



***ANALYSIS OF DISTRICT COURT DECISIONS ON
LENDING AND BORROWING MONEY CANCELLED BY
THE HIGH COURT
(Study of Decision Number 138/PDT/2017/PT.KPG)***

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ABSTRACT

This study aims to analyze the legal considerations of the High Court in annulling the District Court's decision regarding a money lending agreement, especially in the case stated in Decision Number 138/PDT/2017/PT.KPG and Decision Number 150/Pdt.G/2016/PN.KPG. The background of this problem reflects the importance of the role of judges in upholding justice and law, as well as the potential dissatisfaction of parties involved in the judicial process. The research method used is a case study by analyzing court decision documents and interviews with legal practitioners to explore deeper perspectives. The discussion includes an analysis of a decision involving a plaintiff who suffered losses due to the defendant's illegal use of collateral assets. Although the District Court rejected the plaintiff's application to return the confiscated land, the appeal filed successfully overturned the decision. The results of the study indicate that the High Court's legal considerations focus on substantive justice and protection of the borrower's rights. The conclusion of this study emphasizes the importance of the principle of justice in every court decision, as well as the need for consistent law enforcement in lending practices. The advice given is the need to increase understanding of the risks in loan agreements and the importance of compliance with legal provisions to avoid disputes in the future.

Keywords: *borrow money, canceled, high court.*

1. INTRODUCTION

It is the duty of a judge to uphold the law and ensure that justice is served without bias. To achieve justice, a judge must carefully evaluate the facts of a case, apply the relevant law, and then make a fair and impartial decision.¹ The role of a judge is very important because they hold the legal authority of the judicial institution to carry out its functions. The judge's decision has a great influence on the administration of justice and the maintenance of law and public order. Ultimately, a judge's responsibility is to uphold the principles of justice, equality, and integrity in the legal system.²

According to Sudikno Mertokusumo, a judge's decision includes an official statement made by a judge in his position as an official appointed by the state and has the authority to do so. This statement is usually made during a court hearing and is intended to end or resolve a legal case or dispute between the parties involved. In addition to oral statements, decisions can also be documented in written form and officially announced by the judge during the trial. It is important to note that a draft written decision does not have any legal weight until it is officially announced by the judge in court.

The final decision made by a judge after reviewing the evidence presented in a court case usually includes consequences in the form of punishment for the party found guilty.³ These penalties, which are outlined in the Civil Procedure Code and Criminal Procedure Code, can be imposed on wrongdoers without bias, with the main difference being that in civil cases, the penalty usually includes the fulfillment of certain obligations or compensation to the winning party, while in criminal cases. In some cases, this often results in detention or a fine.

The guidelines that must be followed so that a decision is free from error are outlined in Article 178 HIR, Article 189 Rbg, and Article 2 Chapter 2 of Law No. 48 of 2009 concerning Judicial Power. These principles are important in maintaining the integrity and effectiveness of the justice system, including⁴:

1. The trial is carried out "FOR JUSTICE BASED ON THE ONE ALMIGHTY GOD"
2. The state courts are responsible for implementing and maintaining law and justice in accordance with the principles of Pancasila, the basic ideology of Indonesia.
3. All judicial institutions in the territory of the Republic of Indonesia are considered state courts and are regulated by law.

¹ Cassia Spohn. *How Do Judges Decide?: The Search For Fairness And Justice In Punishment*. Sage, 2009.

² Nihal Jayawickrama. "Developing A Concept Of Judicial Accountability—The Judicial Integrity Group And The Bangalore Principles Of Judicial Conduct." *Commonwealth Law Bulletin* 28, No. 2 (2002): 1091-1108.

³ Malcolm M Feeley. *The Process Is The Punishment: Handling Cases In A Lower Criminal Court*. Russell Sage Foundation, 1979.

⁴ Teuku Saiful Bahri Johan, And Farhana Farhana. "STATE AND RELIGION RELATIONSHIP IN THE CONTEXT OF LAW ENFORCEMENT IN INDONESIA." In *The 4th Legal Internasional Conference And Studies*, Vol. 4, No. 4.

4. The trial is carried out efficiently with a focus on timeliness and affordability.

However, there are times when a judge makes a decision that is not in accordance with the provisions of the law, which makes the parties involved feel dissatisfied. In response, they can choose to take the next legal path available to them, namely filing an appeal. An appeal is a common legal remedy that can be requested by one of the parties involved in a case in response to a decision made by the District Court. If the parties are dissatisfied with the results of the District Court's decision, they can appeal to the High Court through the same District Court that issued the initial decision.⁵ By filing an appeal, the District Court's decision is suspended and cannot be enforced until a final decision is obtained.

Decisions that can be appealed usually come from a lower court, such as a first instance court. The purpose of the appeal process is to obtain a review by a higher court and potentially overturn the decision made by the lower court. This allows for a thorough re-evaluation of the legal arguments, facts, and evidence presented in the case. Some examples of decisions that can be overturned when appealed include:

1. **Acquittal or Guilty Verdict:** An appellate court has the power to overturn a verdict of acquittal or guilt made by a lower court if the court deems that the evidence or legal reasoning used was inadequate or incorrect. This means that a higher court can review and potentially change the outcome of a case if it believes that the original verdict was flawed in some way.
2. **Sentence:** An appellate court has the power to overturn or change a sentence imposed by a lower court if it is found to have violated the law or failed to take into account important factors in the case. This means that a higher court can review the decision made by the lower court and make changes as necessary to ensure justice is served.
3. **Administrative Decisions:** In certain circumstances, decisions made by administrative bodies that are then reviewed by a court may be overturned or modified by a higher court if the decision is found to be unlawful or does not meet established legal standards. This process allows for accountability and ensures that decisions made by government agencies are consistent with the law.
4. **Civil Lawsuits:** Court decisions in civil cases, such as civil lawsuits or other legal actions, have the potential to be overturned or modified by an appellate court if there is an error in the interpretation of the law or the assessment of the evidence presented. This means that the outcome of a civil case is not always final and can be reviewed and potentially changed.

Borrowing and lending has been an integral part of social and economic interaction for centuries. In many societies, the practice of borrowing and lending money is seen as essential to fostering economic growth and improving the quality

⁵ Jonathan M Cohen. *Inside Appellate Courts: The Impact Of Court Organization On Judicial Decision Making In The United States Courts Of Appeals*. University Of Michigan Press, 2002.

of life for individuals. When individuals borrow money, they usually reach an agreement with each other. This has been regulated and stipulated in Article 1754 of the Civil Code which clearly states that,

"A loan agreement is a contract between two parties where one party lends a number of goods that have been damaged due to use to the other party, with the understanding that the borrower will return the goods in a similar amount with a similar type and quality of goods. This agreement allows for the temporary transfer of goods with the hope that they can be returned at a later date."

The basis of a loan agreement lies in the establishment of trust between the creditor who provides the debt and the debtor who receives it.⁶ This trust is built on the fulfillment of all the terms and conditions set for borrowing money. In essence, the creditor must have confidence that the debtor will repay his debt within the agreed time frame. This trust is very important in ensuring the successful completion of the loan agreement.

Lending money according to a loan agreement from the lender to the borrower is a process that has reasonable risks. The most common risk is the possibility that the borrower will fail to repay his debt on time or not at all.⁷ These risks can have negative consequences for the lender, so it is important for the lender to carefully assess these risks before deciding to extend credit. It is important for the lender to have confidence in the borrower's capacity and reliability to repay the debt in full.

To ensure certainty and protection in receiving debt payments, lenders often implement security measures and require borrowers to pledge an asset as collateral in the loan agreement. The goal is to minimize the risk to the lender, as they seek to ensure that the loan funds are used properly and can be repaid in a timely and safe manner. These precautions are taken to protect the lender from potential risks and uncertainties associated with borrowing money.

However, problems often arise during the implementation of debt and receivables agreements, such as delays or failure to make payments as agreed. In this case, the debtor can be believed to be in default of the terms of the agreement. Default occurs when the debtor fails to fulfill his obligations in a timely and satisfactory manner. In addition to default, there are many other illegal activities that often occur in terms of borrowing money. These illegal activities include a series of legal guidelines designed to manage or monitor risky behavior, provide accountability for losses arising from social transactions, and offer restitution to victims through appropriate legal action.

The case examined involves the practice of illegal lending and borrowing of funds as outlined in Decision Number 138/PDT/2017/PT.KPG. The plaintiff had initiated legal proceedings in a previous case involving breach of contract and

⁶ Douglas-Hamilton, And Margaret Hambrecht. "Creditor Liabilities Resulting From Improper Interference With The Management Of A Financially Troubled Debtor." *The Business Lawyer* (1975): 343-365.

⁷ Helmut Bester. "The Role Of Collateral In A Model Of Debt Renegotiation." *Journal Of Money, Credit And Banking* 26, No. 1 (1994): 72-86.

unlawful acts, detailed in Decision No. 150/Pdt.G/2016/PN.KPG. Initially, the plaintiff had provided a check and land certificate as collateral in the agreement. However, without the plaintiff's knowledge, the defendant had used the land for his own interests, resulting in financial losses for the plaintiff. The plaintiff's application to return the land that was unlawfully confiscated by the defendant was rejected by the judge in Decision No. 150/Pdt.G/2016/PN.KPG. Feeling dissatisfied with the decision, the plaintiff decided to challenge the decision by filing an appeal. As a result, the initial decision made by the Kupang court was overturned by the appellate court, thereby providing the justice the plaintiff sought.

2. RESEARCH METHODS

This research is a normative legal study that focuses on written regulations, using Decision Number 620/Pdt.G/2019/PN.MDN as the object of analysis. The approach used includes legislation and cases to provide an in-depth understanding of the legal issues faced. Sources of legal materials include primary legal materials (UUD 1945, Civil Code), secondary (books and journals), and tertiary (dictionaries and guides). The data collection method uses document studies and content analysis, while data analysis is qualitative with an inductive approach. The systematics of writing are divided into several chapters that discuss problems, legal resolutions, legal implications, and conclusions with recommendations.

3. DISCUSSION

3.1. District Court Decision Regarding Money Lending Which Was Canceled By The High Court In Decision Number 138/PDT/2017/PT.KPG

Borrowing and lending money is a common practice in society that often involves legal aspects.⁸ Although it seems simple, the legal relationship that is established in a borrowing and lending transaction can give rise to various disputes that end up in the court process. This study aims to analyze the District Court Decision which was later overturned by the High Court in Decision Number 138/PDT/2017/PT.KPG. A deep understanding of this case is important to evaluate how the law is applied in borrowing and lending cases and its impact on the parties involved.

In this case, there are two parties involved: the borrower (debtor) and the lender (creditor). This case began with a dispute between the two regarding a borrowing and lending agreement. The District Court decided to grant the creditor's lawsuit, which claimed that the debtor had failed to fulfill his obligation to return the loan according to the agreement.⁹ However, this decision was later overturned by the High Court, which stated that there was an error in the legal considerations by the District Court.

⁸ Thomas Greco. *Money: Understanding And Creating Alternatives To Legal Tender*. Chelsea Green Publishing, 2001.

⁹ Elizabeth Warren, Jay Lawrence Westbrook, Katherine Porter, And John Pottow. *The Law Of Debtors And Creditors: Text, Cases, And Problems*. Aspen Publishing, 2020.

The High Court Decision Number 138/PDT/2017/PT.KPG contains in-depth considerations regarding the implementation of the law related to borrowing and lending agreements. In this case, the relevant legal basis includes:

- a. Civil Code (KUHPperdata): Articles that regulate the agreement and obligations of the parties in a loan agreement.
- b. Consumer Protection Law: Related to the rights and obligations of consumers in this legal relationship.
- c. Principles of fair and balanced civil law: Ensuring that the decisions taken do not unfairly harm either party.

The District Court Decision, in this case, contains several important elements that are worth analyzing:

1. Legal Considerations, the District Court considered that the debtor had violated his obligations. They based their decision on evidence submitted by the creditor, such as the loan agreement and proof of money transfer. However, there were shortcomings in the analysis carried out, especially in assessing evidence from the debtor showing the repayment efforts that had been made.
2. Implications of the Decision, This decision has a significant impact on both parties. For creditors, this decision should provide legal certainty to demand repayment. However, for the debtor, this decision can have detrimental consequences, including potential bankruptcy or future credit problems.

The High Court annulled the District Court's decision for the following reasons:

1. Error in Evidence Assessment, The High Court found that the District Court did not consider the evidence submitted by the debtor. The evidence showed that the debtor had made efforts to pay off his debt despite the obstacles he faced. Thus, the legal considerations taken by the District Court were considered not comprehensive.
2. Principle of Justice, The High Court emphasized the importance of the principle of justice in its decision. In the context of borrowing and lending, both parties have rights and obligations that must be fulfilled in a balanced manner. This cancellation is expected to encourage awareness of the need to enforce the rights of debtors without ignoring the rights of creditors.

The cancellation of the decision by the High Court not only has an impact on the parties involved in this case, but also on the practice of borrowing and lending in society in general. Some implications that need to be considered are:

1. Legal Awareness, This decision can increase public legal awareness of the importance of making clear agreements that cover all legal aspects. This is important to prevent future disputes.
2. Protection of Debtors' Rights, This decision shows that the judicial system is paying more attention to protecting debtors' rights. This is expected to create a better climate for lending practices, where both parties respect each other's rights and obligations.

3. Evidence Assessment Standards, This decision also provides guidance for courts in assessing evidence presented in similar cases. Courts are expected to be more thorough and fair in considering evidence from both parties.

3.2. Legal Considerations of the High Court in Cancelling the Decision on Lending and Borrowing Money in Decision Number 150/Pdt.g/2016/PN.KPG

Money lending cases are one form of civil dispute that often arises in society. Regulations regarding money lending are regulated in the Civil Code (KUHPerdata) Articles 1754 to 1769, which cover the rights and obligations of the parties involved in the debt agreement. However, even though the regulations are clear, disputes often end up in court because one party feels disadvantaged or the other party does not fulfill the agreed obligations.

The High Court's decision to annul the District Court's decision regarding money lending cases is often an important point in the development of cases at the appeal level. In this case, one of the cases in the spotlight is Decision Number 150/Pdt.G/2016/PN.KPG, where the District Court's decision was annulled by the High Court. Through this research, we will analyze in depth the legal considerations used by the High Court in annulling the District Court's decision.

This case began with a debt agreement between the plaintiff and the defendant, where the plaintiff lent a sum of money to the defendant with the provision of repayment within an agreed period of time. However, in reality, the defendant did not fulfill his obligation to return the loan. The plaintiff then sued the defendant at the Kupang District Court with a demand that the defendant return the loan money along with the interest agreed in the agreement.

The Kupang District Court through Decision Number 150/Pdt.G/2016/PN.KPG decided that the defendant was obliged to return the loan money to the plaintiff. However, the defendant was not satisfied with the decision and appealed to the High Court.

At the appeal level, the High Court reviewed all legal aspects related to this case, both in terms of facts and the application of the law carried out by the District Court. There are several main considerations that are the basis for the High Court in overturning the District Court's decision:

1. Validity of the Debt Agreement The High Court re-examined the validity of the debt agreement between the plaintiff and the defendant. One of the main considerations is whether the agreement has met the requirements for a valid agreement as regulated in Article 1320 of the Civil Code, namely the existence of an agreement, capacity, certain objects, and lawful causes. The High Court found that there was disagreement regarding several provisions in the agreement, which the panel of judges considered could affect the validity of the agreement.
2. Proof of Facts In the examination process at the High Court, the panel of judges found weaknesses in the evidence conducted at the District Court. The plaintiff, although having submitted several pieces of evidence, was

deemed unable to clearly prove that the defendant had actually received and used the loan money. In addition, there were also differences in interpretation of the evidence submitted, especially relating to the amount of money actually loaned and the agreed repayment period.

3. **Good Faith of the Parties** The High Court also considered the good faith of the parties involved. In civil law, good faith is a principle that must always be present in every agreement. The defendant in this case argued that he had tried to repay the loan according to his ability, but unfavorable economic conditions made it difficult for him to fulfill his obligations on time. The High Court considered this and considered that the District Court did not fully consider the defendant's good faith in its decision.
4. **Loan Interest Arrangements** The High Court also evaluated the interest arrangements agreed in the agreement. In some cases, excessively high interest rates can be considered unreasonable and contrary to the principle of fairness in a loan agreement. In this case, the High Court panel of judges considered that the interest set out in the agreement was too burdensome for the defendant, so they decided to adjust the amount of interest to make it more proportional.

Inappropriate Application of the Law One of the main reasons the High Court overturned the District Court's decision was because they considered there was an error in the application of the law. The District Court was deemed not to have considered several important aspects in this case, such as evidence and the validity of the agreement, which resulted in an unfair decision for the defendant. The High Court decided to improve the application of the law by overturning the District Court's decision and issuing a more appropriate decision based on the facts and evidence available.

4. CONCLUSION

In both cases, the High Court annulled the decisions made by the District Court due to errors in legal considerations and evidence assessment. The primary issues revolved around the validity of loan agreements, fairness in interest rates, and the good faith of the parties involved. The High Court emphasized that courts must carefully assess all evidence and ensure that legal principles such as fairness and the protection of rights are upheld. The High Court's interventions highlighted the need for balance in upholding the rights and obligations of both creditors and debtors, thereby promoting justice and legal certainty in borrowing and lending transactions. Courts should adopt more rigorous standards for evaluating evidence, ensuring that all relevant facts from both parties are considered comprehensively to avoid incomplete legal reasoning.

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