

Analysis of the Application of the Prudential Banking Principle Towards the Debtor's Unwillingness to Sign a Fiduciary Guarantee Agreement in the Granting of Working Capital Credit

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Abstract

Working Capital Credit finances short-term business operations, often using fiduciary security over movable assets such as merchandise inventory. Legal issues arise when debtors refuse to sign fiduciary security agreements and provide only internal statement letters. This study examines the application of the Prudential Banking Principle by Bank Jateng Yogyakarta Branch in such circumstances and the legal consequences of the refusal. Using an empirical legal method with a descriptive-qualitative approach, this study relies on field interviews and relevant legal materials. The findings indicate that granting credit without fiduciary security does not automatically violate the Prudential Banking Principle. Under Article 8 of Law Number 7 of 1992 concerning Banking, as amended by Law Number 10 of 1998, banks must assess debtors' repayment capacity. In the case examined, the bank mitigates the absence of fiduciary security by prioritizing repayment capacity and requiring land or buildings encumbered with a Mortgage Right as collateral, with a value exceeding the approved credit amount. Legally, the debt obligation remains valid, but without a properly executed and registered fiduciary security, the bank does not obtain preferential rights or execution rights over the inventory under fiduciary law. In the event of default, recovery may be pursued through the primary collateral in accordance with applicable law. Therefore, granting credit without fiduciary security may remain consistent with the Prudential Banking Principle when supported by adequate credit assessment and risk mitigation.

I. Introduction

Although the primary source of repayment comes from business capacity, banks still require a secondary security (*second way out*) in the form of material collateral. Where the financing object in Working Capital Credit (*Kredit Modal Kerja*, KMK) is movable goods such as merchandise inventory, the commonly used instrument is the Fiduciary Guarantee.(Putra, 2020) Under Law Number 42 of 1999 concerning Fiduciary Guarantees (UUJF), ownership of the object is transferred on the basis of trust while physical possession stays with the debtor (*constitutum possessorium*). The guarantee is accessory to the credit agreement, and to be valid and generate preference rights it must be bound by a notarial deed and registered (Purnama, 2020).

At the KMK granting stage at Bank Jateng Yogyakarta Branch, a debtor was unwilling to sign a fiduciary guarantee agreement over merchandise inventory and was only willing to sign a “Merchandise Inventory Statement Letter”. Because the deed must be executed as a notarial deed,(Dripananda et al., 2024) the absence of the debtor's signature made encumbrance and registration impossible. The bank therefore cannot hold the position of a preferred creditor over the inventory or exercise *parate executie* if the debtor defaults. Inventory is, moreover, a difficult fiduciary object because its composition constantly changes.(Widjaja & Putra, 2019)

Previous research has addressed parts of this problem. Studies on the prudential principle examined credit procedures in general,(Cahyawati et al., 2026; Tobing et al., 2025) the analysis of material collateral,(Mulyati & Dwiputri, 2018) warehouse-receipt credit at another Bank Jateng branch,(Yuliati & Imanullah, 2018) and third-party fiduciary collateral at a rural bank.(Maharani, 2025) Studies on

fiduciary security examined a deed not signed before a notary,(Dripananda et al., 2024) the moment the fiduciary right arises,(Supianto et al., 2024) the consequences of non-registration,(Mega & Badriyah, 2024; Santoso & Dilaga, 2025) and creditor protection over inventory.(Bela & Raffles, 2021; Sadewa et al., 2023; Usanti & Sulani, 2024; Yadev et al., 2020) Andrea et al. analyze delayed collateral binding in working capital credit,(Andrea et al., 2024) and Azizah and Abubakar show that a bank holding collateral without executorial value is a concurrent creditor.(Azizah & Abubakar, 2025) These differ from the present case: in the case decided by the court in Dripananda et al., the deed was signed but not before a notary, whereas here the debtor refused to sign; Andrea et al. concern delayed binding, not refusal; Bela and Raffles and Usanti and Sulani assume the security over inventory already exists; and Santoso and Dilaga concern vehicle collateral the bank itself left unregistered. Among the sources reviewed, none examines a debtor's refusal to sign a fiduciary agreement over inventory at the KMK stage, or links the bank's prudential assessment of that refusal to its legal consequences. This is the gap addressed here.

This article contributes (1) an empirical account of how the bank assessed repayment capacity, collateral adequacy, and credit risk; (2) a distinction between credit approval, execution of the fiduciary agreement, and establishment of the fiduciary right; and (3) a separation between the bank's prudential assessment and the legal consequences of the unsigned agreement. The problems studied are, first, how Bank Jateng Yogyakarta Branch applies the prudential principle towards a debtor unwilling to sign the fiduciary guarantee agreement, and second, what the legal consequences are of that unwillingness in the granting of KMK.

II. Research Method

This study employs empirical legal research, also known as sociological legal research, to examine the application of the Prudential Banking Principle in actual banking practice. The research is descriptive in nature, using a qualitative approach to describe and analyze legal and social phenomena based on field data and relevant legal materials (Disemadi et al., 2022).

The research was conducted at Bank Jateng Yogyakarta Branch, located at Jl. Jend. Sudirman No. 60, Kotabaru, Gondokusuman District, Yogyakarta City, Special Region of Yogyakarta. The location was selected because the branch was involved in a case in which a debtor refused to sign a fiduciary security agreement during the Working Capital Credit process. The branch served as the empirical setting for examining the bank's credit assessment, its considerations in addressing the absence of fiduciary security over merchandise inventory, and the legal consequences of the debtor's refusal.

Primary data were obtained through an interview with one informant, Ms. Indri Fitriani, a member of the productive credit analysis team at Bank Jateng Yogyakarta Branch. She was selected purposively because her professional responsibilities were relevant to the research, particularly regarding credit assessment and the application of the Prudential Banking Principle. The interview procedure began with the researcher submitting a formal research application to the bank. After the application was approved, the bank arranged the interview schedule. The interview was conducted on September 24, 2025, and focused on the

credit assessment process, the bank's considerations when a debtor refused to sign a fiduciary security agreement, and the measures taken to address the absence of fiduciary security over merchandise inventory.

Secondary data were collected through library research and consisted of primary and secondary legal materials. Primary legal materials included the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*), Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998, Law Number 42 of 1999 concerning Fiduciary Security, Law Number 21 of 2011 concerning the Financial Services Authority as amended, and Financial Services Authority Regulation Number 42/POJK.03/2017 concerning the Obligation to Formulate and Implement Credit or Financing Policies for Commercial Banks. These materials were selected based on their legal authority and relevance to banking prudence, credit agreements, fiduciary security, and mortgage rights. Secondary legal materials consisted of books, scholarly journal articles, research reports, and theses relevant to the research questions and the analysis of banking prudence and fiduciary security.

Data were collected through interviews and a literature review. The interview findings were examined alongside the relevant legal provisions and scholarly literature. Data analysis followed the interactive model of Miles and Huberman, which involves data collection, data reduction, data presentation, and conclusion drawing. The interview information was organized according to the research focus and presented descriptively. Conclusions were drawn by comparing the empirical findings with the applicable legal framework and relevant theoretical concepts to

assess the application of the Prudential Banking Principle and the legal consequences of the debtor's refusal to establish fiduciary security. Throughout the research, the presentation of findings was limited to information relevant to the research objectives, while the debtor's identity and confidential banking information were protected.

III. Results and Discussion

A. The Application of the Prudential Banking Principle by Bank Jateng Yogyakarta Branch Towards Debtors Unwilling to Sign the Fiduciary Guarantee Agreement in the Granting of Working Capital Credit

Article 1 point 2 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (the Banking Law) defines a bank as a business entity that collects public funds and channels them as credit, and Article 1 point 11 defines credit as the provision of money or claims based on a loan agreement. The law has since been amended by Law Number 4 of 2023.(Dripananda et al., 2024) Because the funds are entrusted by the public, Article 2 requires banks to apply the prudential principle,(Sutinah, 2020) and Article 8 requires confidence, based on an in-depth analysis, in the debtor's good faith, ability, and capacity to repay. The law thus demands confidence based on analysis, not a particular security, and no provision requires collateral binding for every credit.(Andrea et al., 2024) Prudence is judged by substance, however: the literature prefers legally perfect collateral over collateral of high economic value but weak legal standing,(Mulyati & Dwiputri, 2018) and finds that credit not bound by material collateral gives less legal certainty and more exposure to default.(Chairuna et al., 2025) Prudence therefore does not forbid lending without a given security,

but it requires the missing protection to be compensated and understood.

According to the interview, prudence at the branch is not merely administrative but comprises a credit assessment before disbursement: verifying the debtor's identity and legal status, assessing character and ability to repay, examining business conditions and prospects, evaluating the purpose of the credit, determining the financing structure, and assessing the collateral.(Interview with Bank Jateng Yogyakarta Branch, 2025; Finowa & Misral, 2021) The branch combines the 5C and 7P frameworks (character, capacity, capital, collateral, condition; plus purpose, prospect, payment, profitability, and protection).(Sasmita & Puspitasari, 2021) The results are integrated with financial statements, bank statements, and on-site visits.(Interview with Bank Jateng Yogyakarta Branch, 2025) Weaknesses reported elsewhere include difficulty verifying collateral documents at a rural bank(Maharani, 2025) and no detailed character analysis or on-the-spot checking at another Bank Jateng branch;(Yuliati & Imanullah, 2018) the Yogyakarta informant described on-site visits as part of the process, which one self-reported account cannot confirm.

KMK finances short-term business cycles such as raw materials, merchandise inventory, and recurring expenses,(Andrea et al., 2024) and because the financed object is often inventory, fiduciary security is the instrument commonly proposed.(Bela & Raffles, 2021) Inventory is nevertheless a structurally weak fiduciary object. The grantor may transfer inventory in the ordinary course of business if it is replaced with an equivalent object (Article 21 UUJF),(Bela & Raffles, 2021) Article 23 paragraph (2) UUJF excludes inventory from the prohibition on transfer without written consent,(Hasan et al., 2026) its changing

composition weakens the right to follow the object (*droit de suite*), (Widjaja & Putra, 2019) and it is hard to monitor. (Usanti & Sulani, 2024) This bears on how much the bank actually gave up, discussed in Section B.

In the case examined, the debtor refused to sign the fiduciary agreement and signed only the Statement Letter. At first glance this contradicts prudence, but the interview indicates that the bank approved the facility and considered the decision consistent with POJK Number 40/POJK.03/2019 on Asset Quality Assessment of Commercial Banks, which addresses debtor eligibility, collateral adequacy, completeness of credit documentation, and periodic supervision. (Interview with Bank Jateng Yogyakarta Branch, 2025) The relevant question is therefore whether the bank's own three-part assessment still supported approval. *Repayment capacity*: the bank shifted its protection to the debtor's ability to pay, since collateral is only the *second way out* and the *first way out* must be the business's cash flow. (Mulyati & Dwiputri, 2018) Analysts examined revenue trend, profit stability, fund turnover, and other obligations. (Interview with Bank Jateng Yogyakarta Branch, 2025) *Collateral adequacy*: although the inventory was not bound, the bank required land and/or buildings as principal collateral and reassessed market and liquidation value, legal validity, and ownership; approval was given because the legally bound value exceeded the requested ceiling. (Interview with Bank Jateng Yogyakarta Branch, 2025) A Mortgage Right, once the binding process is completed, (Nasiha et al., 2021) gives preference and the right to sell by public auction, (Soebagio & Ratna, 2025; Haroki & Hirsanuddin, 2025) so the 7P element of Protection is met through a different object. The margin is an estimate and restores no right over the inventory. *Credit risk*: because no legal binding exists, reported inventory may be

depleted, fictitious, or misvalued; analysts therefore make on-site visits, review bank statements, track collectability, and use early warning, considering restructuring before the credit becomes non-performing.(Interview with Bank Jateng Yogyakarta Branch, 2025) These resemble the preventive protection described in the literature(Yadev et al., 2020) but give no legal remedy over the inventory. The Statement Letter has no executorial power and gives no preferred position; the informant treated it as the debtor's declaration of the existence, quantity, and value of the inventory.(Interview with Bank Jateng Yogyakarta Branch, 2025)

Taken together, the decision was supported by all three dimensions of assessment and is consistent with the Banking Law: the bank complied with prudence by compensating for a missing protection, not by preserving it. This is conditional on sustained repayment capacity, a validly established Mortgage Right whose value stays above the exposure, and monitoring carried out in practice.

B. The Legal Consequences of a Debtor Unwilling to Sign a Fiduciary Guarantee Agreement in the Granting of Working Capital Credit

The credit relationship passes through three legally distinct stages (Table 1). The bank completed the first, failed at the second, and therefore never reached the third.

Table 1. The three stages and their legal consequences in the case

Stage	Legal basis	What happened	Legal result
1. Credit approval	Banking Law Arts. 2 and 8; POJK 40/POJK.03/2019	Approved after 5C/7P assessment; land and buildings under a Mortgage Right as principal collateral.	Credit agreement valid; debtor must repay.

Stage	Legal basis	What happened	Legal result
2. Execution of the fiduciary agreement	UUJF Art. 5(1): notarial deed	Debtor refused to sign; only an inventory Statement Letter was signed.	No fiduciary deed; the letter is not a security instrument.
3. Establishment of the security right	UUJF Arts. 14(3), 27(1): right born on registration	Registration impossible without a deed.	No fiduciary right: no preference, droit de suite, or executorial title over the inventory; concurrent creditor for it.

The credit agreement is a valid obligatory agreement from which the duty to repay arises; the bank's protection at this stage is internal, in the credit agreement, and external, in legislation.(Faula & Suraji, 2025) The fiduciary agreement depends on the principal agreement (Article 4 UUJF), not the reverse, so the debtor's duty to pay remains in force and, according to the informant, the unsigned agreement did not reduce the approved amount or weaken the other security.(Interview with Bank Jateng Yogyakarta Branch, 2025) *Execution of the fiduciary agreement.* Article 5 paragraph (1) UUJF requires a notarial deed in Indonesian. A deed signed outside the notary's presence degrades into a private deed that cannot be registered, and in a decided working capital credit case the bank's execution claim was rejected on this ground.(Dripananda et al., 2024) The present case is more basic: there was no signing, so no deed can be notarized or registered, and the Statement Letter, a unilateral declaration, cannot take its place. *Establishment of the right.* A fiduciary right is a right in rem that arises on the date it is recorded in the Fiduciary Register Book (Article 14 paragraph (3) UUJF),(Supianto et al., 2024) and priority is counted from registration (Article 27 paragraph (1) UUJF). Studies of fiduciary security left unregistered find that the creditor obtains no property right, cannot execute the object, and becomes a

concurrent creditor;(Santoso & Dilaga, 2025; Mega & Badriyah, 2024) an unsigned agreement is a stricter case, because not even the first step toward registration exists.

Consequently the bank has no preferential right (*droit de preference*) over the inventory, no right to follow the goods into third parties' hands (*droit de suite*, Article 20 UUJF), and no certificate with the executorial title of Article 15 UUJF, hence no *parate executie*. The inventory remains part of the debtor's general assets under Article 1131 of the Civil Code and may be sold, encumbered, or attached by others. The bank cannot treat it as its own: forced seizure of goods not encumbered by a security right may amount to *eigenrichting* or an unlawful act and invite a counterclaim,(Wulandari, 2025) and a debtor who transfers unregistered collateral cannot be criminally sanctioned because the security is regarded as non-existent.(Mega & Badriyah, 2024) The loss is real but should be measured against what the right would have delivered: even registered, it does not stop ordinary-course sales, and the replacement duty depends on monitoring.(Bela & Raffles, 2021; Usanti & Sulani, 2024)

Under Articles 1131 and 1132 of the Civil Code, the debtor's assets are common security for all creditors and proceeds are shared proportionally unless there are valid grounds for priority. Without a special security right, the bank is a concurrent creditor for the inventory,(Azizah & Abubakar, 2025) alongside trade suppliers and other unsecured creditors, in contrast to separatist creditors holding security in rem and creditors preferred by statute.(Christy et al., 2020) A creditor who registers a fiduciary right over the same goods would rank ahead, because priority runs from registration. For the land and buildings, by contrast, the bank is

a separatist creditor with priority and the right to auction without a court decision.(Soebagio & Ratna, 2025; Haroki & Hirsanuddin, 2025). Because the Mortgage Right reportedly exceeds the ceiling, concurrent status matters mainly if auction proceeds fall short or enforcement is delayed.

The difference is therefore one of degree in enforcement but one of kind in the existence of a right: without it the bank has no execution route over the inventory and can only sue on the debt. On default, the bank first pursues conventional collection and credit rescue such as rescheduling and restructuring,(Yadev et al., 2020) then, according to the informant, shifts to auctioning the land and buildings under the Mortgage Right rather than pursuing the inventory.(Interview with Bank Jateng Yogyakarta Branch, 2025) Such auctions follow warning letters, a request to the state auction office, and announcement.(Haroki & Hirsanuddin, 2025)

IV. Conclusion

First, on how the bank applied the prudential principle: according to the bank's account, disbursing KMK despite the debtor's refusal did not in itself violate the prudential principle. The bank compensated for the missing fiduciary security by strengthening the analysis of the debtor's cash flow as the primary source of repayment, by requiring land and buildings under a Mortgage Right whose value exceeded the credit ceiling, and by on-site visits and monitoring of collectability. This is a statement about the bank's assessment of repayment capacity, collateral adequacy, and credit risk, not a statement that the bank was legally protected.

Second, on the legal consequences: the credit agreement remains valid and the debtor must still repay. Because the fiduciary agreement was never executed as

a notarial deed and therefore could not be registered, no fiduciary right arose. The bank has no preference, no right to follow the goods, and no executorial title over the inventory, so it cannot exercise *parate executie* and is a concurrent creditor for the inventory. Recovery on default depends on auctioning the land and buildings under the Mortgage Right, and any shortfall is a concurrent claim. The prudential assessment limits the bank's exposure to this consequence but does not cure it.

These findings are limited to one case at one branch with one informant, not triangulated with other informants or documents, and describe what the bank reported rather than an independent verification of its effectiveness. They should not be generalized to other banks or to every refusal to sign a fiduciary agreement.

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