

Juridical Review of Credit Collateral within Financial Engineering in Indonesia: An Introduction

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Abstract

Lending is the main business activity in the banking business. However, it should be noted that in addition to promising benefits as the main source of bank income, lending also has a high risk side for banks, namely the risk of failure to return, resulting in losses for the lending bank. To reduce this risk, before extending credit, banks must make a careful assessment of the character, ability, collateral and business prospects of the debtor. Credit collateral has an important role in lending. Creditors collateral is an additional guarantee submitted by a Debtor Customer to a bank in the framework of providing credit or financing facilities based on Sharia Principles. This paper aims to provide an overview of the juridical overview of credit collateral in financial engineering in Indonesia. The research result shows that guarantee is not an absolute requirement. Therefore, it is possible for banks to provide unsecured credit. Guarantee is only one of the conditions that must be met by the customer in addition to other conditions. However, in operational practice, in lending, banks need to require collateral in the form of assets belonging to the debtor. This is based on the premise that lending is a risky banking activity, so in its implementation, banks must pay attention to sound credit principles.

Keywords: credit collateral, financial engineering, Indonesian banking system

DOI: 10.7176/JLPG/121-01

Publication date: June 30th 2022

1. Introduction

In general, the literature suggests that the banking industry has an important role in increasing the economic growth of a country, including in Indonesia. The role of the banking industry in this economy, among others, is to carry out the function of transmission, collect and distribute funds, transform and distribute risks in an economy, and stabilize economic conditions. In developing countries, the existence of the banking industry is becoming increasingly important, considering that a typical developing country is the existence of a "saving - investment gap" that cannot be covered by the government budget. The involvement of banks in collecting and channeling public funds will greatly assist the economic development process (Simatupang, 2019).

In line with the dynamics and development of the banking service industry, as well as to strengthen the banking function as an agent of development, the banking service industry is required to always be able to create and support an increase in economic growth which leads to an increase in the standard of living of the people at large. In addition, the government continues to take steps to improve the quality and quantity of bank credit while maintaining economic stability, especially in facilitating banking credit for the business world, while still adhering to the principles of sound credit (Wahyuni, 2017).

Lending is the backbone of banking activities, because the biggest income for banks is from interest income and the proportion of credit. Credit security is a chain of bank activities. This security measure starts when the bank plans to provide credit. In preparing a plan for lending, banks have taken into account various aspects that are accessible to operational capabilities. Regulating the allocation of credit to favorable sectors, which customers are given, and with what amount of the ceiling and so on, are steps to maintain credit security. Banks need to take steps to secure credit because lending is a risky activity (Bambang, 2014).

However, it should be noted that in addition to promising benefits as the main source of bank income, lending also has a high risk side for banks, namely a greater risk of failure to return, which causes credit to become problematic which leads to bad credit which results in losses for the bank. credit provider. Credit collateral has an important role in lending. Regarding debt guarantee, in positive law in Indonesia there are various laws and regulations that regulate or are related to debt guarantee or guarantee law. The provisions of the applicable guarantee law provide arrangements that will protect the parties with an interest in the loan money and debt guarantee. The guarantee function in providing bank credit is intended as a guide for interested parties, especially the bank. The bank will feel safe and trust the existence of a guarantee from the debtor or customer because if there is a risk of default in the future, the bank can sell the guarantee as a substitute for the loan that has been given. In connection with the activity of providing bank credit regarding debt collateral, it is called credit guarantee or collateral. Credit guarantees are generally required in a credit extension (Bahsan, 2007). This paper aims to provide an overview of the juridical overview of credit collateral in financial engineering in Indonesia.

2. Methodology

Based on the formulation of the problems that have been determined in this study, the type of research used in this study can be categorized as normative legal research (Waluyo, 1996), while the nature of this research is analytical descriptive research. Analytical descriptive research is research that attempts to describe and interpret something, for example existing conditions or relationships, developing opinions, ongoing processes, consequences or effects, or about ongoing trends (Marzuki, 2005). In connection with the type of research used, the approach used is the statutory approach. This approach is carried out by examining all laws and regulations related to the legal issue being handled (Soekonto, 2006).

The data used in this study were obtained from various sources: primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials, namely regulatory documents that are binding and stipulated by the competent authority. Secondary legal materials are all documents which are relevant sources such as books, scientific journals, and other scientific works related to the material under study. Tertiary legal materials, namely all documents containing concepts and explanatory information that support primary legal materials and secondary legal materials, such as dictionaries, encyclopedias and so on. The data collection technique used in this research is literature study and also by conducting direct interviews with informants. Processing, analysis and construction of normative legal research data are carried out by analyzing the rule of law and then construction is carried out by entering the articles into categories based on the definitions of the legal system. Drawing conclusions to answer the problem is done by using deductive thinking logic. The deductive method is carried out by reading, interpreting and comparing the relationships of related concepts, principles and rules so as to obtain conclusions that are in accordance with the formulated writing objectives (Hartika, 2016).

3. Discussion

3.1 Definition of Bank

In everyday terms, banks are known as financial institutions whose main activity is to receive deposits from the public in the form of Demand Deposits, Savings and Time Deposits. Then the bank was also known as a place to borrow money for people in need, for example for additional capital. In addition, banks are also known as a place to exchange money, send money or receive all kinds of payments and deposits such as payments for electricity, telephone, water, taxes, tuition fees, salaries, and other payments. Banking institutions have an important role in the country's financial system. A bank is a financial institution that is a place for individuals, private business entities, state-owned enterprises, and even government institutions to store their funds. Through credit activities and various services provided, banks serve financing needs and streamline payment system mechanisms for all sectors of the economy (Simatupang, 2019).

There are various definitions of a bank found in the literature. According to Article 1 point 2 of Law of the Republic of Indonesia Number 10 of 1998 concerning Indonesian Banking, what is meant by a bank is "a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit and or other forms in the context of increasing standard of living of the people at large. Meanwhile, according to Article 1 point 2 of Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking, what is meant by a bank is a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit and / or others in order to improve the standard of living of the people.

The two definitions above indicate that a bank is a legal entity that carries out activities to collect funds from the public in the form of deposits (Giro, Savings and Deposits) and distribute them to people who need funds in the form of credit and / or other forms in order to increase the level of many people live to achieve a just and prosperous society. Banks can also be referred to as a type of financial institution that carries out various types of services, such as providing loans, circulating currency, monitoring currency, acting as a storage place for valuable objects, financing the business of companies and others (Simatupang, 2019).

The bank business does not merely revolve around money to look for corporate profits. However, as mandated by law, banks must be able to act as agents capable of improving the people's standard of living. This is one of the responsibilities of the bank in realizing the ideals of the Republic of Indonesia to achieve a just and prosperous society. Therefore, in daily life a bank must not be separated from development activities. Every bank activity must be successful in the interests of the community.

The banking system is a complex system. This banking system concerns banks, institutions, business activities, and methods and processes in carrying out their business activities. The first banking activity is to collect funds from the public. The definition of collecting funds means collecting or seeking funds by buying funds from the wider community (funding). After obtaining funds from the public in the form of deposits, banks will redistribute these funds to the public in the form of loans or better known as credit (lending). In providing this credit, loan services are also subject to loan services to credit recipients in the form of interest and administrative fees. Thus, it can be concluded that the activities of raising funds (funding) and channeling funds

(lending) are the main activities of banking.

3.2. *Banking Law Foundation in Indonesia.*

Banking principles adopted in Indonesia are contained in the provisions of Article 2 of Act Number 7 of 1992 concerning Banking which states that the principle of banking business in Indonesia is economic democracy using the principle of prudence. In this case, what is meant by economic democracy is economic democracy based on Pancasila and the 1945 Constitution. Whereas what is meant by the principle of prudence is that banks and the people involved in them when they have to make policies in carrying out their business activities are obliged to carry out their business activities, duties and authorities of each carefully, thoroughly and professionally so as to gain the trust of the public. In addition, banks in making policies in carrying out their business activities must always comply with all applicable laws and regulations consistently, based on good faith (Simatupang, 2019).

Regarding the function of banks, Article 3 of Act Number 7 of 1992 concerning Banking formulates that the main function of Indonesian banking is to collect funds and channel public funds. " This article implies that banking in Indonesia has a strategic function and is not only economically oriented, but also oriented to non-economic matters such as issues concerning national stability which include, among others, political stability and social stability (Simatupang, 2019).

Meanwhile, Article 4 of Law Number 7 of 1992 concerning Banking states that Indonesian banking aims to support the implementation of national development in the context of increasing equity, economic growth and national stability towards increasing the welfare of the people at large. Thus, it is not sufficient for the Bank to only carry out its activities, namely to raise funds and distribute public funds, but also to have clear objectives in the interest of national development. Increasing equity, economic growth and enhancing national stability are the targets of banks in carrying out activities as their function mentioned above. The success of banking in playing its role in national development will certainly be able to create a better life for the people than before (Simatupang, 2019).

3.3. *Credit distribution*

Banking has a very important role for business people. One of the products or services provided by a bank in helping the smooth running of its debtor's business is by channeling funds in the form of credit or other forms to people who are in dire need of funds. In this case, credit can be interpreted in various ways. First, credit can also be interpreted as the right to receive payment or the obligation to make payments at the time requested or at a later time because the goods are delivered at the present time. Second, credit can be referred to as the provision of money or an equivalent bill based on a loan agreement or agreement between the bank and another party which requires the borrower to pay off the debt after a certain period of time by giving interest (Fure, 2016). Meanwhile, according to Article 1 of Law Number 10 of 1998 concerning Banking, credit is the provision of money or claims that can be equated with it, based on a loan-borrowing agreement or agreement between the bank and another party which requires the borrower to repay the debt after a certain period of time by giving interest.

Lending plays an important role in banking development because in addition to meeting the financial needs of the community, banks will also get profit which is the main source of their income. The credit provided by the bank will later become a source of income for the bank because of the interest on credit loans that must be paid regularly by debtors within a certain period of time. However, this credit extension is also an activity that carries a large risk in banking activities. Therefore, banks must carry out credit risk analysis and still prioritize the principle of prudence in lending (Rai and Purnawati, 2017).

Credit has the following characteristics. Lending contains a loan and loan agreement or agreement. Lending includes lending money or invoicing the agreed ceiling. Lending has a certain period of time. Lending generates income in the form of interest, rewards, or profit sharing. Lending has risks. Lending is accompanied by guarantees and / or collateral, if any. Every community who gets credit is obliged to obey all that has been agreed upon when receiving credit. And every credit has a purpose, a period of time, there is interest, risk, and there must be a credit guarantee or collateral (Fure, 2016).

The provision of credit made by banks to customers should be able to provide legal protection, both for creditors, credit recipients, and other related parties. In providing credit to customers, there are several cases that must be considered by banks in order to protect and secure public funds that are managed by the bank. First, the granting of credit must be done using the principle of prudence. Second, the provision of credit must be based on confidence in the ability and ability of the debtor to pay off his debt as agreed. Third, the provision of credit must be carried out in a manner that is not detrimental to the bank and the public entrusting their funds to the bank. Fourth, giving credit must pay attention to sound credit principles. To gain confidence in the ability and capability of a debtor, there are several customer factors that must be carefully assessed or considered by the bank, namely character, ability, capital, collateral, authority to borrow and the debtor's business prospects

(Siswanto, 1995).

3.4. Credit Analysis

In the process of extending credit to the public, banks must comply with two main principles of the bank, namely the principle of trust and the principle of prudence. The principle of trust pays attention to the efforts of banks to place the public in their main position in every banking activity so that people always believe in the role of banking as a means of investment. The prudential principle puts pressure on the bank's efforts to treat public funds carefully and safely in every banking activity. So that credit is not bad, the bank, in providing credit, must be careful to analyze and consider all relevant factors. For that, it is also necessary to monitor the provision of credit.

The important thing for the bank to do before entering into a credit agreement with a debtor customer is to conduct an examination accompanied by an in-depth analysis of the good faith and ability of the debtor customer to repay credit or financing so that the bank has the confidence to provide the said credit or financing. This confidence is obtained from the results of credit assessment before credit is disbursed. Credit assessment or analysis by a bank can be carried out in a number of ways to obtain confidence about its customers, such as: through correct procedures; in assessing the criteria and aspects of the assessment remain the same; and with the determined measurements it has become the standard of assessment for each bank.

According to the concept of banking financial management, banks should examine aspects that are owned or attached to debtor customers that can be used to measure the ability of debtor customers to repay their loans to the bank. The assessment or examination criteria that must be carried out by the bank to find customers who are truly profitable and able to pay their credit, are carried out by analyzing aspects which are then known as the 5C Principles, including character, capacity, capital, collateral, condition of Economic (Wahyuni, 2017).

Character, a belief that, the nature or character of the person to be given credit is truly trustworthy. This is stated in the customer's background, both work and personal, such as: the way of life or lifestyle he adopts, family circumstances, hobbies, social standing, morals and honesty of the credit applicant. Capacity, to see the customer in the ability to control the business, which is related to his education, his ability to understand government regulations, lead, master the field of business, sincerity and see future perspectives, so that the applicant's business runs well and makes a profit (rendable), and in the end can return the credit it receives. Capital, namely the capital of the credit applicant, to develop his business. To see whether the use of capital is effective, look at the financial statements (balance sheet and income statement) by measuring such as in terms of liquidity and solvency, profitability and other measures. Capital must also be seen from the sources of existing capital.

Collateral is assets that can be tied up as collateral, in order to ensure repayment at a later date, if the credit recipient does not pay off the debt. The guarantee should exceed the amount of credit given. The validity of the collateral must also be checked, so that if there is a problem or bad credit, the guarantee that is deposited will be used as soon as possible. Guarantees are not only in the form of material things but can also take the form of intangible guarantees, such as: personal guarantees (borgtocht), letters of guarantee, letters of comfort, recommendations and availability. Condition of economic refers to the political, social, economic, and cultural situation that can affect the economic situation at a certain time and period, where the credit given by the bank to the applicant, including the business prospects of the sector being carried out, must be the prospect of a business that actually has good prospects, so the possibility of a credit problem is relatively small.

The explanation above supports the provisions contained in Article 8 Paragraph 1 of Act Number 7 of 1992 concerning Banking which states that in providing credit or financing based on Sharia Principles, Commercial Banks are required to have confidence based on in-depth analysis of the intentions and abilities and abilities of a Debtor Customer. to pay off the debt or return the said financing in accordance with what was agreed.

The elucidation of this paragraph states that credit or financing based on Sharia Principles provided by banks contains risks, so that in its implementation the bank must pay attention to the principles of crediting or financing based on sound Sharia Principles. To reduce this risk, guarantees of credit or financing based on Sharia Principles in the sense of confidence in the ability and ability of a Debtor Customer to pay off his obligations as agreed is an important factor that must be considered by the bank.

To obtain this assurance, before extending credit, a bank must make a careful assessment of the character, ability, capital, collateral and business prospects of a debtor customer. Given that collateral is one of the elements of credit extension, if based on other elements, confidence in the ability of a Debtor Customer to repay his debt, collateral can only be in the form of goods, projects, or receivables financed with the credit concerned. Land whose ownership is based on customary law, namely land whose proof of ownership is in the form of girik, petuk, and other similar types can be used as collateral. Banks are not required to ask for collateral in the form of goods that are not directly related to the object being financed, which is commonly known as additional collateral. In addition, banks in providing credit or financing based on Sharia Principles must also pay attention to the results of the Environmental Impact Analysis for large-scale and high-risk companies so that the financed

project maintains environmental sustainability.

Furthermore, Article 8 Paragraph 2 of Act Number 7 of 1992 concerning Banking states that (2) Commercial banks are required to have and apply guidelines for lending and financing based on Sharia Principles, in accordance with the provisions stipulated by Bank Indonesia. Meanwhile, the elucidation of this paragraph states that the main provisions stipulated by Bank Indonesia include: [a] the provision of credit or financing based on Sharia Principles is made in the form of a written agreement, [b] the bank must have confidence in the ability and capability of a Debtor Customer which is between others are obtained from a careful assessment of the character, ability, capital, collateral, and business prospects of a debtor customer, [c]. the obligation of banks to prepare and implement procedures for providing credit or financing based on Sharia Principles, [d] obligations of banks to provide clear information regarding procedures and requirements for credit or financing based on Sharia Principles, [e] prohibitions for banks to provide credit or financing based on Sharia Principles with different requirements for debtor customers and / or affiliated parties, and [f] dispute resolution.

3.5. Credit Collateral

Loans granted by banks to debtor customers certainly carry risks, so that in its implementation the bank must pay attention to sound credit principles. To reduce this risk, the guarantee of credit extension, in the sense of confidence in the ability and ability of the debtor to pay off his obligations as agreed, is an important factor that must be considered by the bank. To obtain this confidence, before granting credit, banks must make a careful assessment of the character, ability, collateral, and business prospects of the debtor (Hermansyah, 2008).

In general, lending activities require a debt guarantee or what is called a credit guarantee (collateral). Collateral, which is used as one of the requirements for granting credit, can be in the form of objects which are legally classified as immovable property (for example land and buildings) and can also be in the form of objects which are legally classified as movable objects (for example motorized vehicles). According to Article 1 of Law Number 10 of 1998 concerning Banking, collateral is an additional guarantee submitted by a Debtor Customer to a bank in the framework of providing credit or financing facilities based on Sharia Principles. The function of providing guarantees is to give the bank the right and power to get repayment with these collateral, if the debtor fails to pay back his debt at the time specified in the agreement.

The rights that provide guarantees are specifically regulated in the Civil Code. Which rights are privileges, pawns, and mortgages are said specifically because apart from the guarantee rights, there are those regulated in the Civil Code as well as those regulated outside the Civil Code. Guarantee is a means of protection for creditor security, namely certainty on the repayment of debtor's debt or the implementation of an achievement by the debtor or by the debtor guarantor. The existence of a guarantee is a prerequisite to reduce the risk of banks in channeling credit. However, in principle, the guarantee is not the main requirement. The bank prioritizes the feasibility of the business it finances as the main guarantee for credit repayment according to a mutually agreed schedule (Hartika, 2016).

According to Usman (2011), the term credit collateral is part of the term credit guarantee. That is, the definition of guarantee is broader than the definition of collateral. In this case, the term collateral relates to goods, while the term guarantee does not only relate to goods, but also relates to the character, capacity, capital, and condition of economy of the related debtor customer. Collateral is an additional guarantee (*accessoir*). The purpose of the collateral is to obtain a credit facility from the bank so that the guarantee is given to the bank.

However, it should be noted that not all collateral objects can be guaranteed by banking institutions. Objects that can be pledged are objects that meet certain conditions, which can help prospective debtors to obtain credit more easily, do not weaken the potential for debtors to carry out or continue their business, and provide assurance to creditors that collateral is available at any time. to be executed and can be cashed easily to pay off debtor debts. Thus, credit guarantees must have two characteristics, namely secured and marketable. In other words, credit guarantees are legally binding so that if a debtor customer defaults (default), the bank has the juridical power to carry out the execution of the credit guarantee. In addition, if the guarantee is to be executed, the guarantee can be immediately sold or cashed to pay off all debtor liabilities (Usman, 2011).

According to Usman (2011), the uses of credit collateral include the following. First, to give the creditor the right and power to get repayment of the collateral if the debtor is in default, namely to pay back the debt at the time stipulated in the agreement. Second, ensuring that debtors participate in transactions to finance their business, so that the possibility of leaving their business or project at the expense of themselves or their company can be prevented or at least the possibility of doing so can be minimized. Third, to encourage debtors to fulfill their promises, especially regarding repayments in accordance with agreed conditions so that the debtor and / or third parties who participate in guaranteeing not to lose the pledged assets.

Lending is a form of lending money. People who need funds can apply for credit to the bank by fulfilling the requirements and procedures set by each bank. In general, bank operational activities are found to have a debt guarantee or what is commonly called a credit guarantee. The bank conducts an assessment from a legal and economic point of view of the credit guarantee object submitted by the prospective borrower before accepting it

based on applicable legal regulations and bank internal regulations (Sambe, 2016).

Credit guarantees that are approved and accepted by the bank, will have several functions. One of them is to secure credit repayment if the borrower fails to promise. If the credit received by the borrower is not repaid so that it is concluded as bad credit, the credit guarantee received by the bank will be disbursed to pay off the bad credit. Thus, credit guarantees have an important role in securing the return of bank funds channeled by banks to borrowers through the provision of credit. From banking practice, it can be noted that the sale (disbursement) of credit guarantee objects is made to pay off the bad credit of the borrower. The sale of the credit guarantee is an action the bank needs to take to recover the repayment of the funds it has lent. Because the borrower does not fulfill its obligations in accordance with the credit agreement (Bahsan, 2007).

In Law Number 10 of 1998 concerning Banking, collateral is not an absolute requirement. Therefore, based on the provisions stated in article 8 of Law Number 10 Year 1998, it is possible for banks to provide loans without collateral. The guarantee here is only one of the conditions that must be fulfilled by the customer in addition to other conditions. However, in operational practice, in lending, banks always require collateral in the form of assets belonging to the debtor. In this case, the debtor's most preferred property as collateral is land (Bambang, 2014).

The elucidation of Article 8 of Law Number 10 Year 1998 concerning Banking states that lending is an activity that contains risks, so that in its implementation, banks must pay attention to sound credit principles. To reduce this risk, the guarantee of credit extension, in the sense of confidence in the ability and ability of the debtor to pay off his debt as agreed, is an important factor that must be considered by the bank. To obtain this assurance, before granting credit, the bank must make a careful assessment of the character, ability, capital, collateral and business prospects of the debtor.

Considering that collateral is one of the elements of the credit guarantee guarantee, if based on other elements there is confidence in the debtor's ability to repay his debt, collateral can only be in the form of goods, projects or collection rights financed by the credit concerned. Therefore, the guarantee based on the provisions of Article 8 of Law Number 10 Year 1998 is not a means of guaranteeing a refund. So it can be concluded that based on the provisions of the Law, in the provision of credit, the existence of a guarantee is an important one, even though it is not a physical guarantee.

3.6 Financial Engineering

The banking industry is an important part of building the economy of a country or region, including in Indonesia. Therefore, the banking industry is required to think creatively and innovatively in an increasingly competitive market environment and the current era of globalization. The banking industry needs to develop more innovative business strategies to achieve superior performance. Competitive advantage is the core of the performance of business organizations to compete and develop based on the values that the company creates for its customers. Competitive advantage enables business organizations to defend themselves from the competitive pressures of the market. Innovation is one of the key success factors for business organizations, including the banking industry. The banking industry is required to be able to create product and service innovations in addition to being able to develop effective business strategies to face market competition. In developing this innovation strategy, of course, the banking industry is also required to be able to identify opportunities and threats that exist in its business environment (Mukminin, 2018).

The process of innovation in a business organization is influenced by various factors: both internal and external factors. In addition, innovation is also related to insights and perspectives. This point of view will be greatly influenced by experience, religion, and scientific disciplines, even various kinds of scientific disciplines. Science is basically born and developed as a consequence of human efforts both to understand the reality of life and the universe as well as to solve life problems faced, as well as to develop and preserve the results that have been achieved by previous humans (Surajiyo, 2000). Therefore, for the development of product and service innovation it is necessary to utilize all the potentials of scientific disciplines because one discipline will be related to other disciplines. Often times, a discipline touches on an artistic aspect. Therefore, in art there are also various aspects that can enrich and deepen certain disciplines. Often we hear the term art in various objects of activity, for example the art of doing business, the art of managing, including the art of giving credit.

Financial engineering is a discipline related to the introduction of new financial products and services or financial products and services that are better than existing financial products and services. The creation of these new financial products and services is done through innovative designs or repackaging of existing financial instruments. This financial engineering combines computational mathematics studies with quantitative economics and finance that are implemented in securities valuation and risk management, financial management, insurance, taxation, derivative accounting, commodity trading and other financial decision applications (Felix et al., 2015; Osuoha, 2013). Innovating financial instruments and processes can increase the efficiency of the banking industry by increasing the variety of financial products and services they provide to consumers. The innovation of these financial instruments and processes includes the discovery of new products and services,

modification of existing products and services, or combining the characteristics of existing products and services (Osuoha, 2013). According to Finnerty (1988), corporate financial engineering includes three types of activities, namely developing innovative financial instruments, developing innovative financial processes, and developing creative solutions to corporate financial problems.

4. Concluding Remark

One of the Bank's efforts is to extend credit to the public. Funds received from the public will eventually be redistributed by the bank to the public through various business activities, especially in the form of providing credit. However, extending credit to customers is one way to increase development. In Law Number 10 of 1998 concerning Banking, collateral is not an absolute requirement. Therefore, based on the provisions stated in article 8 of Law Number 10 Year 1998, it is possible for banks to provide loans without collateral. The guarantee here is only one of the conditions that must be fulfilled by the customer in addition to other conditions. However, in operational practice, in lending, banks always require collateral in the form of assets belonging to the debtor.

The elucidation of Article 8 of Law Number 10 Year 1998 concerning Banking states that lending is an activity that contains risks, so that in its implementation, banks must pay attention to sound credit principles. To reduce this risk, the guarantee of credit extension, in the sense of confidence in the ability and ability of the debtor to pay off his debt as agreed, is an important factor that must be considered by the bank. To obtain this assurance, before granting credit, the bank must make a careful assessment of the character, ability, capital, collateral and business prospects of the debtor.

Considering that collateral is one of the elements of credit guarantee, if based on other elements there is confidence in the debtor's ability to repay his debt, collateral can be in the form of goods, projects or collection rights financed by the credit concerned. Thus, the guarantee based on the provisions of Article 8 of Law Number 10 Year 1998 is not a means of guaranteeing a refund. So it can be concluded that based on the provisions of the Law, in the provision of credit, the existence of a guarantee is an important requirement, even though it is not a physical guarantee.

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