

Reconstruction of Banking Consumer Dispute Settlement in a Law Perspective

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Abstract— The growth of Financial Services Institutions is very dynamic both in terms of trusted offerings and the products and types of services they offer. One of the financial services sector that has developed a lot is banking financial services. However, on the other hand problems arise because the growth of the financial sector is also followed by complaints related to consumers, as well as complaints to the Indonesian Consumers Foundation (YLKI) as well as complaints to the Financial Services Authority (OJK) in Jakarta. This study aims to (1) determine the factors of legal uncertainty in resolving consumer banking disputes. (2) to find new / ideal construction in dispute resolution that can realize legal certainty for banking consumers. This research is empirical, data collection is done by field research and literature using primary data and secondary data. Data were analyzed qualitatively using an interactive analysis model. The results of the study are as follows first: there are 3 (three) legal uncertainty factors in resolving consumer banking disputes, if analyzed with Friedman's legal system theory : (1). Legal substance, there are weaknesses of the OJK Law, the Consumer Protection Act and the OJK Regulation (2). The legal structure has not yet formed the Alternative Indonesian Banking Dispute Settlement Institution (LAPSPI) in the regions so that the settlement of consumer banking disputes by non-consumer litigation leads to the Consumer Dispute Resolution Board (BPSK). In addition, the FSA is less than optimal in monitoring the implementation of banking consumer protection. (3). Legal culture, the lack of consumer understanding of the knowledge of banking dispute resolution, this is because the FSA's programs and policies are only focused on banking services and products. Therefore an ideal reconstruction needs to be carried out, namely by: (1). Legal Reform in the Legal Substance by strengthening PERMA No. 2 of 2005 (Litigation) and Revision of POJK No. 01 / POJK.07 / 2014 (Non-Litigation); (2). Empowering the existence of Non-Litigation Legal Structures, with the establishment of LAPSPI in the regions and oversight by OJK more optimal; (3). Building a Legal Culture through Education and Socialization of Non-Litigation Settlement.

Keywords— *Reconstruction , consumer banking disputes, legal certainty*

I. INTRODUCTION

Along with the growth of community economic activities in various fields has driven the growth of the financial services industry. Financial services are a form of service provided by financial services businesses to meet a variety of consumer needs both in the context of meeting investment, production and consumption needs as well as a means of managing consumer finance and other financial services.

The growth of Financial Services Institutions is very dynamic both in terms of the quantity of business actors as well as the products and types of services they offer. Government regulations and policies in the financial services sector also run dynamically as changes and developments in society even tend to facilitate their growth. One of the financial services sector that has developed a lot is banking financial services. Bank financial services institutions have a very important role for a country's economy. Bank financial institutions act as intermediaries who have excess funds with other parties who need funds.

But on the other hand problems arise because the growth of the banking financial services sector is also followed by many complaints and problems faced by consumers. Survey results from the National Consumer

Protection Agency (BPKN) in 2014 with universities in 5 (five) provinces, North Sumatra, South Kalimantan, South Sulawesi, West Nusa Tenggara and East Java against 2000 respondents, around 96.6 percent, service institutions bank finance in general has not been satisfactory. Public complaints as banking consumers are related to the lack of information on the accumulation of interest rates, fund transfers, the use of automatic teller machines (ATMs) and credit terms. Consumers say banks often do not explain products in detail and are easy to understand.

Likewise, complaints received by the Indonesian Consumers Foundation (YLKI) as of November 2017, YLKI received 301 written complaints, not yet online (online). Complaints of the banking sector occupy the top position, which is 24 percent. The second position is electricity, 14 percent, third, housing 11 percent, the financing sector 8 percent and the telecommunications sector 6 percent. According to the Chairperson of the YLKI Daily Board, Tulus Abadi, the banking sector in the past six years occupies the highest position, this shows the OJK has not succeeded in improving the performance and performance of the banking sector and financial services in Indonesia.

The latest complaint data in 2018 at the Jakarta FSA is still the most related to banking services, namely by 53.3 percent, then by insurance by 25.8 percent, multi-finance

institutions by 12.7 percent, the capital market by 3 percent and pension funds by at least 1.3 percent. The biggest complaints in the banking product sector amounted to 238 complaints, credit or financing restructuring totaling 82 complaints, disbursement or insurance claims 75 complaints, difficulty claim 71 complaints, and collateral problems or 43 complaints.

According to Adi Sulistiyono, the business community in general resolves disputes through two approaches, namely the litigation paradigm (PLg) and the non-litigation paradigm approach (PnLg). The court as a pillar of PLg is the main foundation of the community to settle modern disputes. The court as the backbone of the modern legal system is the most recent evolution in the development of the legal system and is considered the most representative to provide solutions to disputes that occur in modern society. The court is also equipped with a bureaucratic order inherent in modern law. However, in the practice of dispute resolution, it is evident that the use of PLg through the court cannot be relied upon fully to resolve all disputes (panacea) in society satisfactorily. The results of court decisions often lead to the alienation of the community in the value of justice, the hostility of the parties to the dispute deepens, consumes time, energy and costs and causes legal uncertainty.

Research conducted by Eman Suparman also found that the use of the justice system as a means of distributing justice proved many obstacles. As for the causal factor is because the judiciary is loaded with the burden of formalities, procedures, and strict bureaucracy. Therefore justice distributed through the judiciary is given through bureaucratic decisions for the public interest, hence tends to be rational justice. Therefore, justice obtained by modern society is nothing but bureaucratic justice.

Therefore Lincoln, as quoted by M.Ali, reminded that every community does not always take their dispute cases to court because the resolution of disputes in court has more disadvantages than benefits. Only the person is called a winner, but often in reality the person is included in the losing party, because it has lost the cost and takes a long time.

Kurniawan in his writing also revealed that in resolving disputes using the court has proven to cause a lot of dissatisfaction with the parties to the dispute and the wider community. The court is deemed not to humanize the parties to the dispute, to keep the parties to the dispute from justice, the place where the judge's decision is traded, and others aimed at the judiciary. So in its development the Alternative Dispute Resolution outside the court then develops in resolving business disputes that occur between consumers and business actors including the consumer service sector financial disputes.

Stewart Macaulay's research found that entrepreneurs in the United States actually preferred to resolve their contract disputes outside formal justice. The entrepreneurs put forward economic logic rather than legal logic, because if using legal instruments to resolve their dispute will have implications for the rift of business relationships that they have painstakingly established, incur large and time-consuming costs that will drag around the path laden with formalities .

The use of non-court methods to resolve disputes has also become a part of Japanese culture. For Japanese society,

dispute resolution is not only inappropriate but also morally wrong, because it causes a gap between state law and prevailing social reality.

So as stated by Adi Sulistiyono that the purpose of developing non-litigation settlement is not to replace litigation settlement, but so that alternative use of dispute resolution can also be the people's choice to resolve business disputes, so that the community (disputing parties) not only rely on litigation settlement to resolve the dispute.

The passage of the Consumer Protection Act is expected to become a legal umbrella that can protect consumer rights, as well as its expectations with the passing of the OJK Law, then based on the principle of *lex specialist derogat lex generalis* will provide protection to consumers of the financial services sector of banks whose users (consumers) occupies the highest position in Indonesia. The Consumer Protection Act states that consumers who feel disadvantaged or violated their rights can file legal remedies (by suing) business actors, both litigation (through the courts) and non-litigation (outside the court). Non-litigation settlement through the Consumer Dispute Settlement Agency (BPSK) as a public body / institution that has the duty and authority to carry out the handling and settlement of consumer disputes through conciliation, mediation, and arbitration.

Settlement at BPSK is considered to be in favor of consumers and is considered not to have provided a satisfactory solution for banking service businesses. Such conditions encourage OJK to establish Alternative Dispute Resolution Institutions in the Financial Services Sector (LAPS-SJK) through OJK Regulation Number 1 / POJK.07 / 2014. The establishment of LAPS-SJK is based on the consideration that OJK wants to provide alternative dispute resolution institutions specifically dealing with disputes that occurs between consumers and financial service businesses. It is hoped that the settlement of financial service sector consumer disputes does not reach the Court with the intention of resolving non-litigation facilitation (outside the Court).

The role of the OJK in educating and facilitating the resolution of consumer banking disputes is also felt to be less than optimal, so that banking consumers choose settlement through litigation through the District Court or choosing non-litigation through BPSK.

Based on a number of descriptions in the background mentioned earlier, the purpose of this study is to:

1. Know the legal uncertainty factor in resolving consumer banking disputes.
2. Find a new or ideal construction in resolving consumer banking disputes that can realize a fair legal certainty for banking consumers.

II. RESEARCH METHOD

This research is an empirical legal research (non-doctrinal), so the researchers conducted a study through two stages, namely: The first stage, conducting library research is library research with the aim of obtaining secondary data. Secondary data obtained from primary legal materials are laws and related regulations, and the decision of the Supreme Court Judge (MA). Secondary legal materials are from research results,

scientific journals, dissertations, theses search for relevant legal materials via the internet. Tertiary legal material from encyclopedias, legal dictionaries and Indonesian dictionaries. The second stage is field research is a field study on research objects in order to get primary data in accordance with the objectives set in the study.

Primary Data Sources are data obtained directly from respondents in the form of interviews with informants and respondents at the study location, namely: OJK in Jakarta, OJK in Malang, BPSK in Malang, Bank BNI branch in Malang, Bank consumer in Malang. The data collection techniques used in this study are in-depth interviews (interviewees), conducted to informants OJK at Jakarta the Consumer Protection Policy Directorate and other resource persons. Whereas unstructured interviews or unstructured interviews with bank consumer respondents. Data collection techniques with the study of documents are closely related to the data source used. Written documents are data sources that have an important position in qualitative research. The documents obtained are the results of research at research sites that support the data requirements needed by researchers.

In accordance with the type of research used, the researchers used the Interactive Model of Analysis from Miles and Huberman, to analyze the results of the research that had been conducted. Components of interactive model data analysis by doing:

1. Data collection (data collecting) is done to obtain the information needed in order to achieve research objectives. Data collection is done by interview and documentation;
2. Data reduction by summarizing, selecting and focusing data on things that are in accordance with the research objectives. On at this stage, researchers do data reduction by picking, categorizing and making abstractions from field notes, interviews and documentation;
3. Presentation of data (data display) is done after the data has been reduced or summarized. Data obtained from interviews and documentation were analyzed and then presented in the form of CW (Interview Notes), and CD (Documentation Notes). Each data was analyzed in the form of narration and the data presentation was arranged logically and systematically.
4. Conclusion drawing and verification (conclusion drawing /verifying), based on data that has been reduced and presented, researchers make conclusions that are supported by strong evidence at the data collection stage. The conclusion is the answer to the formulation of the problem and the question that has been raised by the researcher from the beginning.

III. RESULT AND DISCUSSION

A. LEGAL UNCERTAINTY FACTORS IN SETTLEMENT OF CONSUMER BANKING DISPUTES

Building a national legal system is broader than merely producing a set of written rules and norms. Beyond these rules and norms, there are other elements arranged in the fabric of interactions which ideally lead to the achievement of national goals and interests.

According to Abdul Manan, the legal functions include, first, as a standard of conduct, which is the standard of behavior that must be obeyed by everyone in acting and engaging with one another; secondly, as a tool of social engineering, that is, as a means or tool to change society for the better, both personally and in social life; third, as a tool of social control, namely as a tool to control human behavior and actions so that they do not commit acts against the law, religion and immorality; fourthly, as a facility on of human interaction, namely the law functions not only to create order, but also creates changes in society by expediting the process of social interaction and is expected to be a driver to bring about changes in people's lives.

In order for the legal function to function as expected, the law must not be static, but must always be dynamic, changes must always be made in line with the times and dynamics of people's lives. Satjipto Raharjo calls it the theory of Progressive Law which emphasizes that law is for humans and not vice versa, law is not only the building of regulations, but also the building of ideas, culture and ideals.

The existence of law in various fields in society is expected to be able to carry out its functions as a means of dispute resolution, a means of social control, a means of social engineering, a means of community emancipation, a means of legitimacy and control of changes or as a means of distributing justice. In this case Dragon Milovanovic prefers to simplify these legal functions in three categories, namely repressive functions, facilitative functions and ideological functions.

In this case the author studies using the legal system theory from M. Friedman so that it can be seen the factors that cause banking consumers have not received the ideal legal protection in the event of a dispute between consumers and banking institutions. This analysis is examined from several factors: legal substance, legal structure and legal culture.

1. Legal Substance

Concerning to legal substance of the consumer protections, there are provisions that directly mentioned and regulated to this issue, as follows:

a. Article 28 point (a) of the OJK Law

Regarding prevention of community losses, article 28 point (a) of the OJK Law explains OJK has the authority in information and education to the public on the characteristics of the financial services sector, services, and products "not listed provisions that should also mention to provide information and education to the public about the rights - as a consumer in the event of a dispute between the consumer and the financial service institution This is important because the provisions of article 28 (a) only limit and mention providing information and education to the public on the characteristics of the financial services sector, services, and products, so the policies and programs of the Financial Services Authority Institution put forward more policies and programs and carry out education and Financial Services Literacy through the Indonesian National Financial Literacy Strategy.

b. POJK 1./POJK.07/2014

OJK Regulation No. 1/POJK.07/2014 concerning Alternative Institutions for Dispute Resolution in the Financial Services Sector. OJK Regulation Number 1 /POJK.07/2014 concerning Alternative Institutions for Dispute Resolution in

the Financial Services Sector is a series of policies and implementation activities that include education, information and complaint services and facilitation of settlement disputes for consumers and financial services and financial service users.

In the provisions of Article 2 POJK Number 1/OJK.07/2014 it is stated that complaints must be resolved beforehand by the Financial Services Institution. In the event that a complaint settlement agreement is not reached, then the consumer and the Financial Services Institution can settle the dispute outside the court or through the court.

Settlement of disputes outside the court referred to is carried out through LAPS. Then it was stated that the said LAPS was contained in the LAPS list determined by the OJK. LAPS is coordinated by the Association, and for the Banking sector LAPS was only formed in January 2016, called the Alternative Indonesian Banking Dispute Resolution Institute (LAPSPI), based in Jakarta.

c. Article 45 paragraph 2 of the jo. Article 49 of the Consumer Protection Act.

On the other side of the Law Number 8 of 1999 concerning Consumer Protection, there are also provisions governing dispute resolution outside the court in Article 45 paragraph (2) jo Article 49 through article 58 of the Consumer Protection Law.

2. Legal Structures

The relevant legal structure based on Friedman's Legal System Theory is related to the duties and authority of the OJK which has an important role in the implementation of financial services consumer protection, especially in the banking sector. OJK as a supervisory institution as regulated in 4 OJK Laws, one of the objectives of establishing OJK is to be able to protect the interests of consumers and the community.

POJK No.1 /POJK.07/2013 concerning Consumer Protection in article 51 states "OJK carries out compliance monitoring of Financial Services Business Actors with regard to consumer protection provisions. Supervision is carried out including direct and indirect supervision. In the context of monitoring the compliance of Financial Services Business Actors, OJK is authorized to request data and information from Financial Service Business Actors. Requests for said data and information can be done periodically or at any time if necessary. The provisions of Article 34 POJK No.1 / 07/2013 also require PUJK to report and be submitted no later than the 10th of every 3 months periodically related to consumer complaints. This report is reported to the OJK only as a formality because OJK has never conducted an evaluation or corrective action on the report.

According to George R Terry control is to determine what is accomplished, evaluate it, and apply corrective measures, if needed to ensure results in keeping with the plan (supervision is determining what has been achieved, evaluating and implementing corrective actions, if necessary ensuring results according to the plan). By doing supervision, it can be used as an evaluation and corrective action which is the role and function of OJK as a supervisory institution.

Thus, consumer dispute resolution can be resolved at BPSK, this causes multiple interpretations because if based on

POJK 1. POJK.07 / 2014 must be resolved at OJK or Alternative Financial Sector Dispute Institutions registered with OJK. Investigation of investigators through the Supreme Court Decision, there are still many BPSK in several cities accepting banking dispute resolution, such as the cases raised in this study, which at the Cassation level based on the Supreme Court's decision BPSK's decision was canceled because it was not the authority of BPSK.

It is also necessary to harmonize the regulations both the OJK Law, OJK Unification and the Consumer Protection Act in terms of resolving consumer disputes, so as not to cause legal uncertainty that ultimately harms consumers. Legal uncertainty also occurs in resolving disputes outside the court between consumers and banks that have been decided by BPSK. Because at the cassation level the Supreme Court was canceled on legal grounds BPSK was not authorized to examine and hear the case.

Some examples of Supreme Court Decisions reviewed by the author where the resolution of disputes outside the court between consumers of banks and banks in consumer disputes, which have been decided by BPSK by the Supreme Court were canceled.

3. Legal Culture

The relevance of legal culture (Legal culture) referred to by Freidman with this research is as the attitude / perception of consumers (the public) towards the substance of the law (regulations) and structure (OJK). Regarding community attitudes and assessments related to law and institutions (OJK), they have positive or negative perceptions.

The results showed that consumers who had made complaints both at the bank and the OJK in Malang, consumers' perceptions of the bank when complaining about their problems received a response that generally received responses and could be resolved between consumers and banks because it did not involve a lot of losses. . However, what is often complained by consumers is in credit agreements and credit restructuring due to bad loans, according to consumers, banks are always considered to be at an advantageous position while consumers are at a disadvantage both regarding the amount of credit getting swollen in number and in the event of a collateral auction of debtors. as a bank consumer.

While the information obtained by the debtor and customer related to consumer rights has never been conveyed. Information is only related to products and services offered in the banking sector, and the benefits of customers / debtors or consumers delivered. For risk banks do not try to convey clearly and honestly. This often disappoints bank customers / debtors as consumers of the banking sector.

Consumers' perceptions that have complained to OJK in Malang during the results of interviews with respondents who have complained to OJK are that consumers do not feel that the existence of OJK can maximally assist consumers in resolving their problems with the bank. If consumers experience a large amount of alternative settlement losses, they prefer to settle their cases through the Litigation (Court) on the grounds that the Court's decision will have more legal force. Education conducted by the OJK has been less effective, because the education carried out by OJK is only

related to literacy on understanding characteristics and types of financial services, not the substance of the rights of the banking consumer.

Likewise with the Banking Financial Services Institution, although POJK No.1/07/2013 concerning Consumer Protection in the Financial Services Sector requires Financial Institutions to carry out education and literacy to consumers, the Bank Financial Institution does not implement this provision other than just providing information and product and service literacy in the financial services sector the banking and OJK also does not provide warning sanctions, reprimands or other sanctions such as the termination of business activities as specified in the OJK Law or POJK No.1 /07/2013.

B. RECONSTRUCTION OF BANKING CONSUMER DISPUTE SETTLEMENT IN THE PERSPECTIVE OF LEGAL CERTAINTY

1. Legal Reform on Legal Substance

a. *Strengthening PERMA Number 2 of 2015 (Litigation)*

Considering that the development of legal relations in the economic and civil fields requires simpler, faster and less costly dispute settlement procedures, the Supreme Court issued PERMA Number 2 of 2015 concerning Simple Lawsuit Procedures so that the administration of justice is carried out with a simple, fast and low cost basis for open wide access for people to obtain justice.

In Article 1 number 1 PERMA Number 2 of 2015 it is stated that the Settlement of Simple Lawsuit is defined as the procedure for examining a trial of a civil suit with a material claim amounting to a maximum of Rp. 200 million which was settled by simple procedures and proof. According to Article 2 of PERMA No.2 of 2015, a simple lawsuit is examined and decided by a court within the scope of the general court. In PERMA No. 2 of 2015 concerning Procedures for Settling a Simple Lawsuit, the provisions of Article 3 Paragraph (1) "A simple lawsuit is filed against breach of contract and / or acts against the law with a material claim value of at most Rp.200,000,000.00 (two hundred million rupiahs) ", And Article 3 paragraph (2) Not included in the simple lawsuit are: 1) cases for which dispute settlement is carried out through a special court as regulated in the legislation; or 2) land rights disputes.

The simple justice referred to in this PERMA generally resembles the Small Claim Court Small or Claim Tribunal. contained in countries that have a background in common law legal traditions as mentioned in the previous description. Thus it is necessary to strengthen the PERMA to immediately make the law, this is because the nature of PERMA is only temporary and not binding. However, while waiting for changes to the law, this PERMA can be carried out to settle a civil suit especially if there is a banking dispute with a loss limit of 200 million. It also looks at the success of Common Law States that use the Small Claims Court in the resolution of consumer disputes.

b. *Revision No.1 / POJK.07 / 2014 (Non-Litigation)*

Settlement of disputes outside the court through the Alternative Dispute Resolution Agency is not absolute. Consumers are still possible to choose another settlement

outside the court as long as there is an agreement between the two parties and the dispute resolution agency. This is because long before LAPS was formed, there had already been a consumer dispute resolution agency, such as the Consumer Dispute Settlement Agency (BPSK) which was still authorized through Article 23 of the Consumer Protection Act to resolve disputes.

According to the Deputy of Consumer Protection of OJK, if BPSK resolves a banking dispute, it must be approved by both parties, or see the agreement clause. Currently many banking institutions complain that conditions are still open to the possibility of disputes being resolved through BPSK, this is because BPSK often exceeds authority such as canceling credit agreements, canceling auctions, asking consumers not to pay to the Bank's Financial Services Business Actors, also often BPSK resolves consumer disputes that are not based on the agreement of the parties, between the consumer and the bank. This then becomes a problem so that the Banking Institutions file objections to the BPSK decision. Although Article 45 paragraph (2) of the Consumer Protection Law states that the resolution of consumer disputes can be taken either through the court or outside the court based on the voluntary choice of the parties to the dispute, BPSK often resolves disputes that are not attended by Banking Financial Services Business Actors.

However, according to the researchers, it needs an in-depth academic study and also the OJK needs to receive input from various parties, especially also experts in the banking sector and also experts in the consumer sector, so that the revised POJK really takes place not only in terms of banking financial services but also does not neglect the rights of consumers in seeking dispute resolution with legal certainty.

Therefore, in order to provide legal protection in resolving disputes between Consumers and Banking Financial Institutions that is fair and balanced, OJK must revise POJK 01/07/2014, by applying the principles of Justice and Balance for both parties. It is also necessary to emphasize the legal norms regarding banking disputes, which are the domain of LAPS and BPSK so that there is no legal uncertainty as many BPSK decisions have been canceled because according to the Supreme Court it is not the authority of BPSK.

2. Empowering the Existence of Legal Structures in Non-Litigation Settlement of Banking Disputes

a. *Formation of LAPSPI in the Regions*

If BI's dispute resolution procedure is compared to OJK's dispute resolution procedure, the difference is that there is an Alternative Dispute Resolution Institution that was formed by OJK on January 21, 2016. So if consumers choose to settle disputes outside the court, then consumers will settle their dispute at LAPSPI However, if LAPSPI has not been formed or is unable to carry out its task of resolving disputes, it can be facilitated by the OJK. The establishment of the Alternative Dispute Resolution Institution was actually mandated while still within the authority of BI, but was not successful.

The presence of Alternative Institutions Dispute resolution will at least bring reforms in banking mediation in Indonesia. After the formation of an Alternative Dispute Resolution Institution, consumers and also Banking Financial

Services Players are expected to get a balanced justice in solving their problems because LAPSPI has people who are experts in their fields and are also independent. However, because LAPSPI is only in Jakarta, the Institute is not yet known by banking consumers, especially those in the regions. Then it is necessary to empower LAPSPI in the regions so that non-litigation banking dispute resolution is handled by experts in their field no longer by BPSK which from one side protects consumers but the other side harms banking financial services businesses as well as many violations of legal norms violated by BPSK because HR on BPSK besides most are not legal experts, especially experts in the banking financial services sector.

b. Supervision Optimization by OJK

The application of consumer protection is expected to be able to align the position between banking financial services business actors and consumers so as to create a condition of mutual benefit between the two parties. Reports and supervision of consumer protection are not optimal because of their routine and formality. *Ius constituendum* OJK gives more attention in terms of supervision of protection in the resolution of banking disputes so that consumer complaints that so far have been the most in the banking sector can be minimized so as to provide protection for consumers if harmed by the Banking Institution.

3. Building a Legal Culture through Education and Outreach in the Context of Utilizing Dispute Resolution Outside the Court (Non-Litigation)

The legal culture in this study is the understanding and attitude of consumers towards law and institutions. The public and consumers still do not understand the law related to consumer protection or dispute resolution. Consumers understand that if a banking institution is harmed, they will settle it with the Judiciary, which is considered the only way to settle the loss they experience. Meanwhile, if considered a small loss it will be ignored. Many consumers do not know that resolving disputes in court is not the only place to get justice. Therefore it is necessary to educate and socialize that the resolution of banking disputes can be taken out of court (non-litigation) against banking consumers.

a. Education Out-of-Court Dispute Resolution (Non-Litigation)

Education and protection is one of the functions owned by the OJK based on Law No. 21 of 2011 concerning OJK. Based on Article 4 of Law No. 21 of 2011 concerning the Financial Services Authority, one of OJK's tasks is to be able to protect the interests of the public in financial service business activities, the public as consumers of business services in the financial services sector. Society as a banking consumer is a very important element, the life and death of the business world rests on the trust of the community/consumers themselves.

Information to the public about banking services and products can minimize losses suffered by the public due to bad faith in banking financial services institutions, it's just that the public is also asked to be more careful in doing business, pay attention to clear signs before conducting business activities, especially in the field of financial services sector. However, the information, education and literacy programs implemented

by the FSA have not yet led to information and education related to dispute resolution. Thus in the future OJK and Banking Financial Services Institutions must include OJK's programs and policies, so that information and education are not only related to literacy in the introduction of banking products and services.

b. Out of Court Socialization of Dispute Resolution (Non Litigation)

Banking Financial Service Providers are also expected to provide appropriate information to consumers and make service efforts and resolve complaints so that in the end it will maintain public confidence in banking financial service institutions and have a positive impact on economic growth and public welfare.

The low level of literacy and financial inclusion of the public is often used by parties who are not responsible for marketing banking financial products and / or services in various ways so that often delivered to the public is inaccurate and unclear, which has the potential to harm the public as bank consumers.

This condition certainly requires the seriousness of all stakeholders in this case the FSA and related parties to continue to aggressively undertake various efforts to socialize banking financial services products that are balanced with increased efforts to protect against consumer dispute resolution in the banking financial services sector.

IV. CONCLUSION

Factors causing the resolution of consumer banking disputes have not been substantively legal certainty for banking consumers due to several factors:

- a. Legal Substance: Weaknesses in regulations relating to the protection and resolution of banking disputes: Article 28 of the OJK Law, Article 54 paragraph (3) jo Article 56 paragraph (2) of the Consumer Protection Act, POJK No.1 / POJK.07 / 2004 concerning Alternative Banking Sector Settlement;
- b. Legal Structure: The Alternative Institute for Settlement of Indonesian Banking Consumers (LAPSPI) is not yet known by consumers because its presence is only in Jakarta, therefore consumers in the regions are more familiar with BPSK whose existence is in the regions. However, BPSK often goes beyond its authority and violates existing legal norms so that the decision of the BPSK is objected by the Banking Institution at the District Court, then the consumer appeal to the Supreme Court and the Supreme Court overturn the BPSK decision.
- c. Legal Culture: Education and literacy and programs carried out by OJK are only related to banking financial products and services and not on the aspects of dispute resolution and consumer protection so that people's understanding and perception of the law related to consumer rights and banking dispute resolution, especially dispute resolution through non-litigation (outside the court) is still not widely known by banking consumers.

Settlement of consumer banking disputes in order to have legal certainty and justice, it is necessary to do:

- a. Legal Reform in the Legal Substance by strengthening PERMA No. 2 of 2005 (Litigation) and Revision of POJK No. 01 / POJK.07 / 2014 (Non-Litigation)
- b. Empowering the Existence of Legal Structures (Legal Structures). The establishment of LAPSI in the Regions and OJK Supervision are more optimal.
- c. Building a Legal Culture through Education and Socialization of Non-Litigation Settlement (Non Litigation).

Author suggests that OJK further optimizes the role and authority in facilitating dispute resolution and also oversight in the scope of consumer protection in the financial services sector especially in the banking sector because the banking sector occupies the position of the highest number of users but also the highest in terms of customer complaints. OJK needs socialization with various related institutions (stakeholders) and also education to consumers not only about banking products and services but also education and literacy in the field of consumer protection and dispute resolution, so that OJK's programs and policies are not only focused on banking product services but also pay greater attention to consumer protection, especially in the case of banking consumer dispute resolution. In addition to the supervision that also needs to be carried out by the OJK is cooperation and socialization between institutions in the field of Consumer such as, YLKI, BPSK and also conducting FGD with District Court Judges and Supreme Judges so that there is the same perception about legal norms in resolving consumer banking disputes which has been one of the legal uncertainty factors that are detrimental and less protective of banking consumers.

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