accountant's code of ethics and existing professional standards. (Suraida, 2012).

The auditor as the spearhead of the implementation of audit activities should be supported by independence, ability, willingness and adequate work experience in the audit, and supported by the auditor's professional ethics. Ability, willingness and work experience reflect the auditor's competence, which is then accompanied by competence is expected to provide work results in accordance with the mission carried out by the Inspectorate as the internal audit body of state finances.

In relation to being an internal auditor in the field of state finance, the Inspectorate auditor in carrying out his duties must be based on good attitudes, ethics and morals so that the auditor can carry out his duties and obligations objectively. The auditor must have a neutral and unbiased attitude and avoid conflicts of interest in planning, implementing and reporting the work he does,

The advancement of educational science today has created new breakthroughs in the world of law, both in the academic and practitioner sectors, which can support the performance of law enforcers both in preventing criminal acts of corruption and in eradicating criminal acts of corruption in Indonesia, namely the profession of legal auditor.

Legal audit is an activity of collecting data or facts for the purpose of selecting, presenting, analyzing, reviewing and assessing the legal aspects of legal subjects, assets, legal acts/transactions, so that the level of quality of legal compliance is known or how far the law is complied with or applied, legal audits essentially compare the actual facts with what should be according to applicable legal regulations or legislation. (Hadijanto: 2016)..

2. Literature Review and Hypotheses Development

Legal Audit

Legal audit or commonly called Legal audit is a legal examination and analysis of the implementation of various provisions of laws and regulations by certain parties who are the targets of legal audits, both individuals and institutions. The matters examined relate to the legal compliance or legality of the person concerned, assets and liabilities or debts, transactions and legal acts, and/or activities as well as various legal problems faced and handling or resolution, so that the level or quality and legal compliance or to what extent the law is applied or enforced.

Legal auditors are personnel who have the competency qualifications to conduct legal compliance audits. The audits conducted are compliance audits in the economic and business sectors, social community sectors, economic sectors, or state administrators (executive, legislative, judiciary). Legal audits are needed based on the idea and awareness that every organization in any form is always strong with efforts to improve quality. Quality is very important because it concerns the continuity of the existence of an organization engaged in a commodity sector that is profile oriented, but also in social, religious, non-profile oriented organizations, the issue of quality becomes important because with that quality a product produced is able to meet the expectations of society.

Talking about quality is very closely related to human resources and how humans manage their institutions or agencies. So legal audits that aim to achieve quality improvement are also carried out based on management principles. Quality issues are an assessment of a process that includes plan (plan) do (work) check (inspection) act (follow-up action) which is usually called PDCA (Dr. Yovita Arie Mangesti SH, MH CLA et al.)

As has been stated, a legal audit of a banking information system is an activity of careful examination from a legal perspective carried out by a legal consultant on a banking information system to obtain information or material facts that can describe its real condition. A legal audit of the information system is useful, among other things, for the quality and accuracy of decisions that are responsible for the quality of the information explained for making the decision.

Legal audit of the information system is a systematic process in collecting and evaluating evidence to determine that a computer-based information system used by an organization has been able to achieve

its objectives. Audit is an activity that conducts an examination to assess and evaluate an activity or object such as the implementation of internal control in an accounting information system whose work is determined by management or the accounting function process that requires improvement.

The significance and implications of legal audit are to identify potential legal issues, existing ones, and future ones, which are carried out by the legal audit team, even the identification is carried out at the beginning of a project/ *joint venture* , a collaboration agreement, and a reciprocal agreement signed between the parties, which is sufficient to be carried out comprehensively covering the entire procedure of rules, regulations, covenants and agreements signed by considering the intent and existence of the buyer, supplier creditors including company employees. Identification of the above legal issues is entrusted to the company's legal audit, which in several cases handled by introspecting and reviewing the company's plans, operations and strategies in order to reduce the legal risks/dangers that are easily obtained by the company.

Legal audits are a must for individuals, partners of banking companies or other financial companies for loans or guarantees and so on. Therefore, legal audits can be seen as being able to eliminate legal risks or reduce the legal costs that must be incurred because they are associated with the definition/void/anomaly of written documents (Maskun 2020). Legal audit is intended to determine the level of company compliance or violation of applicable laws, so that in the end a legal opinion can be formulated stating which laws have been complied with and which rules have been violated. The function of legal audit is generally as a reference material. Further actions in its development, legal audit related to legal opinion in order to issue a previous legal opinion must first be carried out on legal documents related to the audit object.

Bad credit

Bad credit is a condition where the debtor, either an individual or a business entity, is unable to pay the installments or debts they have to the lender on time. This condition can be caused by many things such as the debtor losing their main income, being deliberately absent from making payments, and so on. If the bad credit condition is not resolved immediately, it will worsen the debtor's credit history or score. With a bad credit history, it will have an impact when the debtor will apply for financing elsewhere. Debtors with a poor credit history will have difficulty getting approval for financing applications.

In the event that the debtor does not fulfill its obligations, each creditor can file a lawsuit to obtain a court decision. The courts that can handle problematic credit are general courts through civil lawsuits and commercial courts through bankruptcy lawsuits. If a court decision has been made which then has legal force to be implemented on the basis of an order and with the leadership of the chairman of the district court who examines the lawsuit at the first level, according to the provisions of HIR article 195 and thereafter. On the order of the chairman of the court, the chairman of the court will carry out the seizure of the debtor's assets, to then be auctioned through an auction office . From the results of the auction, the creditor will receive payment of his debts.

In essence, handling bad credit cases through the courts is not a simple process. In handling a fiat execution application for bad credit cases through the district court, there are several stages that must be carried out. Each time a stage changes, it must be preceded by the issuance of a Stipulation by the Head of the District Court, from which the stipulation is then continued with instructions from the Clerk of the Court Secretary to the court employees/staff to carry out their duties.

3. Research Method

This type of research is qualitative with a case study approach. There are two data sources used in this study, namely primary data and secondary data . To obtain research data, interviews, observations and documentation studies are carried out. The data analysis used is qualitative-interactive analysis according to Miles and Huberman which consists of data reduction, data presentation and drawing conclusions.

4. Discussion

The Role of Legal Audit in Debt Collection Through State Attorneys

That Law Firm Bambang Santoso & Partner has conducted several legal audits on both government institutions and financial institutions (banking). The Legal Audit that was conducted on government institutions was when the Regional Government was about to build a hospital so as to obtain legal certainty in the form of whether or not there were any laws and regulations that were violated or regarding problems that would arise either before or after the completion of the hospital construction later.

In addition, in providing credit by banks with the status of State-Owned Enterprises (BUMN) when bad debts occur and have repeatedly made collections both verbally and in writing and have never received results, the Bank can ask for assistance from the State Attorney (JPN) to carry out the collection.

The legal basis that allows the State Attorney to collect bad debts is stated in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, Article 18 paragraph (1) and paragraph (2), which states:

1. The Attorney General is the highest public prosecutor and state attorney in the Republic of Indonesia.
2. The Attorney General with special powers or because of his position and office acts as the State Attorney, in the civil and state administrative and constitutional fields in all judicial environments, both inside and outside the court for and on behalf of the state or government, as well as the public interest.

Legal Audit in terms of bad debt collection is very necessary because in principle a bank in providing credit must uphold the principles of banking so that before the collection file is submitted to the State Attorney, a review/examination must be carried out by a legal auditor to see whether the agreement documents contain standard clauses, conflicts with laws and regulations or legal problems that will arise. Therefore, the task of a legal auditor is to see these aspects, the results of which will be recommendations and state that the file is clean and clean. In addition, legal audit is also very necessary in the case of a change, to do a merger, acquisition, and so on. And the documents that are examined include the deed of establishment, company status, and so on.

5. Conclusion

From the results of the discussion above, the researcher concluded that a legal audit or what is commonly called a legal audit is a legal examination and analysis of the application of various provisions of laws and regulations by certain parties who are the targets of legal audits, both individuals and institutions. Legal audits are also intended to determine the level of compliance or violation of the company against applicable laws, including in handling bad debt cases. Bad debt is a condition where the debtor, either an individual or a business entity, is unable to pay the installments or debts he has to the lender on time. In essence, handling bad debt cases through the courts is not a simple process. In handling a fiat execution application for bad debt cases through the district court, there are several stages that must be followed.

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