

Legal Protection for Insured Companies in the Insurance Company Experience Fail to Pay in Claim Process (Example of The Case of Bumiputera Insurance Certificate Policy Number: 209101549390)

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ABSTRACT

Insurance is essentially used to estimate all risks that are born from the uncertainty of a condition. An uncertainty of the condition has never been experienced by individuals or companies. Not all individuals and companies will be able to survive when faced with an unpredicted occurrence. But in fact there are still many insured difficulties when about to make an insurance claim that should be the right. There are two possibilities that can be the insured to make an insurance claim, the first is because the insured can not qualify according to the approved policy, the second is because the insurer deliberately complicate the insured party to make an insurance claim. This Paper discusses the cases in the company in PT. General insurance Bumiputera with policy number 209101549390 made on May 05, year 2009 on behalf of Mr. Suratmin. In this case, Mr. Suratmin is listed that Mr. Suratmin as the insured party has closed the life insurance agreement in the company of Bumiputera Insurance with a variety of insurance partner Melati without a doctor's examination. The insured has carried out its obligations by making premium payments periodically and has completed the obligation to pay the premium until the 05 of May year 2019, however, until now the submission of the insurance contract of the Mr. Suratmin which has not also been disbursed or given by the insurer is PT. General Insurance Bumiputera to the insured, Mr. Suratmin.

Keywords: Life insurance, policy, claim

1. INTRODUCTION

Humans in life will face an unwanted risk. Risk is something that can threaten life and can cause loss, damage and loss. In these circumstances, the presence of insurance will make the loss felt can be overcome and overcome because of the protection and transfer of losses from future risks by the insurance company. Alexander the Great during his reign in Greece established the existence of insurance to provide guarantees for the replacement price of the lost slave or a guarantee to find the missing slave. The Netherlands is one of the countries which initiated the development of insurance in Indonesia. In carrying out plantation and business operations carried out by the Dutch in their colonies, there were many possible factors which could hamper or frustrate their business. To anticipate failures that he might encounter in the business process, the Netherlands utilizes insurance services to secure all trade and business activities. Some failures that may be encountered in business activities include process failures when shipping goods, fires, and so forth. Procurement of insurance activities by the Netherlands is used to protect its interests with the United Kingdom and other European countries. Insurance activities within the Japanese colonial period in Indonesia experienced stagnant conditions. Insurance activities in Indonesia began to increase again after the Second World War [1]Parera, Agoes. *Hukum Asuransi di Indonesia*, (Yogyakarta: PT Kanisius, 2019).

The first insurance company to operate was Semarang Sea which was founded in 1816 and other insurance companies such as Java Sea, Arjoeno, Veritas, and Mercurius. The first national life insurance was Bumiputera Insurance 1912 and after the independence of the Republic of Indonesia, the government nationalized Dutch and British insurance companies. 1953 was one of the years when insurance companies began to stand in Indonesia. The establishment of insurance companies to lead to increased insurance retention in Indonesia. Some of the companies established in that year included PT General Reinsurance Indonesia as a state-owned company, and Indonesian Reinsurance Airlines as a private company. Insurance is basically used to overcome all risks that arise from the uncertainty of a condition. A condition uncertainty must have been experienced by an individual or a company. Not all individuals and companies will be able to survive if faced with an unexpected event. Insurance comes to provide assistance against a risk that is predicted to occur in real life. Some companies and individuals make use of insurance services to guarantee themselves the existence of help when the company or individual faces an uncertainty. It can be said that the purpose of holding insurance is a mechanism of transfer or transfer of risk in order to reduce or eliminate the burden of injury risk that will be insured by itself as a result of

an event that has not yet occurred or does not occur (event). Insurance by paying a counterattack is called a premium. Risk transfer does not exclude the possibility of an accident, but insurance companies provide financial security and peace of mind for the insured. In Indonesia, the commencement of insurance is regulated by commercial law (KUHD). On 11 February 1992, the legal basis for insurance was changed to Law Number 2 of 1992 concerning Insurance Business and the legal basis for business was changed again, and the current positive law for insurance law is Law Number 40 of 2014 concerning Insurance. The definition of insurance set out in Article 246 of the Indonesian Criminal Code states that insurance or coverage is an agreement in which the insurance company is obliged to provide compensation to the insured, damage or any expected benefits that can be suffered as a result of uncertain events. In Article 1 number (1) of Law Number 2 of 1992 concerning Insurance Business, which states that insurance or coverage is an agreement between two or more parties which the insurer carries out to the insured by receiving a premium to compensate the policyholder for loss, damage or loss of expected profits or obligations to a third party that could be harmed by the insured, as a result of an uncertain event, or to provide payment based on the death or life of an insured person. At present, the legal basis for insurance is regulated by Law Number 40 of 2014 concerning Insurance Article 1 number (1) of Law Number 40 of 2014 concerning insurance stipulates that insurance is an agreement between two parties, namely the Insurer and the Insured or to provide payments based on death of the insured or payment based on the age of the insured with benefits of the amount specified and / or based on the results of fund management. From the above definition, there are three elements of insurance, the first element: the insured element, as the party who promises to pay money from the premium to the insurance company all at once or in stages. The second element: this means the insurance company, as the person who promised to pay a sum of money to the guaranteed party at once or in stages, when the third element was carried out. Third element: this means that an event that has not yet clearly occurred. These two parties are usually referred to as insurance. The subject of insurance is the parties to the insurance, namely the guarantor and the insured, who actively act in the implementation and implementation of insurance contracts. In Article 1 number (23) of Law Number 40 of 2014 concerning Insurance which states that the insured faces risks as stated in the insurance company's reinsurance agreement or contract, while the insurance company is the party that runs the insurance business as referred to in Article 1 of Law Number 40 of 2014 concerning Insurance which states that insurance is any business related to insurance services or risk management, risk liability,

marketing and distribution of Syariah insurance products, insurance consultancy and intermediaries, valuation of loss of insurance / Syariah insurance. In addition, an insurance agreement (better known as an insurance policy) is held against the object of insurance to transfer the risk to the insurance company. The guarantor and the insured have their obligations and rights. The Insurer bears the risk transferred to him and is entitled to premium payments from the Insured, whereas the Insured is obliged to pay the premium and is also entitled to compensation if the insured item is lost. Then the Insurer's right is to obtain a premium payment from the Insured and has the obligation to assume the risk and provide compensation in the event of a risk set forth in the policy. The Insured's right is to get compensation if there is a risk from the Insurer followed by the obligation to make premium payments to the Insurer. In Article 1 number (25) of Law Number 40 of 2014 concerning Insurance that governs the definition of insurance objects. The object of insurance can be objects and services, body and soul, human health and legal responsibility. In addition, the object of insurance can be all other interests that can be lost, damaged, loss and/or diminished in value. To manage the insured object, an insurance business is needed. Insurance business is a mechanism within the scope of business that provides protection to the insured if there is a risk in the future. If the risk occurs, then the insured party will get the agreed amount of money agreed. Protection like this is needed to avoid losses on a large scale. Insurance is very useful to be used in various circles to increase the sense of security against the risks that will occur in the future and serves as savings in the policy premiums paid by the insured because it contains protection costs and also savings for policyholders. [3] M. Suparman Sastrawidjaja dan Endang, *Hukum asuransi perlindungan tertanggung asuransi deposito usaha perasuransian*, (Bandung: Alumni Bandung, 1992). This savings is also managed by an insurance company through an investment company to make a profit that will be given to the policy owner or the insured after some time has passed in accordance with what was agreed upon by the parties stated in the policy.[4] Ari WB Raharjo dan Tety Elida, *Bank dan Lembaga Keuangan Non Bank di Indonesia*, (Jakarta: Universitas Indonesia, 2016).

The policy in insurance plays an important role because in the policy it appears that the parties have their respective rights and obligations which must be fulfilled and useful when submitting compensation claims for their performance contracts as a result of the insurance premium being paid to the insurance company or the guarantor so that they can maintain consistency of responsibility, both the guarantor and the insured. However, the total number of insurance cases from 2017 to 2020 registered in court was 5,145 cases and cases that had decisions in 2017 to

2020 were 6,667 cases concerning asruansi cases. There are many types of insurance cases that are happening between 2017 and 2020. [5] <https://putusan3.mahkamahagung.go.id/search?q=asuransi> One type of case that occurs in an insurance company is about the failure of the insurance company to carry out its obligations to the insured party to pay compensation or the insured party's claim for the case that has occurred at Bumiputera Insurance. Furthermore, the case of failure of insurance companies to make claims payment obligations occurred at the company PT. General Insurance Bumiputera (Life Insurance) cases in companies at PT. General Insurance Bumiputera with policy number 209101549390 made on May 5, 2009 in the name of Mr. Suratmin. In that case, Mr Suratmin stated that Mr Suratmin, as the insured party, had closed the life insurance agreement at the Bumiputera Insurance company with various types of jasmine partner insurance for a period of 10 years with a premium charged of Rp. 2,917,200.00 paid out per quarter, which is May 5 2009 until 5 May 2019 until the end of the policy year or if the insured dies with an insurance sum of 100,000,000.00 Rupiah in the policy there is a clause stating that if the insured dies before May 5 2019 to the designated person is paid compensation for the sum insured plus the accumulation of funds or if the insured is still alive until May 5 2019 the accumulated funds must be paid at least 110% from the sum insured. The insured has fulfilled its obligations by making premium payments periodically and has completed the obligation to pay the premium until May 5 in 2019, but until now the submission of claims for the expiration of Mr Suratmin's insurance contract has not yet been disbursed or given by the insurer namely PT. Bumiputera general insurance to the insured party namely Mr Suratmin. Furthermore, based on the description of the case above, the researcher is interested in conducting further research and writing it in the form of a thesis with the title **"PROTECTION OF LEGAL INSURANCE ASSUMED IN POLICY INSURANCE COMPANIES EXPERIENCE FAILED PAY IN THE CLAIM PROCESS (EXAMPLE OF THE CASE CERTIFICATE OF BUMIPUTERA INSURANCE POLICY NUMBER (209101549390))"** The limitation of the research object of this thesis is Bumiputera Insurance Company.

2. PROBLEM FORMULATION

Based on the background description that was written in the previous section, the researcher will formulate the problem as the focus of the discussion that will be examined in this study related to legal protection for the insured to submit insurance claims in the event that the insurance company experiences default, as for the formulation of the problem as follows: **"How is the legal protection for the**

insured in the event that the insurance company fails to pay in the claim process?"

2.1 Data Example Case

Following up on the case at the company at PT. General Insurance Bumiputera with policy number 209101549390 made on May 5, 2009 in the name of Mr. Suratmin. In that case, Mr Suratmin stated that Mr Suratmin, as the insured party, had closed the life insurance agreement at the Bumiputera Insurance company with a variety of jasmine partner insurance without a doctor's examination. And, without the right to profit distribution for a period of 10 years with a premium charged of Rp. 2,917,200.00 paid out per quarter, which is starts from May 5 2009 untill 5 May 2019 or if the insured dies with an insurance sum of Rp. 100,000,000.00 in the policy there is a clause stating that if the insured dies before May 5, 2019 to the designated person is paid compensation for the sum insured plus the accumulation of funds or if the insured is still alive until May 5, 2019 the accumulated funds must be paid at least 110% from the sum insured.

The following are the details contained in the policy, namely:
Observation Period

First Year	60% of death benefit
Second Year	80% of death benefit
Third Year and beyond	100% of death benefit

This policy is subject to a trial period of 2 years since the policy was issued, with the following provisions:

- 2.1.1** Exemption from probation does not apply (compensation is still paid 100%) in the event the Insured dies due to an accident; Disease which was declared by the local Health Service as an outbreak for the area where the Insured died.
- 2.1.2** Accumulated funds are savings that are compounded for a period of insurance;
- 2.1.3** If the interest rate on the net investment return exceeds the minimum guaranteed interest rate, the excess of the net investment return increases the amount of accumulated funds;
- 2.1.4** The accumulation of this policy fund is guaranteed with an investment yield of at least 4.5% per annum effectively or at 0.37% per month as a compound.

The insured has fulfilled its obligations by paying premiums periodically and has completed the obligation to pay premiums until May 5 in 2019, however, until now the submission of claims for the expiry of Mr Suratmin's insurance contract has not yet been disbursed or given by the insurer

namely PT. Bumiputera general insurance to the insured party namely Mr Suratmin.

Table 1. Accumulated Funds and Death Benefits

Month/Year	Minimum Fund Accumulation	Minimum Death Benefit
5/2010	5.080.846,00	105.080.846,00
5/2011	15.057.973,00	115.057.973,00
5/2012	25.484.070,00	125.484.070,00
5/2013	36.379.342,00	136.379.342,00
5/2014	47.764.901,00	147.764.901,00
5/2015	59.662.810,00	159.662.810,00
5/2016	72.096.125,00	172.096.125,00
5/2017	85.088.939,00	185.088.939,00
5/2018	98.666.430,00	198.666.430,00
5/2019	112.854.908,00	212.854.908,00

3. RESEARCHER ANALYSIS

Law Number 2 of 1992 concerning Insurance Business does not yet contain regulations regarding sanctions imposed on companies that experience late payment of insurance claims. Some of the insured laws can be used as a reference to obtain the rights of the insured are Article 23 number (1) Government Regulation Number 73 of 1992 which includes regulations for the operation of insurance companies whose contents contain a prohibition on insurance companies to take actions that can hamper the process settlement and payment of claims. Included in Article 27 of the Decree of the Minister of Finance Number 422 / KMK.06 / 2003 of 2003 explained if the insurer must pay the insured's claim no later than 30 days from the commencement of the agreement between the insured in this case Mr. Suratmin and the guarantor, PT Asuransi Umum Bumi Putera. If PT Asuransi Umum Bumiputera has been proven to have violated the law in making it difficult for the insured to accept his rights, Article 37 Government Regulation Number 73 of 1992 can be ensnared, namely giving warning sanctions, limiting business activities, or even revoking business licenses. If the guarantor, in this case PT Asuransi Bumi Bumi Putera within 30 days of the agreement with the insured, has not paid the insurance claim/ certainty the amount of claims to be paid, the insured party can file a civil suit in Article 1243 of the Civil Code on the basis of default.

4. CONCLUSION AND SUGGESTION

4.1 Conclusion

Based on Article 23 paragraph (1) of Government Regulation No. 73 of 1992 which contains regulations on the conduct of an insurance business, PT Asuransi Bumi Bumi Putera is prohibited from hampering the process of payment of claims against the insured in this

case Mr Suratmin to obtain his rights. And based on Article 27 of Minister of Finance Decree No. 422 / KMK.06 / 2003 In 2003, PT Asuransi Umum Bumi Putera must pay the insured's claim no later than 30 days from the start of the agreement between the insured and the guarantor.

4.1.1 If PT Asuransi Umum Bumi Putera is proven to have violated the law in making it difficult for the insured to accept his rights, Article 37 Government Regulation Number 73 of 1992 can be ensnared, namely giving warning sanctions, limiting business activities, or even revoking business licenses.

4.1.2 The insured party may file a civil suit Article 1243 of the Civil Code on a default basis if PT Asuransi Umum Bumi Putra has not paid the insured's claim up to 30 days from the start of the agreement between the insured and the guarantor.

4.2 Suggestion

Adapun saran yang ingin penulis sampaikan adalah sebagai berikut:

4.2.1 So that the insured person reviews the policy that has been made by the guarantor's party. Prepare documents that can be used as evidence to make insurance claims.

4.2.2 For the insurer to re-examine the rights that must be obtained by the insured in an insurance claim. And to ensure that the insured returns accordingly whether or not the insured receives insurance if based on a mutually agreed policy.

[10] _____. Government Regulation Number 73 of 1992 Concerning Insurance Bussines

[11] <https://putusan3.mahkamahagung.go.id/search?q=asuransi> di akses pada tanggal 4 Mei 2020

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- [5] Indonesia. 1945 Constitution of the Republic of Indonesia
- [6] _____. Code of Civil Law
- [7] _____. Code of Commercial Law
- [8] _____. Law Number 2 of 1992 concernig Insurance Business
- [9] _____. Law Number 40 of 2014 of 2014 Concerning Insurance Bussines