

## Negligence in Fulfilling Contractual Obligations

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### KEYWORDS

Breach of Contract,  
Agreement, Guarantee  
Execution

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### ABSTRACT

This research addresses the increasing issues of breach of contract in Indonesia, particularly focusing on the legal consequences of non-compliance with debt repayment obligations and the execution of guarantees. Breach of contract, or wanprestasi, disrupts business transactions and leads to material and immaterial losses for the affected parties. The urgency of this research lies in the growing number of breach of contract cases in Indonesia, with such disputes posing significant financial and legal risks. While previous studies have explored breach of contract in broader contexts, there is limited research specifically addressing the application of Indonesian civil law in these cases, especially about debt defaults and guarantees. This study fills this gap by analyzing how Indonesian law handles breach of contract cases and the enforcement of guarantees. The research uses a mixed-method approach, combining legal analysis and case studies to examine the consequences of defaults and the protection of creditors' rights. The findings highlight the need for legal reforms to improve the enforcement of contracts and enhance creditor protection. This research contributes to understanding contract law in Indonesia, offering practical recommendations for businesses and policymakers to address breaches more effectively and ensure fairer outcomes in the judicial process.

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### Introduction

An agreement is the primary foundation in a civil law relationship that binds the parties to carry out their mutually agreed-upon obligations. The phenomenon of negligence in fulfilling treaty obligations or defaults is a problem that often occurs in civil law practice in Indonesia. Default occurs when one of the parties does not carry out its obligations as agreed, either in the form of delay in implementation, inappropriate implementation, or non-implementation of obligations at all. As stipulated in Article 1238 of the Civil Code, the debtor is considered negligent if he does not fulfill his obligations even though he has been given a warning or summons by the creditor. Non-compliance

with the agreement that has been made causes disruption of legal certainty and has the potential to cause material and immaterial losses for the aggrieved party (Hasibuan & Rahmania, 2020). In Indonesian civil law, agreements made legally have binding force as a law for their makers, by the principle of *pacta sunt servanda* as enshrined in Article 1338 of the Civil Code. This principle emphasizes that the agreement must be obeyed and implemented in good faith by all parties involved.

The problem of defaults in legal practice in Indonesia shows an alarming trend, with an increase in contractual dispute cases leading to lawsuits for damages in court. Data from the Supreme Court shows that around 30% of all civil cases handled in 2023 are related to default disputes (Arini, 2019). The complexity of modern business relationships and global economic uncertainty have contributed to the increasing risk of the parties' inability to meet their contractual obligations. This shows the urgency of a comprehensive understanding of the legal consequences of default, especially regarding the aggrieved party's legal protection mechanism. Case study of Decision Number 298/Pdt.G/2024/PN Jkt.Utr between PT. Tiger Star Indonesia against Mr. Rudy Sutantono and Mrs. Lidiya Budiono provides a concrete picture of how the legal system in Indonesia handles default cases. This case shows how failure to meet debt payment obligations under a debt acknowledgment deed can lead to significant legal consequences, including the obligation to pay fines and the potential loss of collateralized assets. An in-depth analysis of this case can provide an important perspective in understanding the application of contract law principles in judicial practice in Indonesia (Verdict et al., 2024).

Agreements as legal instruments that bind the parties are the main focus of this study. A fundamental understanding of the treaty needs to be studied in depth, including its elements, legal conditions, and legal consequences. When the obligations in the agreement are not fulfilled as they should be, these conditions enter the realm of default, which has its legal implications. The characteristics of default in the Indonesian legal system need to be understood to clarify the limits and scope of actions that can be categorized as negligence in fulfilling contractual obligations. The essence of default cannot be separated from the concept of negligence on the part of the debtor in carrying out the obligations that have been agreed upon in the agreement. As seen in the case study of PT. Tiger Star Indonesia, the defendant's negligence in paying off debts and providing guarantees not as agreed upon, is a real default with specific legal consequences. Another important aspect is the mechanism of compensation as a consequence of default. This study examines how the Indonesian legal system regulates compensation for injured parties, including reimbursement in the form of interest and other costs incurred as a result of such negligence. Article 1243 of the Civil Code provides a legal basis for claims for damages, but its implementation in court practice requires further analysis, especially regarding the calculation of the amount of proportionate and fair damages (Farikhah, 2023). In addition, material guarantees as an instrument to secure the fulfillment of contractual obligations are also crucial elements in the dynamics of default. This study analyzes how guarantees are executed in the event of a default, including the legal mechanisms available for creditors to access and execute the guarantees provided by the debtor.

This study aims to comprehensively analyze the concept of negligence in fulfilling treaty obligations (default) in the Indonesian civil law system. Specifically, this research is designed to identify the elements and criteria that make an action can be categorized as a default based on the provisions of the Civil Code and related jurisprudence. Through an

in-depth analysis of the case study of Decision Number 298/Pdt.G/2024/PN Jkt. Utr, this study seeks to map the pattern of legal application by the court in handling default cases, including the judge's consideration in determining whether there is negligence or not and the proportionate amount of compensation. This study also aims to examine the legal protection mechanisms available to creditors when facing defaults from debtors, including the procedure for filing summonses, lawsuits in court, and execution of judgments. Another important aspect is the analysis of the effectiveness of the material guarantee instrument in providing certainty in fulfilling contractual obligations, as well as legal procedures in executing the guarantee in the event of default (Alzubaidi et al., 2020). Furthermore, the study also aims to identify gaps in the regulations governing default and formulate recommendations for the refinement of the relevant legal framework, taking into account the complex dynamics in modern contractual relationships that are increasingly diverse and complex.

This research is expected to contribute significantly to both theoretical and practical aspects. From a theoretical perspective, the results of this study can enrich the academic literature on the concept of default in the Indonesian civil law system, especially related to contemporary interpretations of provisions in the Civil Code that are more than a century old. Through a comprehensive analysis of recent case studies, this study offers a new perspective on understanding the evolution of the application of contract law principles in the socio-economic context of modern Indonesia (Fauzia et al., 2022). From a practical aspect, the results of this research can be a valuable reference for legal practitioners, judges, and law students in understanding the dynamics of handling default cases in court. For businesses and the general public, this study guides preventive measures to avoid defaults as well as the legal protection mechanisms available when dealing with default situations. A comprehensive understanding of the legal consequences of failure to meet treaty obligations can drive better compliance with contractual agreements, which in turn contributes to the creation of a more conducive and integrity business climate (Hamzah & Adinda, 2022). More broadly, this research is also expected to provide input for policymakers in developing a regulatory framework that is more adaptive to the complexity of modern contractual relationships. An analysis of gaps in current regulations can serve as a basis for legal reform that is more responsive to the needs of society and global economic dynamics (Wüst et al., 2020) Thus, this research contributes to developing civil law science and improving the quality of contractual governance in business practices and economic transactions in Indonesia.

The research problem addressed in this study focuses on negligence in fulfilling contractual obligations and breach of contract in the context of Indonesian civil law. Default is a common issue in contractual relationships, especially in business and financial transactions, with consequences that can disrupt legal certainty and cause material and immaterial losses to the aggrieved parties. This issue is becoming more prevalent as the complexity of modern business relationships and global economic uncertainties increase. The research investigates how the Indonesian legal system addresses these breaches, especially regarding the consequences of non-compliance with debt repayment obligations and the execution of guarantees.

The urgency of this research lies in the growing number of contractual disputes in Indonesia, with default cases accounting for around 30% of civil cases handled by the Supreme Court in 2023. This issue has significant legal and economic implications, affecting both the aggrieved parties and the broader business environment. Understanding the mechanisms of breach of contract, including debt repayment violations and the role

of guarantees, is crucial for improving legal protection and preventing further disputes in the future.

Previous research has primarily focused on breach of contract in broader contexts, with studies such as those by Farikhah (2023) and Alzubaidi et al. (2020) examining default in business agreements. However, limited studies have addressed how breach of contract and the execution of guarantees specifically apply to the Indonesian civil law system, particularly regarding legal consequences and judicial enforcement. Moreover, there is a gap in understanding the broader implications of default, particularly regarding the impact on creditors' rights and the role of alternative dispute resolution.

The novelty of this research lies in its application to the Indonesian context. It focuses on how *pacta sunt servanda* and sound faith principles are interpreted in breach-of-contract cases. This study also contributes to the discussion of material guarantees in contract execution, particularly in Indonesia's civil law framework. Through an in-depth case study, this research provides a comprehensive understanding of default and its legal consequences.

This research aims to provide a detailed analysis of breach of contract in Indonesia, specifically examining the elements of default, legal consequences, and the role of guarantees in securing contractual obligations. The study seeks to contribute to the academic literature on Indonesian civil law, offering insights into the practical application of breach of contract principles in judicial practice. Additionally, the study aims to propose recommendations for improving the current legal framework, enhancing protection for aggrieved parties, and reducing the occurrence of contractual defaults.

The findings of this research will be valuable for legal practitioners, judges, and policymakers in understanding and resolving breach-of-contract disputes. They will also provide businesses with a clearer understanding of how to protect themselves against defaults through well-structured contracts and risk management practices. By analyzing gaps in the existing legal framework, this research offers recommendations for legal reforms that are more responsive to contemporary business challenges and the complexities of modern contractual relationships.

## **Research Method**

This study uses a qualitative approach with a case study method against Decision Number 298/Pdt.G/2024/PN Jkt.Utr from the North Jakarta District Court involving PT. Tiger Star Indonesia as a plaintiff against Mr. Rudy Sutantono and Mrs. Lidiya Budiono as defendants. The case study method was chosen because it allows researchers to explore the phenomenon of negligence in fulfilling treaty obligations in a real context with apparent limitations. Through this approach, researchers can understand how civil law principles regarding default are applied in judicial practice. Data collection is carried out through searching for legal documents related to the case, including lawsuits, answers, replicas, duplicates, and court decisions. In addition, the researcher also analyzed supporting documents in the form of a Deed of Debt Recognition Number 11 dated January 23, 2020, and a summons letter sent by the plaintiff to the defendant. To enrich the contextual understanding, the researcher conducted a study of the relevant legal provisions in the Civil Code (Civil Code), especially Articles 1238, 1243, 1267, and 1338, which regulate default and its legal consequences.

Data analysis was carried out with a juridical-normative approach through several stages. First, the researcher identifies the relevant legal facts of the case, including the chronology of the agreement, the form of negligence that occurred, and the legal remedies

that have been taken. Second, the researcher analyzes the judge's considerations in deciding the case, especially related to the determination of whether there is a default or not, and the basis for determining compensation. Third, the researcher interprets the decision using contract law theories and justice principles. To ensure the validity of the research results, the researcher triangulated the data sources by comparing information from various legal documents related to the case. In addition, the researcher also applies peer debriefing by involving civil law experts to provide input on the results of the analysis. The data processing process is carried out systematically through the stages of data reduction, data presentation, and conclusion drawing to produce a comprehensive understanding of the phenomenon of negligence in fulfilling agreement obligations based on the case studies studied. This research pays attention to ethical aspects by maintaining the confidentiality of the identities of the parties involved in the case, in accordance with applicable regulations. All data and information in this study are sourced from official documents that the public can access through the court information system.

## **Results and Discussions**

### **The Concept of Default in the Indonesian Civil Law System**

Default or breach of promise is a fundamental concept in the Indonesian civil law system, which refers to a situation when one of the parties to an agreement fails to fulfill its obligations as agreed. Etymologically, default comes from the Dutch word "wanprestatie," which means poor performance or not fulfilling obligations as stipulated in the agreement. Within the framework of Indonesian law, default is implicitly regulated in several articles of the Civil Code (KUH Percivil), especially Article 1238, which states that the debtor is considered negligent with the passage of time specified in the agreement or after being given a warning or summons. This provision emphasizes that negligence concerns the non-performance of obligations and delays in their implementation, which can bring certain legal consequences for the negligent party. Based on the civil law doctrine that has developed in Indonesia, default can manifest in several forms as described by Subekti (Patricia Caroline Tiodor et al., 2023), namely: (1) not implementing what was agreed; (2) to carry out what was agreed but not as it should be; (3) to carry out what was promised but it was too late; and (4) do something that the agreement does not allow. This categorization shows a wide spectrum of acts or omissions that can qualify as default in the context of treaty law in Indonesia.

In the Decision Number 298/Pdt.G/2024/PN Jkt case study.Utr, the default committed by the defendants (Mr. Rudy Sutantono and Mrs. Lidiya Budiono) against PT. Tiger Star Indonesia fulfilled the first and third categories, namely not carrying out the obligation to pay debts of IDR 1,200,000,000, which should have been repaid within 12 months since January 2020, and not handing over guarantees in the form of land and buildings in a vacant state as promised. This case reflects how the concept of default is applied in judicial practice in Indonesia, where negligence in fulfilling contractual obligations can result in lawsuits with significant consequences. It is important to note that in the Indonesian civil law system, default must be distinguished from unlawful acts (onrechtmatige daad) as stipulated in Article 1365 of the Civil Code. While both can result in a claim for damages, the fundamental difference lies in the source of the breach of liability. Default occurs in the context of an agreement born from an agreement (Article 1233 of the Civil Code), while an unlawful act occurs when a person violates another person's rights or contradicts the perpetrator's legal obligations outside the context of the

agreement. This distinction has important implications in determining the burden of proof and the damages that can be claimed (Prof. Dr. Agus Yudha Hernoko, S.H., 2011).

In its development, the concept of default in Indonesian law has undergone elaboration through jurisprudence and legal doctrine. In several of its decisions, the Supreme Court of the Republic of Indonesia has provided interpretations that enrich the understanding of default, including determining when a person is considered negligent and how to calculate losses due to default. For example, in the Supreme Court Decision Number 1722K/Pdt/2021, the Supreme Court emphasized that to determine whether there is a default or not, the content of the agreement must be comprehensively considered, including clauses that regulate the obligations of the parties and the consequences of non-compliance. The concept of default in Indonesia also reflects general principles in international contract law, particularly the principle of *pacta sunt servanda*, which emphasizes that agreements are binding on the parties like the law. This principle has received universal recognition and is reflected in Article 1338 paragraph (1) of the Civil Code. However, the application of this principle in the Indonesian context is also balanced by the principle of good faith as articulated in Article 1338 paragraph (3) of the Civil Code, which requires that agreements must be implemented in good faith. The interaction between these two principles creates a normative framework that allows flexibility in the interpretation and application of the rules on default, especially in situations where circumstances have changed fundamentally since the agreement was made (Adati, 2018).

### **Juridical Analysis of the Case of PT. Tiger Star Indonesia vs. Rudy Sutantono and Lidiya Budiono**

The case of PT. Tiger Star Indonesia vs. Rudy Sutantono and Lidiya Budiono, as stated in Decision Number 298/Pdt.G/2024/PN Jkt. Utr presents a comprehensive panorama of the dynamics of default disputes in the context of Indonesian civil law. Chronologically, the dispute began with the Deed of Debt Recognition Number 11 dated January 23, 2020, which was made before a notary, where the defendant had an obligation to pay a debt of IDR 1,200,000,000 to the plaintiff with a repayment period of 12 months from the signing of the deed. As collateral, the defendant handed over a certificate of ownership of the land and buildings. However, until the lawsuit is filed in 2024, the defendant has not paid off his debt even though the plaintiff has given him a summons three times. From a juridical perspective, this case involves several interintegrated legal instruments. First, the Deed of Acknowledgment of Debts made before a notary has perfect evidentiary force (*volledig bewijs*) as stipulated in Article 1868 jo. Article 1870 of the Civil Code. This authentic deed provides legal certainty regarding the amount of debt, payment term, and collateral submitted. Second, the summons process carried out by the plaintiff against the defendant is an implementation of the provisions of Article 1238 of the Civil Code regarding warnings or negligent statements (*ingebreke stelling*) as a prerequisite for claiming compensation due to default. Third, the guarantee in the form of a certificate of title to land and buildings reflects the application of the principle of material guarantee in Indonesian guarantee law, which aims to provide certainty for creditors to obtain repayment of their receivables when the debtor defaults.

In its deposition, the defendant submitted an argument that the debt should be the responsibility of PT. Bajatama Jaya Perkasa Barn, the company where the defendant works as a marketing. The defendant also claimed that the Debt Recognition Deed contained elements of abuse of circumstances (*misbruik van omstandigheid*), which could be the basis for the cancellation of the contract. However, the panel of judges in its

consideration rejected the exception for several fundamental reasons. First, the defendant who signed the Debt Recognition Deed acted in his capacity, not as a representative of PT. Bajatama Jaya Perkasa Barn, so the defendant is personally bound by the obligations in the deed. Second, there is no concrete evidence to show that there was an abuse of circumstances in the preparation of the Deed of Acknowledgment of Debt, considering that the deed was made before a notary who has the obligation to ensure that the parties understand the content and consequences of the signed deed. The analysis of the court's decision in this case reflects the application of fundamental principles in treaty law in Indonesia. First, the principle of *pacta sunt servanda*, which is reflected in Article 1338 paragraph (1) of the Civil Code, emphasizes that agreements made legally are binding on the parties as per the law. In this context, the Deed of Acknowledgment of Debts that has been signed by the defendant creates a legal obligation that cannot be unilaterally avoided. Second, the principle of freedom of contract as articulated in Article 1338 paragraph (1) of the Civil Code provides flexibility for the parties to determine the content of the agreement, including the determination of a fine of 5% per year for late payment of debts. Third, the principle of good faith regulated in Article 1338 paragraph (3) of the Civil Code requires that the agreement must be executed in good faith, which in this case is considered by the judge in assessing the defendant's behavior that does not show seriousness to pay off his debt even though he has been warned (Adati, 2018).

In its ruling, the court ordered the defendant to pay all overdue debts of Rp1,440,000,000 (including penalty fines), hand over the guarantee in the form of land and buildings in a vacant state, and if the defendant does not fulfill these obligations, the Head of the North Jakarta City Land Office must change the name of the title certificate to the land and building to the plaintiff. This decision reflects the application of Article 1267 of the Civil Code, which provides an option for creditors to demand the fulfillment of the agreement, cancellation of the agreement with compensation, or claim compensation without cancellation of the agreement. In this case, the court accommodated the plaintiff's demands for the fulfillment of the agreement in the form of debt payment and the delivery of the guarantee in a vacant state. This case also provides an overview of the role of property guarantees in the guarantee legal system in Indonesia. The guarantee in the form of a certificate of ownership of land and buildings handed over by the defendant to the plaintiff is a form of imposition of dependent rights as stipulated in Law Number 4 of 1996 concerning Dependent Rights. When the defendant defaults, the plaintiff, as the holder of the right of dependency, has the right of preference to execute the guarantee in order to obtain the repayment of its receivables. However, complexity arises when the pledged land and buildings are still occupied by other parties, which shows an insynchronization between the juridical status and the physical status of the collateral object. This situation reflects the practical challenges in the implementation of the guarantee legal system in Indonesia, where the execution of guarantees does not always run smoothly despite having a strong legal basis (Pradini, 2024).

### **Legal Consequences and Damages in Default Cases**

The legal consequences of default manifest the principle of liability in civil law, which aims to protect the aggrieved party due to non-fulfillment of contractual obligations. In the Indonesian legal system, the consequences of default are comprehensively regulated in several provisions of the Civil Code, especially Articles 1243 to 1252, which regulate compensation, and Articles 1266 to 1267, which regulate the nullity conditions in reciprocal agreements. These provisions reflect the normative

framework that is the basis for judges to determine proportionate legal consequences for the party who commits the default. In the context of Indonesian civil law, compensation due to default consists of three components as stipulated in Article 1246 of the Civil Code, namely costs (kosten), losses (schade), and interest (interessen). Costs refer to the expenses that a creditor has incurred due to the debtor's default, losses refer to the reduction in the creditor's assets caused by the default, while interest refers to the profits that the creditor would have earned if the agreement had been executed as intended. The determination of the amount of compensation must take into account the principles of proportionality and feasibility, taking into account factors such as the debtor's level of error, the mitigation efforts that the creditor has made, and the objective conditions that affect the implementation of the agreement (Sholikah et al., 2015).

In the case study of PT. Tiger Star Indonesia vs. Rudy Sutantono and Lidiya Budiono, the legal consequences of the default committed by the defendant are reflected in the court decision, which requires the defendant to pay a debt of Rp1,440,000,000, including a penalty of 5% per year. The calculation of this fine is an implementation of the penalty clause contained in the Debt Recognition Deed, which is legally recognized as a form of pre-agreed losses (liquidated damages). The recognition of this penalty clause is in line with the principle of freedom of contract, which gives the parties the freedom to determine the consequences of default, as long as it does not conflict with the law, public order, and decency as stipulated in Article 1337 of the Civil Code. In addition to the obligation to pay debts along with fines, another legal consequence is the obligation of the defendant to hand over collateral in the form of land and buildings in a vacant state to the plaintiff. If the defendant does not fulfill this obligation, the court orders the Head of the North Jakarta City Land Office to change the name of the title certificate to the land and building to the plaintiff. This provision reflects the application of the principle of real execution in Indonesian civil procedure law, where the court has the authority to implement the performance that the defaulting party should carry out. In this context, real execution becomes a legal protection mechanism for creditors to obtain what they are entitled to under the agreement (Azkia & Suryono, 2024).

It should be noted that in the Indonesian legal system, damages due to default have certain limitations as stipulated in Article 1247 and Article 1248 of the Civil Code. Article 1247 confirms that the debtor is only obliged to reimburse the costs, losses, and interest that are estimated or should be foreseen at the time the engagement is made, unless the debtor commits deception that causes the non-fulfillment of the engagement. Meanwhile, Article 1248 limits damages only to losses directly resulting from the default. These limitations reflect the principle of justice in treaty law, where the debtor cannot be burdened with consequences disproportionate to the wrongs he has committed. In recent developments, the concept of compensation for default in Indonesia has evolved through jurisprudence that expands the scope of compensation to material losses and immaterial losses in certain cases. For example, the Supreme Court in Decision Number 601K/Pdt/2021 acknowledged that immaterial losses, such as loss of public trust and business reputation, can be the basis for a claim for damages in the context of a default involving a business relationship. This recognition of immaterial losses reflects the sensitivity of the Indonesian legal system to the complexities of modern contractual relationships, especially in a business context where reputation and trust are vital intangible assets (Alberta & Quintarti, 2024).

It is also important to note that in some instances of default, particularly those relating to consumer transactions, Law Number 8 of 1999 concerning Consumer

Protection provides an additional regulatory framework regarding legal consequences and indemnification. Article 19 of the law stipulates that business actors are responsible for providing compensation for damage, pollution, and/or loss to consumers due to consuming goods and/or services produced or traded. This compensation can be in the form of a refund or replacement of goods and/or services of equivalent value, or health care and/or compensation. This provision reflects Indonesia's legal alignment with consumer protection as a party that is often in a weaker bargaining position in contractual relationships with business actors.

### **Legal Protection Mechanism for Parties Harmed by Default**

Legal protection for parties aggrieved by default is a fundamental aspect of the treaty legal system that aims to provide legal certainty and justice for the parties. Within the framework of Indonesian law, this legal protection mechanism is manifested in various legal instruments, both preventive and repressive. The preventive mechanism aims to prevent the occurrence of default through the formulation of comprehensive treaty clauses, while the repressive mechanism aims to restore the rights of the aggrieved party when the default has occurred. The interaction between these two mechanisms creates a comprehensive legal protection system for the parties to the contractual relationship. One of the most common legal protection mechanisms is a summons or written warning as stipulated in Article 1238 of the Civil Code. A summons is a warning or statement from the creditor to the debtor stating that the debtor has been negligent in fulfilling their obligations and demanding the fulfillment of the obligation within a specific period. This summons serves as a formal prerequisite for claiming compensation due to default and provides an opportunity for the debtor to carry out his obligations before further legal action is taken. In the case of PT. Tiger Star Indonesia, the plaintiff, has given summons to the defendant three times, which shows that the plaintiff has taken the proper legal protection mechanism before filing the lawsuit in court (Sofyan et al., 2023).

Another legal protection mechanism is through the application of penalty or fine clauses in agreements. This clause is a form of pre-agreed compensation (liquidated damages) that will be paid by the defaulting party to the aggrieved party. In the case study of PT. Tiger Star Indonesia, the Debt Recognition Deed includes a penalty clause of 5% per year for late debt payments, resulting in the amount of debt increasing from IDR 1,200,000,000 to IDR 1,440,000,000 after considering the fine. This penalty clause, in addition to serving as compensation for creditors for late payments, also serves as a disincentive for debtors to commit defaults. The existence of this penalty clause reflects the application of the principle of autonomy of the parties in determining the consequences of violations of the agreement, which is in line with the principle of freedom of contract as stipulated in Article 1338 paragraph (1) of the Civil Code. In the context of transactions involving significant economic value, material guarantees are a vital legal protection mechanism for creditors. Tangible guarantees, such as dependents, fiduciaries, mortgages, and mortgages, provide preferential rights for creditors to execute collateral in order to obtain repayment of their receivables when the debtor defaults. In the case study of PT. Tiger Star Indonesia, the plaintiff, obtained a guarantee in the form of a certificate of title to land and buildings, which became the object of execution when the defendant failed to pay off its debt. The existence of this guarantee reflects the application of the prudential principle in credit transactions, which aims to minimize the risk of loss for creditors.

However, the effectiveness of material guarantees as a legal protection mechanism is highly dependent on the juridical and physical status of the object of the guarantee, as seen in this case where the land and buildings that are pledged are still occupied by other parties, which creates complexity in the process of executing the guarantee (Setiawan et al., 2023). When preventive legal protection mechanisms are ineffective in preventing defaults, the aggrieved party can pursue legal remedies through the courts. A tort lawsuit is a repressive legal protection mechanism that aims to obtain a court decision ordering the defaulting party to fulfill its obligations and/or pay compensation. Article 1267 of the Civil Code provides several options for creditors in filing a lawsuit, namely demanding the fulfillment of the agreement, demanding the cancellation of the agreement with compensation, or demanding compensation without cancellation of the agreement. The choice between these options depends on the strategic considerations of the creditor, including the likelihood of fulfillment of obligations by the debtor, the economic value of the object of the agreement, and the debtor's financial ability to pay compensation. In the context of banking and financial institutions, Law Number 4 of 1996 concerning Dependent Rights provides additional legal protection mechanisms through executive powers. Execution *parate* allows the holder of the right of dependency (creditor) to sell the object of the right of dependency under their power through a public auction without the need for the consent of the grantor (debtor).

This provision provides efficiency in the guarantee execution process, which in turn increases legal certainty for creditors in obtaining the repayment of their receivables. However, the implementation of this execution procedure often faces practical obstacles, especially regarding the physical control of the collateral object by a third party, which requires an act of emptying before the execution can be carried out (Rahayu et al., 2024). In recent developments, alternative dispute resolution, such as mediation, conciliation, and arbitration, is increasingly gaining recognition as an effective legal protection mechanism in default disputes. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides a regulatory framework for out-of-court dispute resolution, which offers several advantages such as faster processes, lower costs, and win-win solutions. In a business context, arbitration clauses are often included in commercial agreements to anticipate potential disputes later on. The existence of alternative dispute resolution mechanisms reflects the Indonesian legal system's flexibility in accommodating the parties' needs to resolve disputes efficiently and effectively.

### **Implications of Court Decisions on the Development of Treaty Law in Indonesia**

The North Jakarta District Court's decision in the case of PT. Tiger Star Indonesia vs. Rudy Sutantono and Lidiya Budiono not only has legal consequences for the parties to the dispute, but also has the potential to make a significant contribution to the development of treaty law in Indonesia. As part of jurisprudence, these rulings can serve as a reference for judges in handling similar cases in the future and provide an overview of how treaty law principles are applied in judicial practice. An analysis of the implications of this ruling needs to consider the broader context of the development of treaty law in Indonesia, especially with regard to the interpretation of the provisions of the Civil Code, which are more than a century old. One of the important aspects of this ruling is the affirmation of the binding power of authentic deeds in Indonesia's civil law evidentiary system. The panel of judges, in its consideration, gave significant weight to the Deed of Debt Recognition Number 11 dated January 23, 2020, which was made before

a notary, and set aside the defendant's argument that the debt should be the responsibility of PT. Bajatama Jaya Perkasa Barn (Paendong & Taunaumang, 2019; Pertiwi, 2018).

This respect for authentic deeds reflects a formalistic approach in Indonesian evidentiary law, which is still heavily influenced by continental legal traditions. This has significant implications for the practice of notarization in Indonesia, where notaries not only function as drafters of legal documents but also as gatekeepers who ensure the validity of a transaction. The verdict in the case of PT. Tiger Star Indonesia strengthens the position of the notary deed as evidence that has the power of perfect proof (*volledig bewijs*), as well as providing legal protection for notaries in carrying out their duties as long as the formal procedures in making the deed have been strictly adhered to. Another aspect that deserves attention from this decision is the attitude of the panel of judges in assessing the arguments of abuse of circumstances (*misbruik van omstandigheid*) submitted by the defendant. Although the doctrine of abuse of circumstances has been recognized in Indonesian jurisprudence, the panel of judges applied a fairly high standard of proof by requiring the existence of concrete evidence showing that there was an imbalance in the bargaining position or exploitation of circumstances at the time of making the agreement. This approach reflects a balance between protection for the weak in the agreement and respect for the principles of *pacta sunt servanda*. This attitude is expected to encourage legal practitioners and treaty parties to pay more attention to the aspect of balance in the formulation of treaty clauses, as well as provide clearer parameters for when the abuse of circumstances doctrine can be applied in the legal context of Indonesian treaties (Hertanto & Djajaputra, 2024).

This ruling also contributes to the discourse on the execution of guarantees in the Indonesian guarantee legal system. The panel of judges in its decision ordered the defendant to hand over the guarantee in the form of land and buildings in a vacant state, as well as provide an alternative in the form of an order to the Head of the Land Office to change the name of the title certificate if the defendant does not fulfill his obligations. This approach shows flexibility in the security enforcement system, where the court is not only fixated on the execution auction mechanism as stipulated in Article 6 of the Dependency Rights Act, but also considers the effectiveness and efficiency in providing legal protection for creditors. Judicial innovations like this can inspire lawmakers to formulate more comprehensive regulations on the execution of guarantees in the future, especially to anticipate the complexities that arise in practice. In a broader context, this ruling reflects the trend of treaty law developments in Indonesia that are increasingly responsive to the dynamics of modern business transactions.

The panel of judges, in its consideration, not only focused on the formal aspects of the agreement, but also paid attention to the good faith of the parties in the implementation of the agreement as reflected in Article 1338 paragraph (3) of the Civil Code. This comprehensive approach reflects an evolution in treaty law interpretation, from a purely rigid textual approach to a more flexible and substantive justice-oriented contextual approach. This trend is in line with Indonesia's civil law reform efforts that have begun in recent decades, which aim to adapt the provisions of the Civil Code that are more than a century old to contemporary socio-economic realities. In conclusion, the decision of the North Jakarta District Court in the case of PT. Tiger Star Indonesia vs. Rudy Sutantono and Lidiya Budiono provides legal certainty for the parties to the dispute and contributes to developing treaty law doctrine in Indonesia. Through a progressive interpretation of the provisions of the Civil Code, this decision enriches the treasures of jurisprudence that can serve as a reference for judges, legal practitioners, and academics

in understanding the complexity of contractual relationships in the context of contemporary Indonesia.

## Conclusion

Negligence in fulfilling treaty obligations or default is one of the civil law problems that has significant implications in Indonesia's business and civil transactions. Based on an analysis of the case of Decision Number 298/Pdt.G/2024/PN Jkt. Utr, defaults can occur in various forms, including non-compliance with debt payment agreements and violations of guarantee clauses. In this case, the court affirmed that the legally made agreement has binding legal force, as reflected in the principle of *pacta sunt servanda*. In addition, the available legal mechanisms, such as summonses and claims for damages, are important tools in protecting the interests of the aggrieved party. However, the complexity in the application of default shows that there is a need for a deeper understanding of the legal provisions of contracts, both from the aspect of jurisprudence interpretation and the effectiveness of the execution of court decisions.

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