



## Bank's Responsibility for Customer Money Losses in Inter-Bank Transfer Errors (Study of Decision No. 148/PID.SUS/2021/PN SBY)

Rolib Sitorus<sup>1\*</sup>, Felicia Saphira<sup>2</sup>

Fakultas Hukum, Universitas Pelita Harapan

**Corresponding Author:** Rolib Sitorus [rolibsitorus@gmail.com](mailto:rolibsitorus@gmail.com)

### ARTICLE INFO

*Keywords:* Bank, Fund Transfer, Customer, Accountability, Legal Protection

*Received :* 01 October

*Revised :* 23 October

*Accepted:* 27 November

©2024 Sitorus, Saphira: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



### ABSTRACT

This study aims to determine the bank's responsibility for customer money losses in the event of an interbank transfer error in case NO 148/PID.SUS/2021/PN SBY and how legal protection for customers for losses due to incorrect transfers in the decision (NO 148/PID.SUS/2021/PN SBY). The research method used by the author in this study is the juridical-normative legal research method. The juridical-normative method is an approach carried out by examining the approach of theories, concepts, reviewing laws and regulations related to this research or the legislative approach. Normative juridical research is legal research that positions law as a building of a normative system. The normative system in question is regarding the principles, norms, rules of laws and regulations, agreements and doctrines (teachings). This normative research is research on legal systematics, namely research whose main purpose is to identify the definitions or bases in law. Based on the results of the study, it shows that the bank's accountability carried out in accordance with applicable legal provisions is the management of PT. Bank BCA has admitted to making efforts to resolve the matter through deliberation and Ardi (as the recipient of the wrongly transferred funds) based on Bank BCA's records, Ardi was given 2 (two) notification letters of the wrong transfer and BCA has asked him to return the funds since March 2020 and Bank BCA has issued a warning to Ardi. If the bank makes a mistake in transferring funds, they must prove that there has been an error in sending, and if they find out, the bank must immediately collect the funds.

## **INTRODUCTION**

One of the essential roles in the economic development of a country is held by the banking industry. The existence of the banking sector does not rule out the possibility of various types of economic activities. Among the many types of financial institutions, banking is a field that has a major influence on the economic activities of modern society. Banks are financial institutions that play an important role in a country's economy. Observing the word bank is indeed too familiar to us, especially those who live in urban areas. In fact, in rural areas today, the word bank is not a foreign word.

It is undeniable that under the influence of increasingly advanced technological support, users or those who support non-monetary financial transactions will gradually try to find other alternatives to form financial transactions that are safe, useful and easily accessible to the public. The outbreak of the Covid-19 pandemic in 2020 is also a driving force for Indonesia to prioritize digital transformation, especially the implementation of transactions through payment systems to pursue the momentum of digital economic growth in Indonesia. Indeed, most forms of business such as industry, trade, agriculture, housing and others require the role of the banking industry as a counterparty to meet financial transaction needs.

One of the banking services currently available in Indonesia is money transfers. Money transfer is a banking service that is permitted to the public and allows customers to channel a certain amount of money to another party (company, organization, or individual) at a specific location in Indonesia or abroad.

Based on the explanation above, it can be said that money transfer is also known as transfer, is an action taken by a bank to send a certain amount of money to a specific person and at a specific place. This money transfer is carried out at the request of the customer or for the benefit of the bank concerned.

One of the obstacles to sending money by carrying money directly from one area to another is the security aspect of the transfer. With the risk of theft not only to the money being transported, but also to the life of the person carrying the money. On the other hand, the security of money cannot be guaranteed until its destination, because the money carrier can take the money to be sent intentionally. There is also a risk of unintentional loss. Therefore, by overcoming these problems, banks have succeeded in implementing / providing savings facilities that can provide security guarantees until their destination.

The process of transferring money or funds in a conventional way / the process of transferring money through a bank teller is still widely used today, because there are still many parents and young people who do not understand the use of mobile phones, especially in transferring funds using M-banking. When transferring money through a bank machine, the method of sending wire transfers or transferring money through a bank machine cannot avoid unexpected problems, even in many cases bank tellers transfer the wrong money from the bank when making a transfer, so that the funds that should have entered the intended account actually entered another customer's account.

Based on the provisions of the law, there are no regulations regarding how the bank must be responsible for bank errors when transferring customer money to the sender. There is only legal responsibility to the intended recipient. In several cases as described above, errors occur, including the negligence of the cashier (banker) in recording the intended account number, while the bank's obligations with errors are limited to corrections, such as cancellation of the transfer, and if negligent in correcting the error, the bank is required to compensate the intended recipient.

There are times when in some cases the bank does not want to be held accountable because the error was caused by the customer's negligence in notifying the account number intended for the transfer. In such cases, the customer may consider himself disadvantaged because the bank considers that the error was caused by the customer's negligence in listing the desired account number, while the possibility of an error by the teller (bank employee) could have occurred. In the end, the ones who suffer losses are customers because of unclear regulations.

Customers who suffer losses due to wrong transfers, there are also several cases where customers receive money that is not in their accounts in very large amounts. The bank also does not know how it happened or where the money came from. In general, the payment method is carried out only by the bank freezing the customer's account without any clarity on the status of fund ownership based on applicable laws and regulations. Starting from the problem above, it has resulted in a phenomenon that customers who use banking services

### **Problem Formulation**

Considering the importance of accountability and legal protection that must be provided by the Bank, and reviewed from the perspective of the laws and policies that regulate it, then based on the description in the background above, the following problems can be formulated:

1. How is the bank responsible for the loss of customer money in the event of an interbank transfer error in case NO 148/PID.SUS/2021/PN SBY?
2. How is the legal protection for customers for losses due to incorrect transfers in the verdict (NO 148/PID.SUS/2021/PN SBY)?

### **Research Objectives**

Based on the formulation of the problem above, the objectives of the writing obtained in conducting this research are:

1. To determine the bank's responsibility for the loss of customer money in the event of an interbank transfer error in case NO 148/PID.SUS/2021/PN SBY.
2. To determine the legal protection for customers for losses due to incorrect transfers in the verdict (NO 148/PID.SUS/2021/PN SBY).

## **LITERATURE REVIEW**

## **METHODOLOGY**

This writing is done using the juridical-normative legal research method. The juridical-normative method is an approach carried out by examining the approach of theories, concepts, studying the laws and regulations related to this research or the approach of legislation. Normative juridical research is legal research that places law as a building of a normative system. The normative system in question is regarding the principles, norms, rules of laws and regulations, agreements and doctrines (teachings). This normative research is research on legal systematics, namely research whose main purpose is to identify the concepts or bases in law.

The data analysis used is qualitative data analysis, namely a research procedure that produces data using an analysis method where the method of proving the justification raised in the research is obtained and based on the opinions of experts, doctrines, theories, and formulations of legal norms themselves. The data processing method itself uses a deductive method where conclusions are drawn from a general problem that is applied to a specific problem.

The research conducted secondary data is data obtained by the author from various sources, both scientifically and non-scientifically, namely from books related to the object of research, research results in the form of theses, dissertations, and laws and regulations.

Research that collects data through study research is collected by conducting a literature study of court decision No. 148 / Pid.Sus / 2021 / PN Sby. This literature study is an activity related to the method of collecting library data, reading and recording and processing research materials. In addition, secondary data collection is carried out using the library research method, namely by conducting research by studying in the library through reading reference materials in the form of books, dictionaries, Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking, Law No. 3 of 2011 concerning Fund Transfers, articles and legal journals, which are then used as material to solve problems which can then produce conclusions to answer research problems.

The approach used by the author to provide answers to research problems is a case approach supported by a statute approach with the aim of examining and analyzing whether the criminal liability imposed on the perpetrators of criminal acts against customer money that was transferred incorrectly is in accordance with the laws and regulations that have been established in Indonesia. The case approach is an approach that is carried out by analyzing and examining used as a guideline for legal problems in order to resolve legal cases.

## **RESEARCH RESULT AND DISCUSSION**

The theory underlying this research concerns legal protection theories, with several experts explaining the theory. One of them is C.S.T Kansil who defines legal protection as a means that must be provided by the government to provide physical and mental security against provocation and intimidation from various parties. In addition, Fitzgerald is of the view that legal interests here must affirm the rights and obligations of each individual and that the law is the highest

authority dealing with interests that must be protected. Therefore, legal protection must be considered at every stage, because legal protection is the result of a legal order built for society, which ideally is a social contract that regulates the relationship between society, each individual and the government that acts as a substitute for the hopes and needs of society. Meanwhile, Satjipto Rahardjo defines legal protection as covering human rights (HAM), community empowerment and community protection of all rights regulated by law. From the explanation above, it can be understood that this legal protection is a description of how the law works to achieve the goals of the law, namely justice, interests and legal certainty. The framework studied in this research is based on legal regulations that guarantee the existence of the objectives of statutory regulations, namely the achievement of existing legal objectives such as legal certainty.

### **1. Bank liability for loss of customer money in the event of an interbank transfer error in case NO 148/PID.SUS/2021/PN.SBY**

Fund transfer is one of the banking services most widely used by the public. Based on the Fund Transfer Law, a fund transfer is defined as a series of activities to transfer a certain amount of money on the orders of the original sender to the recipient until the funds are received in accordance with those stated in the fund transfer order.

The bank's liability for the loss of customer money due to interbank transfer errors is compensation for the loss of customer money, as well as sanctions based on Article 85 of the Fund Transfer Law that can be imposed on parties who use/misuse the funds from the transfer.

Based on these regulations, the sender who makes a mistake when transferring money is responsible for the error by immediately correcting it by canceling it in such a way that it does not cause losses to the recipient. Customers who receive money due to transfer errors made by the service provider are then regulated in Article 57 paragraph (1) of the Fund Transfer Law which states that:

- 1) "If the organizer makes a mistake in executing the fund transfer order so that the funds are sent to the wrong recipient, the organizer is obliged to correct the error and then correct the error to the right recipient.
- 2) If there is a delay on the part of the organizer in correcting the error as it should be, the organizer is obliged to provide compensation (pay services or interest to the recipient)."

BCA Bank's responsibility regarding the case of a wrong transfer made by its employees at BCA Citraland, Surabaya, East Java. In its resolution, Nur Chuzaimah, a BCA Bank employee who mistakenly transferred money to Ardi's account, in its resolution has replaced the wrong transfer funds using personal money to the customer who should have received it in the amount of Rp. 51,000,000.00 (fifty one million rupiah) and in accordance with applicable legal provisions, BCA management has acknowledged that efforts to resolve the matter through deliberation and Ardi (as the recipient of the wrongly transferred funds) based on BCA records, Ardi was given 2 (two) notification letters of the

wrong transfer and BCA has asked him to return the funds since March 2020. The customer concerned showed good faith in an effort to return the funds in full in October 2020, where the legal process for this case has been ongoing since August 2020.

In every case of a transfer error made by the bank, each customer is required to return the money. This is regulated in Law No. 3 of 2011 concerning Fund Transfers. The customer concerned because this case began on March 17, 2020, Ardi Pertama received a transfer of Rp. 51,000,000.00 (fifty one million rupiah) without any information on the origin of the funds except for BI clearing documents. That's why Ardi thought the money was a commission from selling cars, because at the same time he was also an intermediary in the car buying and selling process with several people.

The origin of the money was only discovered almost two weeks later when someone from BCA came to Ardi's residence with the intention of discussing and asking Ardi to return the funds. Because the bank only realized that there was a transfer error 10 days later, the money had already been used by Ardi because he thought the money came from a car sales commission. However, Ardi still had good intentions and agreed to pay the money in installments.

The police report in this incident was not in the name of BCA, but rather NK (a back office officer) who mistyped the account number so that it was mistakenly entered into Ardi's account. However, NK apparently no longer works for BCA. "BCA as a banking institution has carried out banking operations in accordance with applicable legal provisions," explained Hera F Haryn, Executive Vice President of Secretariat & Corporate Communication BCA to Kompas.com.

However, BCA stated that Ardi violated Article 85 of Law No. 3 of 2011 concerning Fund Transfers, which reads as follows: "Any person who intentionally controls and claims as his property the funds resulting from a transfer that are known or should be known not to be his right shall be punished with imprisonment for a maximum of 5 (five) years or a maximum fine of IDR 5,000,000,000.00 (five billion rupiah)."

Before this, Ardi claimed to have negotiated to allow him to return the wrongly transferred money in installments. Because he considered the money to be a car sales commission, he thought it would be used to finance himself and pay off debts. However, although BCA tried to resolve the problem through deliberation. The bank stated that Ardi had no good intentions to return the funds. Ardi had also been notified twice about the wrong bank transfer and had been asked to return the money since March 2020. However, BCA stated that until now, Ardi had not shown any good intentions to return the funds.

Bank BCA KCP Citraland appointed by witness NUR CHUZAIMAH suffered a loss of Rp 51,000,000. The actions of the defendants are regulated and threatened with criminal penalties in Article 85 of Law No. 3 of 2011 concerning Fund Transfers. In this case, the sender of funds who made an error in electronic fund transfers can still be protected as long as he gets a court decision in accordance with the regulations and criminal penalties regulated and threatened with criminal penalties in Article 85 of Law No. 3 of 2011 concerning Fund

Transfers. In addition, the bank can also ask customers who receive funds from the error in the fund transfer to return the money on the basis of Article 1359 and Article 1360 of the Civil Code.

## **2. Legal protection for customers for losses from wrong transfers in the decision (No. 148/PID.SUS/2021/PN SBY)**

Cases of wrong transfers are not new in banking disputes. Some cases even lead to criminal acts, as has happened before. The government issued Law No. 3 of 2011 concerning Fund Transfers to avoid disputes. Article 85 of the Fund Transfer Law states that there are two types of errors that must be made before criminal penalties can be imposed. First, errors made with malicious intent, which require *dolus malus*. The presence of the element of "intentionally controlling and recognizing as his property the funds resulting from a known transfer" indicates that there was an error.

According to Bank Indonesia Regulation Number 7/7/PBI/2005 concerning Settlement of Customer Complaints, as amended by Bank Indonesia Regulation Number 10/10/PBI/2008, "handling and resolution of customer complaints" is the previous method used to resolve banking disputes. Banks truly provide the best service to their clients and customers. Customers have the right to receive the best service, especially regarding customer security. Law Number 8 of 1999 concerning Consumer Protection created a consumer dispute resolution agency (BPSK), a system that protects consumers.

According to Article 1 number 1 of Law Number 8 of 1999 concerning Consumer Protection, "all efforts that guarantee legal certainty to provide protection to consumers". Thus, consumer protection can be defined as all efforts made to protect consumers and at the same time place consumers in a position that is comparable to the enactment of the Consumer Protection Law has logical consequences for banking services, so that banks must:

1. Have good intentions in carrying out their business activities.
2. Provide correct, clear, and honest information regarding the conditions and guarantees of the services provided.
3. Treat / serve consumers correctly and honestly and without discrimination.
4. Guarantee their banking business activities based on applicable banking standard provisions and several other aspects.

Consumer rights to security and comfort in consuming goods and services, as well as the right to compensation. According to Article 4 letter a of the Consumer Protection Law, "the consumer's right to comfort and security in consuming goods and/or services is the responsibility of the bank as a service provider." Undoubtedly, the consumer protection law has provided additional protection to consumers, including the application of the presumption of negligence principle. This principle states that consumers will certainly not be harmed even if the producer acts negligently. In other words, if consumers are harmed, the producer is to blame. The Consumer Protection Law considers bank customers as consumers, and they are protected by this law. Based on the discussion above, it can be seen that protection for customer money that is

transferred incorrectly is regulated in Law Number 3 of 2011 concerning fund transfers, Law Number 8 of 1999 concerning consumer protection, Bank Indonesia Regulation Number 18/5/PBI/2016, Bank Indonesia Regulation Number 7/7/PBI/2005 concerning the settlement of customer complaints, as amended by Bank Indonesia Regulation Number 10/10/PBI/2008 Bank Indonesia Circular Letter Number 18/7/DPS of 2016, Article 1365 of the Civil Code, namely by requesting compensation for any losses caused by the transfer error, and has been regulated in Article 85 of Law Number 3 of 2011.

## **CONCLUSIONS AND RECOMMENDATIONS**

In this increasingly modern era, of course the use of transfer banking services will be used more often. Its use must also be careful because bank transfer services can result in transfer errors. Therefore, banks and the government must create safe, fast, and appropriate regulations and legal protection regarding transfer errors in banking transactions.

### **A. Conclusion**

Based on the description as stated in the previous section regarding the bank's responsibility for the loss of customer money in the event of an interbank transfer error in case NO 148/PID.SUS/2021/PN.SBY and legal protection for customers for losses due to incorrect transfers in the decision (No 148/PID.SUS/2021/PN SBY):

1. In its settlement, Nur Chuzaimah, a BCA Bank employee who mistakenly transferred money to Ardi's account, in its settlement has replaced the funds from the incorrect transfer using personal money to the customer which should be in the amount of IDR 51,000,000.00 (fifty one million rupiah). The bank's accountability carried out in accordance with applicable legal provisions is that BCA management has admitted to making efforts to resolve the matter through deliberation and Ardi (as the recipient of the wrongly transferred funds) based on BCA's records, Ardi was given 2 (two) notification letters of the wrong transfer and BCA has asked him to return the funds since March 2020 and BCA has issued a warning to Ardi. If the bank makes a mistake in transferring funds, they must prove that there has been an error in the delivery, and if they know about it, the bank must immediately collect the funds. If the recipient of the funds refuses to return the funds after the bank shows evidence of an error in sending the funds and requests the funds back, the recipient of the funds can request the funds back based on Article 372 of the Criminal Code.
2. Legal protection for customer money that is transferred incorrectly is regulated in Law Number 3 of 2011 concerning fund transfers, Law Number 8 of 1999 concerning consumer protection, Bank Indonesia Regulation Number 18/5/PBI/2016, Bank Indonesia Regulation Number 7/7/PBI/2005 concerning the resolution of customer complaints, as amended by Bank Indonesia Regulation Number 10/10/PBI/2008, Bank Indonesia Circular Letter Number 18/7/DPS of 2016, Article 1365 of the Civil Code, namely by requesting compensation for any losses caused by

the transfer error, and has been regulated in Article 85 of Law Number 3 of 2011.

## **B. Suggestions**

The advice that can be given by the Bank is that banks are advised that bank employees and bank customers be careful when transferring funds. They must also understand their rights and obligations when transferring funds. And it is suggested that banks be more proactive in protecting customer interests in all banking activities, especially those related to bank transactions in sending funds out of the bank.

The government should establish laws and regulations governing compensation for bank actions that harm customers when they transfer funds.

People who want to carry out the fund transfer transaction process using banking services such as mobile banking should understand and know carefully how the legal regulations govern the use of banking services. If there is an error in transferring funds, the public can know the rights they have and what form of legal protection they can obtain.

## **ADVANCED RESEARCH**

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

## **REFERENCES**

- CNN Indonesia, "Aturan Bagi Nasabah Penerima Uang Salah Transfer", <https://m.cnnindonesia.com/ekonomi/20210226084438-78-611140/aturan-bagi-nasabah-penerima-uang-salah-transfer>), diakses pada tanggal 3 April 2024 Pukul 18:02 WIB.
- Heriani, F.N, "Kasus Salah Transfer, Penggunaan Pasal 85 UU Transfer Dana Harus Hati-hati", <https://www.hukumonline.com/berita/a/kasus-salah-transfer--penggunaan-pasal-85-uu-transfer-dana-harus-hati-hati-1t61849edb377d1>, diakses pada tanggal 24 April 2024 pukul 18:01 WIB.
- Hermansyah, 2011, *Hukum Perbankan Nasional Indonesia Edisi Revisi*, Jakarta: Kencana Prenada Media Group.
- Ismail, 2010, *Manajemen Perbankan : Dari Teori Menuju Aplikasi*, Jakarta: Kencana Media Group.
- Kurniati, Phyttag, "5 Fakta Baru Kasus Salah Transfer BCA, Pelapor Mantan Karyawan, Istri dan 3 Anak Ardi Hidup dari Bantuan Tetangga", <https://regional.kompas.com/read/2021/03/01/062031478/5-fakta-baru-kasus-salah-transfer-bca-pelapor-mantan-karyawan-istri-dan-3?page=all#page2>, diakses pada tanggal 3 Mei 2024 pukul 21:03 WIB.

Nasution, Bismar, "*lembaga alternatif penyelesaian sengketa antara konsumen dan pelaku usaha jasa keuangan*", <http://bismarnasution.com/penyelesaian-sengketaantara-konsumen-dan-pujk-ojk/>, diakses pada tanggal 26 April 2024 pada pukul 18:29 WIB

Raharjo, Satjipto, 2000, *Ilmu Hukum*, Bandung : PT. Citra Aditya Bakti.

Republik Indonesia, Undang-Undang Nomor 3 Tahun 2011 tentang Transfer Dana.

Tim Pengembangan Perbankan Syariah Institut Bankir Indonesia, 2001, *Konsep Produk dan Implementasi Operasional Bank Syariah*, Jakarta: Djambatan.