

**IMPLEMENTATION OF THE SEVERANCE PAYMENT
AGREEMENT FOR EMPLOYEES OF PT. GADING BHAKTI**
(Case Study of PT. Gading Bhakti in the Pantoen Reu District,
West Aceh Regency)

Eka Aria Mawar^{1*}, Dara Quthni Effida²

^{1,2}Universitas Teuku Umar

Email: ¹⁾ ekaaryan64@gmail.com

Abstract

PT. Gading Bhakti, a private company and subsidiary of PT. Mapoli Raya, operates in the palm oil plantation and processing industry. In 2021, PT. Mopli Raya, its parent company, was declared bankrupt under Decree Number 17/pdt-SUS-PKPU/2020/PN.Niaga Medan and Law No. 13 of 2003, Employment Article 95 paragraph 4, mandating debt settlement as a priority for bankrupt companies. Despite this, PT. Gading Bhakti failed to fulfill debt payments to 25 retired employees, resulting in the non-payment of their post-employment benefits. The research aims to investigate the implementation of the severance payment agreement by PT. Gading Bhakti and the company's measures to meet its obligations toward employee severance. The research methodology employed was the empirical juridical method, observing ongoing events and directly examining PT. Gading Bhakti's implementation of the severance payment agreement. Furthermore, the study explores the company's attempts to fulfill the severance payment for its employees. Regrettably, the implementation of the agreement resulted in a breach of contract, with severance payments not being duly honored. Various efforts were made, including rescheduling the agreement and submitting severance payment documents. On the other hand, the employees sought resolution through verbal warnings, mediation, media involvement, and seeking assistance from relevant authorities concerning the unclear situation of severance payments for PT. Mapoli Raya's ex-employees (PT. Gading Bhakti being its subsidiary). In conclusion, the study highlights the challenges faced by retired employees in receiving their post-employment benefits and the need for PT. Gading Bhakti to effectively fulfill its obligations regarding severance payments.

Keywords: Agreement, PT Gading Bhakti, Employee Severance Payments

1. INTRODUCTION

Indonesia is not a developed country with many companies supporting the country's economic growth. However, the Indonesian economy has shown rapid development in the world economy and is even among the three largest countries with the highest economic growth globally (Hill, 2018). This growth has led to the emergence of numerous companies since the monetary crisis.

A Limited Company or refers to *Perseroan Terbatas* (PT) in Bahasa is a legal entity formed as a capital alliance based on an agreement to conduct business activities with authorized capital entirely divided into shares, meeting the requirements stipulated in the Law on Limited Liability Companies and its implementing regulations (Aspan, 2017).

Bankruptcy is a situation where a debtor faces financial difficulties in repaying debts. A debtor can be declared bankrupt if they are insolvent or unable to pay for various reasons, such as an economic or financial crisis (Kasmir, 2010). The insolvency stage is one of the stages in the bankruptcy process. Once a debtor is declared insolvent, they are

considered completely bankrupt, and their assets are immediately liquidated. However, this does not guarantee that the bankrupt company's business can continue.

As per the Law of the Republic of Indonesia Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, bankruptcy is defined as a general confiscation of the assets of a bankrupt debtor, managed by a curator under the supervision of a supervisory judge. Bankruptcy occurs when a debtor is unable to make payments to their creditors.

PT Gading Bhakti, a subsidiary of PT Mapoli Raya, is a private company engaged in oil palm plantations and processing. In 2020, PT Mapoli Raya was declared bankrupt at Case No. 17/pdt-SUS-PKPU/2020/PN.Niaga Medan, resulting in the termination of employment for 25 employees and retired workers. Companies declared bankrupt are still obligated to pay severance pay to eligible employees, as stated in Article 95 paragraph 4 of the Law on Manpower. This law prioritizes the payment of wages and other rights of workers/labourers in the event of bankruptcy or liquidation.

The Curator plays a significant role in managing and administering bankruptcy assets for the benefit of creditors and the debtor (Sutedi, 2014). As per Article 1 point 5 of the Law on Bankruptcy and Suspension of Debt Payment Obligations, the Curator is appointed by the Court to manage the assets of a bankrupt debtor under the supervision of a Supervisory Judge. The Curator is responsible for the management of the bankruptcy estate. However, successful management and administration of bankruptcy assets require the cooperation of parties directly involved in the bankruptcy process (Sun et al., 2014). Unfortunately, if the company and the Curator fail to cooperate in managing the bankrupt company's assets, all debts may not be repaid (Donaldson, 2000), including the post-termination contributions owed to 25 employees, which consist of old-age and pension guarantees.

In 2021, PT. Gading Bhakti and retired employees reached a mutual agreement. The agreement refers to Law No. 13 of 2003 concerning Manpower, specifically Article 167 paragraph (5), which states that if the employer does not include workers/laborers in the pension program upon reaching retirement age, the employer must provide severance pay of 2 times the long service award money and compensation money as per Article 156 paragraph (2) and (3) respectively. The company promised to make severance pay in installments starting from 14 months, 15 months, and 22 months after the agreement was issued. However, until 2023, the company has not properly implemented the agreed payment plan.

The company's failure to fulfill the agreement in good faith led to three mediation attempts between the employees and the company. During the mediation process, the company agreed to provide severance pay within one week and follow the rules set in Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution, specifically Article 13 paragraph (1), which deals with settlement through mediation.

This case highlights a default on the agreement, where one of the parties failed to fulfill the conditions stated in the agreement. Such defaults are often experienced by weaker parties with higher dependence on other parties, especially when the requirements are one-sided and more burdensome to the weaker party (Pohan & Hidayani, 2020). These requirements are often included in standard agreements and play a crucial role in business law, which is typically based on efficiency-oriented values.

The aim of this research is to examine the implementation of the severance payment agreement by PT. Gading Bhakti and investigate the measures taken by the company to

fulfill severance payments for its employees. The findings of this research could contribute to potential solutions for improving severance payment practices and upholding employee rights in similar contexts.

2. RESEARCH METHOD

This research used empirical juridical research methods, namely legal research methods that performed the task of understanding the law in its true sense and observed how the law worked in society (Soekanto, 2010). This research method was called sociological legal research. The research conducted in collecting data involved using empirical research methods, where the method was employed to see directly and understand the real-world aspects. The research aimed to examine how the company implemented severance pay agreements, how the company made efforts to fulfill employee severance pay, and how the rule of law was applied directly. The researcher also used library data and data from existing laws and regulations. Furthermore, the researcher conducted interviews with several retired employees and representatives from the company.

3. RESULTS AND DISCUSSION

3.1. Implementation of severance pay agreement by PT Gading Bhakti Company

An agreement is one of the two existing legal bases, apart from the law, that can give rise to an obligation (Simamora, 2009). According to the Science of Civil Law, an obligation is a legal relationship that occurs between two or more parties in the field of property, where one party is entitled to an achievement, and the other party is obliged to fulfill that achievement. Essentially, if a company fails to fulfill the promises that have been made, it has committed a breach of promise or defaulted on the agreement that was made (Sriwati, 2000).

The term "achievement" in treaty law refers to the implementation of the terms written in an agreement by the party who has bound themselves to it, in accordance with the specified "terms" and "conditions" as stated in the agreement. If the agreement has been made based on Article 1320 of the Civil Code, the consequence is that the agreement applies as law to the parties involved, as contained in Article 1338 paragraph (1) of the Civil Code, which states that "If one of the parties does not carry out the performance in accordance with what was promised, it is called default." Default refers to the failure to implement an agreement on time, appropriately, or at all (Pendit et al., 2019). In general, default is a situation where a debtor (owed) does not fulfill or carry out the performance as stipulated in an agreement. This can occur due to obligations arising from agreements and laws. Breach of promise can occur either intentionally or unintentionally.

In the implementation of the agreement at PT Gading Bhakti, the payment of employee severance pay installments has not been fully fulfilled in accordance with the agreement that was made. Specifically, the amount of post-employee rights contributions has not been fulfilled in the installments of employee severance pay, as follows:

Table 1. Employee agreement severance pay

No	Name	Amount of severance pay	Repayment period
1.	M.diah	Rp. 90.691.777	14 months
2.	Adian	Rp.321.087.728	22 months
3.	Zainudin B	Rp.93.059.580	14 months
4.	Muhammad Nur Usman	Rp.84.024.364	13 months
5.	Sugianto	Rp.170.645.843	18 months
6.	Arisuda	Rp.92.276.307	14 months
7.	Iskandar	Rp.94.629.962	15 months
8.	Hadi santoso	Rp.97.402.090	15 months
9.	Jainul ahmad	Rp.90.432.961	14 months
10.	Suyetno	Rp.93.461.626	14 months
11.	Ali rahmat	Rp.101.333.186	16 months
12.	Ansori	Rp.92.487.388	14 months
13.	Farizal	Rp.6.274.673	14 months
14.	Khaidir	Rp.100.733.312	17 months
15.	Adil gani	Rp.9275.512	16 months
16.	M.gurpon	Rp.90.691.460	14 months
17.	Abuari	Rp.107.226.296	17 months
18.	Irfan riko	Rp.92.076.543	15 months
19.	Ismail	Rp.90.126.410	14 months
20.	Cut Ali	Rp.93.052.397	14 months

Source: Company agreement letter with the employees

Based on the table above, it is evident that there has been a default in the implementation of the agreement, which was mutually agreed upon by both parties. The company has shown no good faith in fulfilling the agreed-upon terms, despite the existence of an agreement for the repayment of employee severance pay installments from 2021 to 2022, referencing Law Number 13 of 2003. However, in reality, PT Gading Bhakti has violated the agreed-upon rules. The company attempted mediation, and the results of the mediation agreement were given a period of one week for acceptance. Despite this, until now, the severance pay installments remain unpaid. The implementation of the agreement has encountered obstacles, leading to its incomplete fulfillment. The following are the obstacles faced by the company in implementing the agreement:

1) Not fulfilling the elements of the agreed-upon appointment:

PT Gading Bhakti, a subsidiary of PT Mapoli Raya, has not fully paid employee severance pay. Although the company and the employees had an agreement to pay off the severance pay, the company has not fulfilled this commitment. The company continuously promises employees to pay in installments without providing any certainty. Mr. Adian mentioned that there has been no response from PT Mapoli Raya, which claims to be bankrupt under relevant management, and he has not been contacted by anyone regarding the matter.

2) Lack of company transparency:

The company lacks transparency with retired employees and fails to provide clear information to employees who were promised the repayment of employee severance pay. Although the agreement states that the severance pay installments for 14 months have been paid, there has been no actual repayment related to employee severance pay. The management denies responsibility and says this is not their role.

3) Lack of a source of funds:

While the company intends to fulfill its obligations as per the agreement, its ability is severely limited due to a lack of financial resources. Several children of PT Mapoli Company have experienced bankruptcy, impacting the financial situation of PT Gading Bhakti. The management claims to have made efforts to fulfill the agreement but is unable to do so due to the lack of clarity regarding the installments and continuous promises of payment, along with frequent requests for documents related to severance pay delivery. Despite these assurances, the company has not made severance pay installments, leading to its failure to fulfill the agreement.

In summary, the implementation of the employee severance pay agreement has resulted in default, as the company has failed to fulfill the agreement that was made together. It is evident that the company's default is in the form of non-performance.

3.2. Settlement efforts made by the company in fulfilling severance pay for employees of PT Gading Bhakti.

In connection with this case, a company that has received a bankruptcy verdict by the court may not at all reduce or eliminate the rights of workers/laborers. The company's actions have been proven to default by not fulfilling the agreed-upon collective agreement. Default, in this case, can occur due to business failure or the debtor's inability to fulfill performance obligations, as specified in Article 1238 of the Civil Code. This includes situations where the debtor is declared negligent by warrant, deed, or by the force of the bond itself, causing the debtor to be considered negligent with the passage of time.

The company PT Mapoli Raya has made efforts to overcome defaults, which include:

1) Rescheduling the agreement:

The company can reschedule the agreement, providing them with more time to fulfill their obligations and allowing the company to present reasons for the delay.

2) Sending Employee Severance Files:

PT Mapoli Raya has requested employee files related to the repayment of severance pay installments, such as KTP (identification cards), bank books, and other documents. They have paid severance pay in installments, although not in accordance with the agreement. These efforts have been made more than once, yet the severance pay installments remain unpaid.

Despite the company's efforts, PT Gading Bhakti is still in default, as it has not fully fulfilled the agreement. In response, the employees have taken several steps to claim their rights:

1) Oral warning:

The employees firmly warned the company orally, seeking clarity regarding the installment repayment, but no definitive response was received.

2) Demonstration (Demo):

The employees attempted a demonstration to assert their demands, but the company's assistant from PT Gading Bhakti stated that it was not his domain to respond to the former employees' requests.

3) Media:

The employees utilized media channels to highlight their efforts to fulfill severance pay rights. They even resorted to living on the PT Gading Bhakti premises and managing oil palm fruit to meet their basic needs.

4) Request for assistance to authorities:

The employees sought assistance from authorities such as the governor and regent to address the issue, but the matter remained unresolved.

Additionally, legal efforts such as negotiation or mediation were attempted. Mediation, with the assistance of a mediator who lacks authority to decide or impose a settlement, was undertaken. However, the company's promise to reply within one week after mediation was not fully fulfilled, and the severance pay installments remain uncertain. Claims were made to the employment BPJS (Social Security Administration Body) in the local district, but the company management had not made the necessary deposits.

Despite the efforts made by the employees and employee parties, the severance pay rights remain unfulfilled, and the company has shown no good faith in fulfilling the agreed-upon terms. To prevent defaults in agreements, both parties must act in good faith when carrying out the agreement. Default can be a significant source of conflict involving multiple parties when the parties bound by the agreement fail to fulfill their obligations as specified in the contract.

If the efforts mentioned above do not yield results, legal action can be pursued through a civil trial. This involves filing a lawsuit in court to address the default problem, and the judge will decide the civil case based on the rules of the law. Likewise, despite the attempts made to resolve the issue, the severance pay rights of the employees have not been fulfilled, and legal actions may be necessary if the default issue remains unresolved.

4. CONCLUSION

Based on the implementation of the agreement, it is evident that the debtor, PT Gading Bhakti Company, has defaulted in fulfilling the agreement made together. This demonstrates a lack of good faith on the part of the company, leading to the non-fulfillment of promised employee severance pay installments. The implementation of the employee severance pay settlement agreement has encountered obstacles due to the company's failure to meet its obligations, including a lack of funds to pay off its debts, not fulfilling the agreed-upon elements of the promise, and a lack of transparency.

Both the company and the employees have made various efforts to address the issue. The company attempted to reschedule the agreement and requested severance employee

files. However, despite these efforts, there is still no clarity regarding the installment of severance pay for the employees of ex-PT Mapoli Raya (PT Gading Bhakti), a subsidiary of PT Mapoli Raya Company.

On the other hand, the employees also made efforts to claim their rights, including giving verbal reprimands, participating in mediation, using media channels to highlight their situation, and seeking assistance from relevant authorities. Unfortunately, these efforts have not resulted in the fulfillment of their severance pay installments according to the contents of the agreed-upon agreement.

In conclusion, the company's default and lack of good faith in fulfilling the agreement have led to the non-fulfillment of employee severance pay installments. Despite the various efforts made by both parties, the issue remains unresolved, and the employees' rights have not been fulfilled as per the agreement.

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