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## SUBSIDIZED HOME OWNERSHIP CREDIT AGREEMENT AT THE MATARAM BRANCH OF PT. BANK TABUNGAN NEGARA

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### **ABSTRAK**

*Regarding to the fulfillment of the housing needs of the society, Indonesian government finally issued a policy related to subsidized housing ownership for low-income groups by installments through banks. However, the subsidized housing loans oftentimes experienced bad credit due to a lack of prudence by the bank in analysis before granting credit. The research method used in this study is a normative research method, by using library materials as primary data, especially from literature. The results of this study are to avoid the possibility of bad credit in the provision of subsidized housing loans, the bank as the creditor must be able to apply the prudential principle by conducting credit analysis in approving a credit application submitted. The principle of bank prudence takes the form of the 5C principles, which then known as Character, Capacity, Capital, Collateral, Condition of economy.*

**Keywords:** *Subsidized Home Ownership; Credit Agreement; Housing Ownership.*

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### **INTRODUCTION**

The development in the new order government era, and the reformation era that is currently underway, the direction of national development is increasingly emphasized on efforts to improve the welfare of the community, especially those with lower middle income, which statistically ranks the most in society. One of the programs that is currently being pushed to improve the dignity of the middle and lower economic class community is the development of housing and settlements that are livable and meet environmental requirements.

The construction of housing and settlements is regulated by the government within the Law Number 1 of 2011 Concerning Housing and Settlements which is intended to provide direction for housing and settlement development.<sup>1</sup> The existence of economic development has certainly led to social changes in achieving justice and the welfare of the general public. Based on Article 1 Point (7) of Law Number 1 of 2011 Concerning Housing and Settlements, it is determined that a house is a building that functions as a suitable place to live, a means of fostering a family, a reflection of the dignity and worth of its inhabitants and an asset for its owner.

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<sup>1</sup>Law Number 1 of 2011 Concerning Housing and Settlements.

Article 3 letter (F) of the Housing and Settlement Law states that the purpose of holding housing and residential areas is to ensure the realization of livable and affordable houses in a healthy, safe, harmonious, organized, planned, integrated and sustainable environment.<sup>2</sup> In meeting the housing needs, especially for low-income groups is the availability of funding through housing loans, or hereinafter mentioned as People Housing Credit (KPR). Home ownership through mortgage facilities is alternative choices that is in great demand by the public. By the mortgage facilities, people can own a house on credit, or at least they can occupy a house without having to pay off the house price first.

The government is obliged to implement the construction of affordable housing for low-income people. Therefore, the government through banks has launched a credit program or low-cost housing financing that is intended for low-income people, namely the Housing Distribution Liquidity Facility or also known as subsidized mortgage program and hereinafter mentioned as FLPP. By this chance, the government cooperates with banks, one of which is PT. Bank Tabungan Negara or hereinafter mentioned as Bank BTN, which is the form of implementing bank of the FLPP. Banks, as parties in various credit activities, should naturally establish a legal basis that can be used for banks and members of the public who need funding.

The Banking Law provides basic provisions for banks that provide credit to customers. The provisions must be owned and applied by banks in providing credit, namely:<sup>3</sup>

1. The granting of credit is made in the form of a written agreement.
2. Banks must have confidence in the ability and ability of the debtor customer which is obtained from, among other things, a careful assessment of the character, ability, capital, collateral and business prospects of the debtor customer.
3. Obligations of banks to formulate and implement procedures for granting credit.
4. Bank's obligation to provide clear information regarding credit procedures and requirements.
5. Prohibition of banks to provide credit with different requirements to debtor customers and or affiliated parties.
6. Dispute resolution.

The FLPP Program is one of government program regarding to subsidies distribution in the housing sector. Credit fund providers Bank BTN cooperate with the government in providing low interest rates, and are given special subsidies to ensure home ownership for people with low incomes and provide easy financing with low-cost, long-term sustainable fund guarantees.

Then the program is set forth within Regulation of the Minister of Public Works and Public Housing Number 21/PRT/M/2016 Concerning Ease and/or Assistance in Acquisition of Homes for Low-Income Communities, in Article 1 point (1), states that the credit/financing of subsidized housing is further so-called subsidized mortgages are home ownership loans/financing that receive assistance and/or ease of obtaining housing from the government in the form of long-term low-cost funds and housing subsidies issued by implementing banks both conventionally and with sharia principles.<sup>4</sup> Banks in general have established binding rules for both parties in the form of a written agreement, which is commonly called a credit agreement.

The agreement is one of the most important aspects in providing credit, without a credit agreement signed by the bank and the debtor, there is no granting of credit. Credit Agreement is a bond between the bank and the debtor whose contents determine and regulate the rights and obligations of both parties in relation to the provision of credit. By virtue of the credit agreement, it surely is meant to avoid any risks if one day the debtor not able to satisfy the

<sup>2</sup>*ibid.*

<sup>3</sup>Law Number 10 of 1998 Concerning Amendments to Law Number 7 of 1992 Concerning Banking.

<sup>4</sup>Regulation of the Minister of Public Works and Public Housing Number 21/PRT/M/2016 Concerning Ease and/or Assistance in Acquisition of Homes for Low-Income Communities

loan to the creditor which is a bank in the particular time or the time is temporary.<sup>5</sup> According to Article 1 Number (11) of Law Number 7 of 1992 Concerning Banking, as amended by Law Number 10 of 1998 Concerning Banking, credit is defined as the provision of money or equivalent claims, based on an agreement or loan agreement between a bank and a third-party, others that require the borrower to repay the debt after a certain period of time with interest.

The agreement is a form of the desire to bind themselves to other people and/or other legal entities, in this case those who can act as legal subjects. Article 1313 of the Civil Code states that an agreement is an act whereby one or more persons bind themselves to one or more persons.<sup>6</sup> According to Subekti, an agreement is called as an agreement because both parties agree to do something.<sup>7</sup> Subekti also said that all lending is essentially a loan agreement as regulated in Articles 1754 to 1769 of the Civil Code.

According to Mariam Darus Badruzaman, he classified bank credit agreements as named agreements.<sup>8</sup> According to Salim Hs, a named agreement is called a nomination contract which is a translation of the term *nominaat* contact, or *benoemde* in Dutch. The nominee contract is an agreement that is known and contained in Article 1319 of the Civil Code. Article 1319 reads: “*All agreements, whether they have a special name, or are known by a certain name, are subject to the general rules contained in this chapter and the last chapter.*”

The agreement has been specifically regulated in the Civil Code which is called a Statutory agreement or a Statutory agreement beyond the Civil Code, called a special agreement or statutory agreement because of these agreements regulated in the Civil Code by the legislator and the names have been given, for example, sale and purchase agreements, lease agreements, grant agreements, loan agreements and others. However, in its development the types of agreements in the Civil Code cannot meet the needs of people’s lives in the economic and trade fields, so that emerge various types of agreements that are not regulated in the Civil Code such as lease and lease agreements, distributor agreements, credit agreements, agreements to build buildings, and others.<sup>9</sup>

Refers to the magnitude of the risk that will be accepted by the bank, bank credit agreements, especially mortgages, provided in standard form. The bank provides a credit agreement form that contents have been prepared and presented to each credit applicant for approval by the credit applicant. This shows that credit agreements grow as standard contracts.

In the subsidized mortgage program, there are requirements that must be met by prospective recipients of subsidized mortgages which are regulated in the Minister Regulation of Public Works and Public Housing Number 21/PRT/M/2016 Article 10 Paragraph (1), including:<sup>10</sup>

- a. Have an ID card;
- b. Not owning a house;
- c. Have never received a subsidy for housing acquisition in the form of home ownership from the government;
- d. Have a Taxpayer Identification Number (NPWP);
- e. Have an individual Annual SPT in accordance with the laws and regulations;

<sup>5</sup>Monica Windiar, Rahmi Zubaedah, Rani Apriani, (2021), “The Mortgage Guarantee as the Settlement Effort of Non-Performing Loan and the Resistance In the Execution of Collateral.”*Unram Law Review*, Vol 2 No 1, p. 172., DOI <https://doi.org/10.29303/ulrev.v5i2.168>. (accessed at 01 January 2022).

<sup>6</sup>Civil Code.

<sup>7</sup>Subekti. (2008). *Hukum Perjanjian*. Jakarta: Intermass: (hereinafter mentioned as Subekti I), p.1

<sup>8</sup>Mariam Darus Badruzaman. (2015). *Hukum Perikatan dalam KUH Perdata buku ketiga, yurisprudensi, doktrin, serta penjelasan*. I Edition. Bandung: PT. Citra Aditya Bakti, p.40

<sup>9</sup>Sutarno. (2014). *Aspek-Aspek Hukum Perkreditan pada Bank*. V Edition, Bandung: Alfabeta, 2014, p. 68

<sup>10</sup>Minister Regulation of Public Works and Public Housing Number 21/PRT/M/2016

f. Have an income that does not exceed the income limit as referred to in Article 9 Paragraph (2) as evidenced by a salary slip validated by the authorized official or a statement of income from the person concerned for non-permanent income which is known by the village head/lurah where the ID Card is issued.

Subsidized mortgages must also comply with the rules that have been stipulated in the ministerial regulation, namely by being proven by a statement letter on stamp duty which states that:

- a. The income does not exceed the income limit of the target group;
- b. Buy a house with a selling price that does not exceed the selling price limit set by the government;
- c. Will occupy the house as a place of residence within a period of no later than one year after the handover;
- d. Will not rent and/or transfer ownership to other parties.

Various problems often arise refers to the regulations above, recipients of subsidized housing which are also intended for people who have irregular incomes and have never owned a house, as evidenced by a statement letter known to the village head or the headman where the ID Card was issued. This raises a problem where the statement letter is very easy to manipulate so that subsidized mortgages intended for low-income people are not on target. This has an impact on the house being abandoned or not inhabiting the house for one year in a row because most debtors buy subsidized houses from the government which are only used as investment land by some people who can afford it.

The problem raised in this paper is the cause of the debtor's inability to carry out his obligations in the subsidized mortgage agreement due to the bank's carelessness which led to bad loans.

## METHOD

The research method used in this paper is a normative research method by making library materials as primary data, especially those that can be obtained from the library. Normative legal research always takes issues from the law as a system of norms used to justify perspectives on a legal event. The approach used in this paper uses a statutory approach and a conceptual approach.<sup>11</sup>

## ANALYSIS AND DISCUSSION

### Requirements for KPR at Bank BTN

On the process of taking a subsidized housing, the requirements that must be completed by the applicant as a subsidy target group, namely Indonesian citizens aged 21 years or married, a maximum basic income of four million for landed houses and seven million for flats, the applicant and his partner do not own a house, and have never received a housing subsidy from the government, signing a statement letter on stamp duty, owning Taxpayer Identification Number or hereinafter written as NPWP and annual personal income tax return and a statement of income (except for applicants whose income does not exceed Non-Taxable Incomes limit).

The target group for receiving subsidized mortgages was previously stated in the Regulation of the Minister of Public Works and Public Housing of the Republic of Indonesia Number 26/PRT/M/2016 Concerning amendments to the Regulation of the Minister of Public Works and Public Housing Number 21/PRT/M/2016 Concerning Ease and/or or Housing Acquisition Assistance for Low-Income Communities in Article (10) reads as follows:

<sup>11</sup>Peter Mahmud Marzuki. (2005). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group, p. 94 and 96.

- a. The target group for receiving KPR as referred to in Article 9 paragraph (1) meets the following requirements:
  - 1) Have an ID card;
  - 2) Do not own a house;
  - 3) Never received a subsidy for housing acquisition in the form of home ownership from the government;
  - 4) Have a NPWP;
  - 5) Have an Individual Income Tax with Annual Notification Letter in accordance with the laws and regulations; and
  - 6) Have income not exceeding the income limit as referred to in Article 9 Paragraph (2) as evidenced by a salary slip validated by the authorized official or a statement of income from the person concerned for non-permanent income which is known by the village head where the ID Card is issued.
- b. In event that the target group as referred to in paragraph (1) is husband and wife, it is required that both of them do not own a house and have never received a housing subsidy in the form of housing ownership from the government;
- c. The provisions as referred to in paragraph (1) letter b and letter c are excluded for PNS/TNI/POLRI who change their domicile due to service interests;
- d. The exclusion provisions as referred to in paragraph (3) are valid only for one time;
- e. In the event that the target group's income does not exceed the limit of non-taxable income, it is excluded from the requirements for the Annual Income Tax Return for individuals as referred to in paragraph (1) letter e;
- f. The Annual Personal Income Tax Return as referred to in paragraph (1) letter e is required for the target group who has an NPWP of more than 1 (one) year, while those who have an NPWP of less than 1 (one) year must submit an annual Personal Income Tax Return in the following year to the implementing bank;
- g. The feasibility analysis for obtaining subsidized mortgages and fulfilling the requirements as the target group for subsidized mortgage applicants is carried out by the implementing bank; and
- h. MBR with non-fixed income who work in the informal sector can deposit funds for payment of subsidized mortgage installments to the implementing Bank on a daily or weekly basis or in accordance with the applicable regulations at the Implementing Bank.

The requirements to be able to get credit at the Mataram branch of the State Savings Bank must meet the requirements, including the applicant's identity card of husband and wife, marriage certificate for those who are married, family card, latest salary slip, savings statement for the last three months, appointment decree, money a minimum advance of 20% (not binding in accordance with the provisions of obtaining credit from the bank concerned), the advance booking fee will be returned in full if the applicant is rejected by the bank, the selling price and bank interest can change at any time as a sign of prior notification to the debtor, excess land will be calculated according to the price per square meter of land at the time of the transaction, the debtor is subject to the provisions.

The description above shows the difference in positions between the debtor and the company. The position of the debtor is very weak because it can only accept the provisions made by the company and Bank BTN.

## Stages in Application for a People House Credit (KPR) Agreement

The requirements for applying for a house credit (KPR) for Indonesian citizens are 21 years old, or under 21 years old but married, sufficient income to meet monthly installments and in accordance with the maximum limit that has been set in accordance with the chosen mortgage. The credit granting process below applies to all mortgage applicants without exception. There is no difference in treatment between applicants and each other if they are both cooperative with the bank, both during the pre-credit period, namely during the credit analysis until after the credit realization, installment payments have begun.

For Prospective Debtors in home ownership through a Home Ownership Credit Agreement (KPR). To be able to own a house through the Home Ownership Credit (KPR) facility from Bank BTN, after all of the above requirements have been submitted by the applicant/prospective debtor to the bank, then the bank will then verify the eligibility of the applicant/prospective debtor. The bank will carry out a credit analysis or assessment, where the analysis must describe the concept of a total relationship, including an assessment of all credit from the applicant/prospective debtor who will obtain credit facilities simultaneously by the bank. Assessment of credit applications at Bank BTN by officials related to the credit application assessment process, namely credit analysts, takaturs, and legal.

Based on the recommendations from the results of the credit analysis/assessment as well as the overall concept of the total relationship, then on a credit application submitted by a prospective debtor, a decision is taken by the branch-level credit committee no later than 3 (three) days from the receipt of the application and the documents. complete credit file. The credit decision can be in the form of:

- a. consent without change
- b. agreement with changes
- c. rejection

Any decision to grant credit approval that differs from the content of the recommendations from the results of the credit assessment must be explained in writing by the credit committee. Every decision that is approved or rejected must be submitted in writing to the credit applicant, either in the form of a Letter of Notification and Confirmation of Credit Approval (SP3K), as well as notification of the reasons for credit refusal.

The stages of mortgage credit are as follows:

- 1) The stage of submitting a credit application at this stage. The customer comes to the office of the State Savings Bank Loan Service to fill out the forms required in the credit application and submit written and unwritten requirements to fulfill the credit application;
- 2) The interview stage after all data and documents are verified by the Loan Administration, Loan Service staff, conducting interviews with the applicant and the applicant's husband or wife. In the interview, the officer also conducts juridical analysis, credit collateral and credit estimates, all of which are compared with verbal data with form data and other supporting data. In addition, the 5C factors (Character, Capacity, Collateral and Condition of Economic) are also considered as the application of the precautionary principle and minimize the occurrence of bad loans;
- 3) Field survey stage to collect information and further analysis, Bank BTN Mataram Branch Office appoints officers from the Loan Administration section to conduct local visits (On the Spot). Field visits or surveys are carried out to determine the certainty of the permanent domicile of the self-employed applicant and the prospects for the business they are running will be directly observe.

- 4) Decision-making stage. At this stage, the credit analysis officer from both the loan service and loan administration submits the credit applicant's file and the results of the field survey to the credit committee, assesses the applicant's eligibility, and the applicant's installment ability. If it is decided at the meeting that the mortgage application is accepted, the funds are ready to be disbursed, but if not, all the applicant's files will be returned to the owner;
- 5) Loan Realization Preparation Stage. Preparation The realization of this credit includes all activities starting from the applicant applying for credit until the collection of all data. Then the parties (including the developer if through the developer) together contact the Notary with the following data. Acceptance, stating that the debtor has a debt of the agreed nominal amount and a statement that he is willing to pay it off according to the agreed time. the debt and collateral are his own.

The debt acknowledgment letter in the mortgage agreement contains the amount of interest, the amount of fees and administration, the amount of the installment, the amount of the loan in the form of collateral, the repayment period, the bond of guarantee (that the collateral under the control of BTN is considered to belong to BTN), and a power of attorney (to sell the existing collateral at Bank BTN, if the debtor's business goes bankrupt or the debtor is in bad credit status).

After the subsidy mortgage loan agreement is signed, it is recommended to give mortgage rights by the debtor to the bank as the creditor. Based on Article 1 point (1) Mortgage Rights Act, the meaning of mortgage rights is: *"Security rights are rights to land along with objects related to land, hereinafter referred to as mortgages, are security rights imposed on land rights as referred to in Law Number 5 years 1960 Concerning Basic Regulations on Agrarian Principles, including or not including other objects which are an integral part of the lands, for the settlement of certain debts which give priority to certain creditors over other creditors."*<sup>12</sup>

Enactment of Law Number 4 of 1996 concerning Mortgage Rights hoped will provide legal certainty regarding the binding of collateral with land and objects related to the land as collateral, which so far has been regulated using the provisions of *credite veerband* in the Civil Code. (KUHP<sub>perdata</sub>) including mortgage credit agreements whose collateral is in the form of land rights. Mortgage encumbrance in its entirety the object of the mortgage and every part of it. By paying off part of the debt guaranteed by the mortgage, the mortgage still burdens the entire object of the mortgage for the remaining outstanding debt.

Thus, paying off part of the debt does not result in the release of part of the object of the mortgage. According to Article 2 paragraph (1) of the Mortgage Law, it is explained that mortgage rights cannot be divided (*ondeelbaarheid*). This indivisible nature can be overcome as long as it has been agreed in advance in the Deed of Granting Mortgage Rights (APHT).

## **2. Application of the precautionary principle in the subsidy mortgage agreement at Bank BTN**

The public to obtain a Home Credit (KPR) Pt BTN (Persero) must collect data that can be used as a reason for applying credit. These reasons can be used as the main requirements to get credit from a bank. This is because the bank is an official credit institution that lives based on the legality of the legislation. In addition, the bank will also carry out a credit analysis or credit assessment which will be carried out by the credit department officer on the request for

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<sup>12</sup>Law Number 5 years 1960 Concerning Basic Regulations on Agrarian Principles.

the credit in question. The credit analysis is intended to analyze and see the ability to pay credit in order to obtain information on the bank's confidence in providing credit.

Credit analysis is carried out to avoid the possibility of default or *wanprestasi*, as arranged in the civil law. For the banking field, this is called bad credit, which is a condition where a customer is unable to pay off bank credit on time. Credit provided by the bank is based on trust, so that the provision of credit is giving trust to customers. However, it is not easy to know whether the person applying for the mortgage is a trustworthy person. Various risks in providing credit can lead to non-payment of credit when it comes to repayment, resulting in bad credit.

Banks as creditors must be able to apply the precautionary principle by conducting credit analysis in approving a submitted credit application. The bank's prudential principle is in the form of the 5 C principles, namely, Character, Capacity, Capital, Collateral, Condition of economy. Each of these sizes is described as follows:

- a. Character, is data about the personality of a prospective customer or customer related to the basic nature that is in a person's heart. To find out whether a person's character is good or bad, the analyst needs to investigate the origin of the debtor and how his daily life is.
- b. Capacity, is the ability of a prospective customer to manage their business which can be seen from their education, experience in managing their business (business record), according to the company they have managed (have experienced difficult times or not, how to overcome difficulties. Someone who is going to apply for a mortgage loan needs to be investigated first, whether the applicants can pay the down payment or not, to find out whether the applicants afford to satisfy their basic need or not (like the need of food), can be seen from their savings.
- c. Capital, is the condition of wealth owned by the company it manages. This can be seen from the balance sheet, income statement, capital structure, profit ratios such as return on equity, return on investment. From the above conditions, it can be assessed whether it is appropriate for the prospective customer to be given financing, and most of the financing limits are feasible to be given.
- d. Collateral is a guarantee that may be done in a way that the potential customer really cannot fulfill his obligations.
- e. Condition of economics, the financing provider also needs to consider the economic conditions associated with the prospective customers' business prospects. Seek information on other banks to find out whether the credit applicant has debts with these other banks, examine documents that explain the applicant's income. If according to the assessment of the bank, it will not be able to pay off or pay the monthly installments, the bank will reject the credit application submitted by the applicant. Checking credit guarantees that is house that used as credit guarantee whether the house condition is in accordance with the applicant's loan amount or not. In addition, it will also be examined how the environment in which the housing is located. If based on the bank's analysis, it turns out that the guarantee is not balanced with the amount of credit requested or the environment is not in meet the bank's requirement, then the credit application will be rejected by the bank.

Among the five formulations, the most prioritized in granting credit is collateral, which later if the debtor defaults, the collateral will be able to cover the debt from the debtor. In the credit agreement between the debtor and bank BTN, all the clauses of the agreement are determined unilaterally by the bank BTN and the debtor only has to agree to the available clauses. Articles of credit agreement consist of 26 articles. The matters regulated in the article of agreement are:

- a. Definitions include the definition of BTN housing credit, credit agreement, credit, mortgage credit, non-mortgage credit, debt, interest, annuity interest calculation system, flat interest calculation system, effective interest calculation system, arrears in installments, fines, bills,

- installments, maturity, grace period, early repayment, extra payment, prepayment, provision, credit guarantee, cession, seller/developer, credit realization for the annual period of credit;
- b. Principal amount of credit;
  - c. Credit usage;
  - d. Credit term and maturity;
  - e. Provision;
  - f. Interest rates and interest calculation system;
  - g. Credit repayment;
  - h. Arrears fine;
  - i. Extra payments, prepayments and early settlements;
  - j. Credit collateral and its binding;
  - k. Additional collateral;
  - l. Collateral insurance;
  - m. Occupancy and home maintenance;
  - n. Default;
  - o. Supervision of inspection and action on collateral;
  - p. Instant collection of all debts and house vacancies;
  - q. Control and sale of collateral;
  - r. The emergence and expiration of rights and obligations;
  - s. Irrevocable power;
  - t. Address of parties;
  - u. Transfer of receivables to other parties;
  - v. Applicable law; and
  - w. Domicile.

From the clauses in the credit agreement of Bank BTN has all been prepared in advance by the bank and the agreement cannot be changed, added or reduced by the debtor. In terms of and the form of the agreement, Bank BTN uses a standard agreement.

The standard agreement used in the credit agreement Bank BTN Mataram Branch Office contains several articles of the agreement which contradicts Article 18 paragraph (1) of the Mortgage Rights Act which states that business actors in offering goods and services intended for trading are prohibited from making or including standard clauses in each document and or agreement, if stating the transfer of the business actor responsibility.

Subsidized home ownership credit is a credit package implemented by Bank BTN to people who want to buy/get a house built by a developer (developer company) using credit, based on the table of credit provisions issued by Bank BTN Mataram Branch Office.

There are several advantages and conveniences of get a house with Bank BTN Subsidized Mortgage facilities compared to building your own house or buying without KPR facilities, the advantages and conveniences obtained by the consumer community include:

- a. Future-oriented residential areas because they are in line with the general spatial plan made by the local government;
- b. Down payment starting from 1%, flat interest rate of 5% and receiving government subsidies of 4 million rupiah;
- c. installments payment in a relatively long period of time, starting from 5 to 20 years; and
- d. Has a more definite legal guarantee because all licenses are issued by official agencies.

The conditions that must be met to get a house with a Home Ownership Credit facility subsidized by the State Savings Bank (KPR-BTN) include:

- a. Indonesian citizen at least 21 years old or married;

- b. Maximum basic income of 4 million rupiahs for landed houses and 7 million rupiahs for flats;
- c. The applicant does not own a house and has never received a housing subsidy from the government;
- d. Willing to sign a statement on stamp duty.

In addition to the requirements mentioned above, prospective debtors must also complete the following requirements for a home ownership application:

1. Photocopy of identity card, if married, photocopy of husband/wife;
2. Photocopy of family card;
3. Photocopy of marriage certificate (if already married);
4. Photocopy of NIP/NRP (especially civil servants, TNI/Polri);
5. Photocopy of husband and wife's last salary slip (legalized);
6. Statement of income recognized by the Kelurahan/Village;
7. Photocopy of SIUP/TDP/HO (for owners of companies or trading businesses or for applicants who work for private companies);
8. Photograph size 3X4 of husband and wife, 1 sheet each.

For Applicants who have met the above requirements, an interview was held by PT. BTN. If based on the analysis of the creditor (PT BTN), the third party (buyer) considered meet the requirements or is feasible, the creditor will issue a letter of approval and then processed the deeds before a notary. However, if the results of the analysis from the creditor, the debtor is considered unqualified or unfit, then the creditor issues a letter of rejection of the credit application addressed to the debtor through the developer.

In applying for a housing loan, before providing credit, PT BTN carefully analyze the character, capacity, capital, collateral and conditions of the applicant, in the form of an assessment of prospective debtors. It must particularly consider the principle of trust contained in Article 1338 paragraph 3 of the Civil Code, which reads "agreements must be carried out in good faith".

At the next stage in the procedure for the home ownership loan agreement, the bank guide the debtors who have received credit. If in the first stage Pt BTN has carried out supervision, prevention, by collecting information from the application letter of the prospective debtor, then PT BTN will decide to grant or reject the application. If the debtor's application does not meet the criteria, then the application will be rejected. If it is meet the criteria, the credit will be granted. At this stage PT BTN provides counseling and direction as well as providing motivation to debtors to realize and carry out their obligations to pay in an orderly and regular manner. The last action taken by the BTN is carry out credit rescue efforts, that is the bank's efforts to:

1. Prevent problem bad loan.
2. Restore loans that have been classified as non-current or doubtful, or restore the bad loan as current loans, when the debtor able to pay both interest and principal of the loan.

Based on the results of the research, the agreement of the home credit from Pt BTN has provided a special form prepared by the bank, therefore it is a standard agreement (*standard voorwaarden*). It contains the general requirements for receive a loan and the debtor just needs to fill in the forms and then sign it. This clearly shows that the agreement has special ways that develop in the practice of buying and selling as regulated in Article 1457 of the Civil Code.

The difference is evident in the case of a third party, namely PT. BTN (Persero) as a forum for providing funds has a very important position and role for the implementation of the sale and purchase agreement. In the banking world, that public shall know that standard agreements are made according to the will of the bank, and this pattern is outlined because it is determined by the bank itself. This pattern is outlined because simultaneous services for the benefit of the people must be carried out. The bank leadership gives the final decision, namely granting or refusing the credit, the amount of the credit and the repayment schedule. Before the credit agreement signed, PT. BTN (Persero) provides the opportunity for debtors to study the entire contents of the mortgage loan agreement. Prospective debtors cannot consult the agreement with legal experts. They only study by themselves and consider the consequences if he signs the agreement. If the debtor objected to the terms stated in the agreement, he could withdraw his credit application and BTN would not force him to sign the agreement.

Based on the description above, when viewed from the preparation of credit, credit application letters, credit processing, implementation and credit security, all of which are carried out according to a fixed pattern and are made in a standard form by Bank BTN, it was found in this study that the position of Pt BTN is not a home loan provider, but as a credit provider to buy houses and land. Therefore, Pt BTN is not responsible for the management of the house and land purchased by the debtor. It is the responsibility of the developer of the house and land.

The signing of the sale and purchase agreement between the developer and the buyer or debtor who gets a credit facility to repay the house from Bank BTN, will give rights and obligations for each party, as previously been stated in the agreement by both parties. In the Home credit-BTN Agreement the provisions that must be implemented are the binding of collateral. The credit guarantees that are determined include the principal guarantees in the form of material rights to houses and land purchased by the debtor as well as additional guarantees in the form of a certain amount of money or goods which will be determined later by Bank BTN. If the principal guarantee is no longer sufficient to be used as credit guarantee (Article 3 in conjunction with the KPR-BTN Agreement). In addition to the home credit-BTN agreement, the juridical implementation that must be carried out is the binding of collateral goods.

The obstacles that often occur in housing loans (KPR-BTN) are the occurrence of default on the part of the debtor. to overcome this problem Pt BTN as the creditor then attempts to confirm and contact the debtor whose payment is arrears, either using the address when applying for credit or the address for the KPR-BTN house that must be occupied. Due to efforts made by Bank BTN, the debtor can be contacted and received a summons to come to the office of Pt BTN Mataram Branch, aims to resolve the problem by deliberation.

The legal consequences for a debtor who defaults, it must first be determined whether a debtor (debtor) is in default or negligent. To determine if someone is in default, the assesment criteria used by BTN is number of arrears. If a debtor does not pay for just one month, it is considered a default. Therefore, the principle of prudence is required by the banking sector to avoid the occurrence of default or breaking the promise of the debtor which can cause losses to both parties, namely the bank (creditor) and customer (debtor). This precautionary principle is one way to provide legal protection for both parties. This is because legal protection is an effort to protect a person's interests by allocating a power to him to act in that interest, then one of the goals of legal protection is to provide protection to the community, this is manifested in the form of legal certainty.

The theory of legal protection refers to efforts to provide protection to the parties agreement, so that the interests of the parties have legal certainty if in the future one of the parties defaults.

If analyzed in relation to the implementation of subsidized home ownership credit (KPR) agreements. The legal protection given to parties who default are sanctions in the form of fines and additional penalties and even imprisonment. From the creditor's perspective, the legal protection provided to the bank if the customer defaults are legal steps that can be taken, namely, giving a somatie (warning) to the debtor, selling collateral, returning it to the developer for resale, and execution through state receivables and auction service office (KP2LN).

## CONCLUSION

To avoid the possibility of non-performing loans in granting subsidized housing loans, the Bank as the creditor must be able to apply the precautionary principle by conducting credit analysis in approving a loan application submitted. The bank's prudential principle is in the form of the 5 C principles, namely, Character, Capacity, Capital, Collateral, Condition of economy.

As a recommendation or suggestion in this paper, the bank as the creditor before approving the granting of subsidized housing loans conducts an analysis by taking into account the 5C principles, especially the collateral principle.

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