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# PACTA SUNT SERVANDA: LEGAL DYNAMICS IN INDONESIAN CONTEXT

**Yoga Tri Cahyo[1], Marisa Kurnianingsih*[2]**

[1,2] Faculty of Law, Universitas Muhammadiyah Surakarta, Indonesia

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**Abstract:** This article discusses the role of the Pacta Sunt Servanda principle in loan agreements, particularly in the context of a court decision related to the breach of contract by PT BPR Suryamas Surakarta. The principle asserts that an agreement is binding as law to the parties involved and is utilized by judges as a consideration in court. The article aims to analyze the correlation of this principle with the judge's considerations in the context of breach of contract and evaluate the judge's perspective from the standpoint of legal utility. The research employs a normative juridical method through a literature review, using secondary data such as legal regulations and relevant literature. The results indicate that the Pacta Sunt Servanda principle plays a crucial role as a basis for judicial consideration, evident in the court decision that punishes the defendants according to the agreed-upon contract. While legal certainty predominates, the happiness of the parties involved, and the public is also a consideration for the judge. This decision, though emphasizing legal certainty, essentially contributes to the happiness of all parties involved and the community.

* *Coresponding Author: Marisa Kurnianingsih (mk122@ums.ac.id), Universitas Muhammadiyah Surakarta, Indonesia*

*Artikel ini mendiskusikan peran Asas Pacta Sunt Servanda dalam perjanjian pinjam meminjam, terutama dalam konteks putusan hakim terkait wanprestasi PT BPR Suryamas Surakarta. Asas ini menegaskan bahwa perjanjian berlaku sebagai undang-undang bagi pihak yang membuatnya, dan digunakan oleh hakim sebagai pertimbangan dalam pengadilan. Artikel bertujuan menganalisis korelasi asas tersebut dengan pertimbangan hakim dalam konteks wanprestasi, serta mengevaluasi pertimbangan hakim dari perspektif kemanfaatan hukum. Metode yang digunakan adalah yuridis normatif melalui studi kepustakaan, dengan data sekunder berupa peraturan perundang-undangan dan literatur terkait. Hasilnya menunjukkan bahwa Asas Pacta Sunt Servanda memiliki peranan penting sebagai dasar pertimbangan hakim, tergambar dalam amar putusan yang menghukum tergugat sesuai perjanjian. Meskipun aspek kepastian hukum mendominasi, kebahagiaan pihak terlibat dan masyarakat secara umum juga menjadi pertimbangan hakim. Putusan ini, meskipun lebih menonjolkan kepastian hukum, pada intinya menciptakan kebahagiaan bagi semua pihak terlibat dan masyarakat.*

**Keywords**: Pacta Sunt Servanda; legal utility; breach of contract.

## INTRODUCTION

The existing legal framework on agreements, as outlined in Article 1313 of the Criminal Code, defines an agreement as an act by which one or more individuals commit themselves to others. This broad definition leaves room for diverse interpretations, given the inclusivity of the term "deed," encompassing various actions subject to agreement. While agreements must adhere to legal principles and validity terms, the increasing societal

developments in economic, social, cultural, and political realms demand active financial activities. Credit loans serve as a popular means of obtaining financing in this evolving landscape.

Over time, society has developed. The development that exists in society can be seen in the economic, social, cultural, and political fields. Along with the increase in national development activities, it will demand more active activities in the field of financing. One of the ways people get financing is through credit loans (Sukmawati 2018:120). Regarding banking credit agreements there is no specific arrangement yet. However, the credit agreement according to Indonesian civil law is one of the forms of lending and borrowing agreements regulated in the third book of the Civil Code. So that in its implementation it is left to the will of the parties who bind themselves. In binding themselves, the debtor is more directed by the bank as the creditor to adjust to the credit facilities provided by the bank. A credit agreement that has been agreed and agreed between the parties must be stated in the credit agreement (credit contract) in writing. A credit agreement according to Indonesian Civil Law is a loan and loan agreement regulated in Articles 1754-1769 of the Civil Code. According to Article 1754 of the Civil Code: "A borrowing or borrowing is an agreement by which the one party gives to the other a certain amount of goods exhausted due to use, provided that the latter party shall return the same amount of the same kind and circumstances."

The provisions of Article 1754 of the Civil Code indicate that a person who lends a certain amount of money or goods to another party will pay back the same amount of money in accordance with the agreed

agreement. However, although the credit agreement is included in the loan and loan agreement as stated in the Civil Code, Sutan Remy stated that there are some differences between bank credit agreements and real money lending agreements. The first characteristic is consensual nature, meaning that in this case the debtor can get his rights and the creditor is obliged to provide a certain amount of credit if all the conditions in the credit agreement have been met. The second characteristic is that the debtor cannot use the credit facility freely. The facility in the form of credit provided by the creditor must be used by the debtor following what has been stated in the credit agreement. The third feature is that submissions in credit agreements are not always in real terms but can also use checks and or book-entry orders. Based on some of these characteristics, it can be said that a credit agreement is different from a loan and loan agreement as stated in the Civil Code (Wastu, Wairocana, and Kasih 2017:84).

In the agreement, we know several principles, including the principle of Freedom of Speech, the principle of Binding as Law, (Pacta Sunt Servanda), the principle of Consensulality (Consensualism), and the principle of Good Faith. (Budiwati 2019:42). One of the principles in the treaty that gives rise to the binding force of a treaty like a statute is the principle of Pacta Sunt Servanda. This principle has been stated in article 1338 paragraph (1) of the Civil Code "All agreements made validly apply as laws to those who make them". This gives rise to the consequence that in the event of a dispute in the execution of the agreement, then the judge by his decision may force the violating party to exercise his rights and obligations following the agreement.

In practice, often credit agreements are inseparable from the presence of defaults committed by one of the parties. The act of default will cause one of the parties to suffer losses. In this credit agreement, default can be made by the creditor or bank or the debtor or customer. Generally, the act of default committed by the debtor can be in the form of non-payment of several installments or other payment obligations that have been agreed upon (Nugraha 2018:44). This is what causes losses to the other party. As in the case that the author reviewed as material in this study, precisely in the dispute involving PT BPR Suryamas Surakarta. As for the default case that the author reviewed based on Decision Number 8/Pdt.G.S/2021/PN Skh., Decision Number 6/Pdt.G.S/2021/PN Skh., and Decision Number 2/Pdt.G.S/2022/PN Skt. The three court decisions explained that the creditor (PT BPR Suryamas) located at Jalan Veteran No. 73, Joyosuran Pasar Kliwon Surakarta, provided some credit facilities to customers (debtors) following the agreement that had been stated in the form of a credit agreement. However, in the implementation of installment payments, customers do not make payments following the agreed grace period. The customers still do not heed the warnings or complaints that have been made by the creditors, so the creditor, in this case, is PT BPR Suryamas concluding that the customers in question have broken their promises or defaulted. From the three Decisions, several pieces of evidence were obtained, one of which was evident in the form of a credit agreement letter which is a form of agreement between the parties. A credit agreement according to the Cabinet Presidium Instruction Number 15 / EK / 10 dated October 3, 1996, Jo. Circular Letter of Bank Negara Indonesia Unit 1 No.2 / 539 /

UPK/Pem dated October 8, 1996, instructs the banking community that in providing credit, banks are obliged to use the agreement (Diantoro 2017:116). Based on the letter of agreement, one of them has been stated regarding the grace period for installment payments. Based on the decision, it was found that the customers did not make installment payments following the agreed grace period.

As previously explained, default is an act of breaking a promise made by one of the parties and has the potential to cause legal consequences. That PT BPR Suryamas has fulfilled its obligations by providing a certain amount of credit to customers, but on the other hand, these customers are not willing to carry out the agreed part of the obligations which leads to the loss of the creditors. So it is natural that the creditor demands the fulfillment of rights for customers who do not pay a certain amount of installments and can also ask for compensation following what is stated in article 1267 of the Civil Code (Gayo and Sugiono 2021:247). Addressing these legal aspects and potential gaps in current regulations is essential for a comprehensive understanding of credit agreements and their implications.

The author's focus is to investigate the correlation between the Pacta Sunt Servanda Principle in Indonesia and Islamic Law, specifically through an analysis of the court decisions involving PT. BPR Suryamas. Building upon the background, the research questions derived from the study's title are twofold: first, whether the Pacta Sunt Servanda principle aligns with the judge's considerations in adjudicating cases related to PT. BPR Suryamas, and second, how the judge's considerations in deciding PT. BPR Suryamas cases are perceived from the standpoint of legal expediency.

## RESEARCH METHOD

Peter Mahmud has made it clear that legal study is a know-how activity, not just a know-about. The purpose of the know-how itself is that legal research needs to be carried out to find solutions to existing legal issues or problems. This is where an ability is needed in this case to identify legal problems, carry out legal reasoning, analyze the problems faced and then provide solutions to the problems. As Cohen said, legal research activities are a process of finding laws that apply to social life activities (Marzuki 2016:60).

This research includes normative legal research, in which the author will later use various positive legal norms, doctrines, and jurisprudence as the basis for analysis related to the problem being studied. The data type the author uses is secondary data. Some of the secondary data are in the form of primary legal materials such as articles 1313, 1338, and 1754-1769 of the Civil Code. Secondary data can be obtained through the literature study method by collecting statutory legal materials related to the problem under study and looking at some literature related to this research. The data analysis method used by the author is qualitative. The author intends to be able to describe the existence of a symptom or legal event precisely and clearly (Nugraha, Ni'ami, and Kurnianingsih 2016:11). This data analysis will be explained clearly in the form of sentences so that a clear and comprehensive picture is obtained.

## DISCUSSION

### Pacta Sunt Servanda in PT BPR Suryamas Case

The judge's decision is essential to carry out the main duties of the court, namely receiving, examining, adjudicating, and resolving cases submitted to the court. The legal consideration of the Decision is a crown for judges that must be accounted to God Almighty, to the seeker of justice, and to the community. The judge is responsible for the decisions and determinations he makes, responsible for bringing about a change in a phenomenon of distrust of the public into trust in the judiciary (Mappiasse 2017:10).

Every legal system, be it civil law system, common law system, or even socialist legalist has legal principles (Muhammad 2010:151). One of the principles used in the context of the law enforcement and implementation process is Islamic law. Most Western thinkers view Islamic law in general, the principles of Islamic law are outdated legal principles. They have a view and belief that western law is more modern, up-to-date, and up to date. However, that doesn't apply to scientists who try to understand well the principles of Islamic law, they see the opposite.

From the perspective of the Al-Quran, Allah Almighty is the lawgiver, but as Muslims have understood that the Quran is the main and highest source of law in Islamic teachings, then the sunnah becomes the second source of law. The source of Islamic law is still basically relevant and can be the basis for solving problems that exist today. One of them is the issue of contracts/agreements. In Islamic law, contracts have different meanings than they are known in Western law. Based on sharia principles, a contract is sacred, and executing a contract is a sacred duty of a person. In Surah Al Maa-idah verse 1 (Q.S 5:1) obliges people of faith to keep the agreements

they make (*Aufu bi-al-Uqud*). For every agreement (*al-ahdu*) will inevitably be held accountable (surah al-Isra Q.S 17: verse 34). This is an explicit interpretation of Allah's command. It can also be interpreted that the Al-Quran command implies that as long as people have faith if they make an agreement, they must obey the agreement they have made.

This is following one of the principles used in the covenant. The fundamental principle used in a contract and the basis for judges in deciding, namely the principle of Pacta Sunt Servanda. Pacta Sunt Servanda is one of the principles in the covenant in addition to the principle of consensualism, the principle of freedom of contract, and the principle of good faith. The principle of Pacta Sunt Servanda is regulated in article paragraphs (1) and (2) of article 1338 of the Civil Code which regulates: all agreements or agreements that have been stated are valid as law for the parties who make them, and such consent is irrevocable, except by agreement of the parties or as stipulated in law.

In the article, it can be interpreted that an agreement that has been stated in a deed of agreement will be used and become law for the parties who make it. This has legal consequences if at any time there is a dispute, the parties will return to the agreement they have agreed. It provides certainty and legal protection for the parties, in this case about the rights and obligations that the parties have in the agreement. The principle also provides consequences if neither the judge nor the third party shall interfere with the content of the agreement that has been made by the parties.

One type of agreement that is often encountered is a credit agreement. The credit agreement is regulated in the third book of the Civil

Code regarding the agreement. In this case, the credit agreement is referred to as a loan and loan agreement that has been regulated in articles 1754 - 1769 of the Civil Code. In article 1754 of the Civil Code: "A borrowing or borrowing is an agreement by which the one party gives to the other a certain amount of goods exhausted due to use, provided that the latter party shall return the same amount of the same kind and circumstances as well."

Based on the article, the conclusion can be drawn that a loan agreement is where one person borrows a certain amount of money, then in the future, it is returned with the same amount. A credit agreement is essentially the same as any other agreement, having an object promised by the parties. In this case, the object of the credit agreement is a loan in the form of money in a certain amount lent by the creditor to the debtor with a certain payback period. In the credit agreement, it is usually also regulated related to matters attached to the object such as the amount of installment interest, fines, and penalties that will be applied if one day the customer or debtor violates the provisions that have been promised.

One of the credit loan service providers is PT BPR (People's Credit Bank) Suryamas, located in Surakarta. As a financial service provider for the community, PT BPR Suryamas has faced various kinds of customer characteristics. All clients should behave well and obey what has been promised, but unfortunately, this is not the case. Many customers break their promises, in other words, default on the agreements that have been made. Default is the non-fulfillment of achievement by one of the parties to a bond of the agreement either in part or in full (Sarwono 2011:304). Not infrequently, PT BPR Suryamas as a creditor takes legal channels to regain

its rights. The problem of default is very common in a credit loan. Default on the fulfillment of obligations that have been agreed in a deed of the agreement by the customer (the debtor) will make him get a penalty for paying compensation, interest, and not infrequently also fines imposed by the way the Bank as a creditor files a lawsuit for the default action, including being able to file a lawsuit to confiscate collateral on the property from the customer as a debtor to pay off the loan made (Harahap 2012:60).

In deciding the case at PT BPR Suryamas, the judge used several legal considerations. In addition, there is also the freedom of judges who contextually have three essences in exercising judicial power, namely: judges are subject only to law and justice, no one including the government can influence or direct the verdict to be handed down by a judge, and there are no consequences for the person of the judge in carrying out his judicial duties and functions (Rifai 2011:104).

One of the considerations in deciding this default case is regarding whether the agreement entered by the parties has fulfilled the conditions for the validity of the agreement as explained in article 1320 of the Civil Code, namely:

a. Agreed to those who bind themselves.

   An agreement is a meeting between two wills, where one party fills the other with what the other party wants. However, to be able to meet each other, the will must be declared to each other, it must be real to the other and it must be understood by the other that he wants a legal relationship to arise. After that, it can only be said that an agreement arises. Regarding when an agreement of will occur, which can be used as a benchmark to determine the attachment of people to a closed

agreement so that the agreement is considered to have entered into force, known several theories include the theory of offer and acceptance. That a new agreement may occur after an offer from one of the parties and is followed by acceptance of the offer by the other party to the agreement.

b. The ability to make an engagement.

What is meant by the ability to agree is related to the legal subject of the agreement actor and in this case, is PT BPR Suryamas. A legal entity is a body or collection of human beings who by law are given the status of a person who has rights and obligations, although exercising his rights and obligations must be carried out or represented through its administrators. Based on the laws and regulations mentioned above, the plaintiff/PT BPR Suryamas is a recht person/legal entity.

c. A certain thing

The third condition of article 1320 of the Civil Code is the existence of a certain thing in an agreement, a certain thing, namely a point for which an agreement is held, which is the content of the main agreement, namely the main achievement of the main agreement, which arises from the agreement where at least the conditions are the type of zaak (goods) must be certain and the amount can be determined (in the future).

d. A lawful cause

The next condition of article 1320 of the Civil Code regarding the validity of the agreement is a halal cause or a halal causa. Where there are facts and legal considerations, what is agreed upon by the plaintiff and the defendant is not something that is not lawful or something that

is prohibited by law, contrary to custom or propriety which is in the form of a credit agreement given by the plaintiff to the defendant.

Based on the judge's analysis and assessment, the principal agreement in the form of a credit agreement between Plaintiff and Defendant has fulfilled the terms of the agreement as stipulated in the Civil Code. Another consideration is about proving whether Defendant was right to default. According to Muhammad at Thohir Muhammad 'Abd al 'proving a matter is to give a statement and a postulate to convince others. According to Sohbi Mahmasoni, proving a case is to put forward reasons and arguments to a convincing extent (Handoko, Surbakti, and Kurnianingsih 2015:15). Aziz Subekti explained that the default of a debtor can be in the form of 4 types, including: not doing what you should be able to do, carry out the promised but not as promised, do as promised, but are late in the time of execution, doing something in the agreement should not be done.

In granting the plaintiff's claims, the judge requires sufficient evidence from the plaintiff. The panel of judges is guided by section 163 of HIR/283 Rbg which determines who postulates something must prove. So in this case, it is the plaintiff who must prove every argument put forward (Nugraha and Nuswardhani 2018:38). Based on the available evidence, from the three Decisions, the defendants never made any more installment payments and had not paid off the loans until finally, the plaintiffs gave warning letters to each of the defendants three times. From this, it can be seen how the principle of Pacta Sunt Servanda applies. Based on several agreements entered into by PT BPR Suryamas against the defendants of each of these Decisions, namely; Credit Agreement Number 058/PK-A/BPR-

SM/IV/2018 dated April 26, 2018, and credit agreement addendum dated July 24, 2020 (decision Number 6/Pdt.G.S/2021/PN.Skh), Credit agreement Number 169/PK-A/BPR-SM/III/2017 dated November 12, 2020 (decision Number 8/Pdt.G.S/2021/PN Skh), and credit agreement Number 104/PK-A/BPR-SM/X/2021 (decision Number 2/Pdt.G.S/2022/PN Skt) The defendants did not carry out what had been promised. If you look at the principle, the covenant is valid as a law to the maker. The creators here are either customers or defendants. Based on the testimony and evidence that the judge had received and examined in the trial, it was found that the defendants were not performing their obligations as agreed. On the other hand, the plaintiff, namely PT BPR Suryamas, has carried out its obligations as evidenced by a credit agreement letter explaining that the defendant has obtained a credit facility from the plaintiff. Since the defendant has made an agreement with the plaintiff regarding the credit agreement, then inevitably the defendant must do what has been stated in the deed of agreement. The principle of Pacta Sunt Servanda here is the basis for judges in making decisions. If the defendants have not performed their obligations, the judge must ensure through the Decision made that the defendants carry out the obligations as agreed.

**Judge's View: Legal Expediency in PT BPR Suryamas Case**

The law is the one that is useful to society. Judges in deciding to resolve a case and provide fulfillment of the right to justice for the seekers. The rulings made by the judges should ideally provide benefits and not cause new problems in the future. Expediency in the implementation and enforcement of the law is implied by the provisions of the Al-Quran:

> "O people of faith, it is obligatory upon you to qishash about those who have killed, a free man with a free man, a servant with a servant, a woman with a woman. Then whoever gets forgiveness from his brother, should (who forgives) follow in a good way, and should (the forgiven) pay (diat) to the one who gives forgiveness in a good way (any way). Thus, there is a sacrifice which is a relief from your Lord and mercy" (Q.S.2: 178).

In qishash law, if the victim's family forgives the murderer perhaps on humanitarian considerations and expediency there is no hereditary grudge, also this is so that the family of the victim left by the deceased there is some kind of guarantee obtained by him, then payment is taken in exchange for criminal. The principle of expediency is also reflected in the prohibition of doing mubazzir, wasting something, even in the emphasis on the prohibition of wasting something likened to brothers and demons. The prohibition of waste is intended to make the property used sparingly and meticulously so that it can be useful, both to its owner and to others and the wider community.

This principle of expediency is also one of the considerations of judges in deciding. In making decisions, judges not only look at the law (denken system) but also their conscience by paying attention to the fairness and expediency of the resulting verdict (pro blem denken). Gustav Radbruch revealed that there are priority principles that must be met first in applying the law fairly and also appropriate to be able to fulfill the objectives of the law, namely justice, expediency, and legal certainty (Rahardjo 2000:20).

From the point of view of legal sociology, the purpose of the law is focused on the aspect of legal expediency. The benefit referred to here is beneficial for everyone who is litigating. The Utility that expediency here can also be interpreted as achieving happiness in society. The law is created for

the community; therefore, the community expects benefits from the implementation or enforcement of the law. What should not happen is if the implementation of the law boils down to unrest in society. The principle of expediency looks more at achieving a goal or usefulness of law implementation in society.

One of the philosophers who supported Utility theory was Jeremy Betham. A great philosopher from England who had an important idea was The Greatest Happiness Principle. Betham's ideas were heavily influenced by philosophers such as Protagoras, Epicurus, John Locke, David Hume, Montesquieu, and Thomas Hobbes. Betham said that the purpose of the law is to be able to create the greatest happiness. A ruling made by a judge, one of which is in the form of sentencing, is not intended solely for revenge, but for the sake of creating a better future. A ruling is expected to be a preventive measure so that the subject of the law concerned does not commit the same mistake in the future. Punishment must contain positive consequences for the defendant, the victim, and society at large. Laws must have positive-constructive relevance to humans. Otherwise, punishment is meaningless and useless. Betham herself asserts that man's highest goal in this life is to obtain happiness. Betham's theory of utility states that punishment can be justified if its execution crystallizes two main effects namely, First, the consequence of that punishment is to prevent that in the future crime or mistake will not be repeated. Second, the punishment must be able to provide a sense of satisfaction for the victim and others. Punishment should be prevented in the future so that a person does not repeat the same deed

and also the fulfillment of pleasure for the people related to the legal case (Fios 2012).

Based on Betham's explanation, it can be concluded that there are several indicators of the creation of an aspect of expediency in a legal decision. No exception in the decision related to PT BPR Suryamas. In this case, whether the Decision that has been made by the judge has met the aspect of expediency or not. There are two indicators of achieving the aspect of expediency according to Betham, namely the non-repetition of the same mistakes in the future by the subject of law, and the second is the sense of satisfaction felt by the victim and others.

a. There is no repeat of the same deed in the future by the perpetrator.

   With prevention, Betham signaled that three forms of effects would appear, namely, *first*, the punishment given to the perpetrator will cause the person concerned to lose the ability to be able to commit the same deed/mistake in the future. If you look at the case that occurred between PT BPR Suryamas and the defendants, there is no guarantee that the defendant will not make any more mistakes in the future. The opportunity to do the deed (default) still exists if they still can and are qualified to make a covenant. Unless the judge renders a Decision to confiscate most of the assets made bail from the defendants, it certainly depends on how the substance or clauses in the agreement. But for example, when most of the assets of the defendants are confiscated, they have the potential to have difficulty entering into agreements (accounts receivable) again in the future, so that the default does not occur again.

Second, the sentence imposed on the defendant has the potential to provide an update or change. With the passing of a punitive verdict, what happens in the future is that the person concerned feels remorse and renews attitudes and behaviors so that they no longer want to make the same mistakes in the future. Of the three decisions (Decision Number. 8/Pdt.G.S/2021/PN Skh., Decision Number. 6/Pdt.G.S/2021/PN Skh., and Decision Number. 2/Pdt.G.S/2022/PN Skt) there is one similarity in the Decision that has been made by the panel of judges, namely punishing the defendants to pay in full the credit obligations and other material losses concerned. The sentence imposed has the potential to transform the attitude and self of the defendant, this is also closely related to the third point.

Third, the punishment that has been given will have a deterrent effect. Punitive rulings, give and channel negative feelings to defendants so that they have a tendency not to do the same in the future so as not to get the punishment they have experienced. In addition, the verdict handed down can also counteract the potential for the same deed in the future by others.

b. The second goal is closely related to legal satisfaction.

Satisfaction with punishment can be judged on two counts. First, is material compensation and the second is the venting or expression of resentment: first, material compensation. The material compensation of the three default cases is a form of punishment that gives satisfaction to the parties, in this case, it is the plaintiff, namely PT BPR Suryamas. Of the three Decisions, (Decision Number. 8/Pdt.G.S/2021/PN Skh.,

Decision Number. 6/Pdt.G.S/2021/PN Skh., and Decision Number. 2/Pdt.G.S/2022/PN Skt) the Decision that has been made by the judge is in the form of punishing the parties who committed the default by paying a certain amount of damages, fines, and other costs because the defendant has been proven to have defaulted. According to Betham material compensation can give a lot of pleasure to the man. Although in fact, the material punishment in this Decision is mandatory to be carried out because the type of case is a default, where the defendants must carry out obligations following the agreement whose object is a credit loan. Punishment in the form of material compensation is indispensable for cases that are closely related to material issues. Second, the expression of resentment. The Decision that has been handed down to the defendant will give him pain so that the negative emotions of the plaintiff can be channeled through the Decision handed down by the judge.

Of the three cases of PT BPR Suryamas, the judge emphasized the achievement of three aspects, namely justice, expediency, and certainty. The aspect of legal certainty is reflected in the consideration made by the judge in deciding the case by ascertaining in advance whether the agreement made by the parties is valid by the applicable laws and regulations (Article 1320 of the Civil Code) and whether the defendant has been proven to have defaulted or the defendant is declared negligent as stated in article 1238 of the Civil Code. To fulfill the expediency aspect, the judge considers whether the Decision that has been made has been beneficial to the litigants and the wider community. Decision Number. 8/Pdt.G.S/2021/PN Skh., Decision

Number. 6/Pdt.G.S/2021/PN Skh., and Decision Number. 2/Pdt.G.S/2022/PN Skt, In his ruling, the judge has declared the default of several defendants who are found to have defaulted by not fulfilling some obligations in the form of installment payments by what has been mutually agreed upon. When viewed based on the theory developed by Jeremy Betham, namely The Greatest Happiness Principle, the expediency aspect in this ruling is not fully achieved. These three rulings focus more on the aspect of certainty (rechtssicherheit). Judges are guided by the positive law of legislation (more focused on fulfilling positive legal aspects in passing Decisions) with a slight exclusion of the benefits that will be received by all litigants and the public at large. This can be seen from one of the indicators of expediency according to Betham, namely the non-recurrence of future actions.

Based on the considerations and Decisions that have been made, there is no guarantee that the defendant has lost the ability to do the same act again in the future. But this does not mean that the benefit aspect is not achieved at all. This aspect of expediency can be seen from the Decision of the three cases by punishing the defendants to pay in full a certain amount of credit obligations along with a predetermined fine. This provides fulfillment of rights to the plaintiff (PT BPR Suryamas), in other words, the party concerned still benefits from law enforcement, and when it can be realized, happiness can be created. In this case, the plaintiff seeks justice and should benefit in the enforcement process which is realized by the fulfillment of several rights demanded.

## CONCLUSION

The decisions in Case Number 8/Pdt.G.S/2021/PN Skh., Case Number 6/Pdt.G.S/2021/PN Skh., and Case Number 2/Pdt.G.S/2022/PN Skt. reveal that the judge grounds their considerations on the Pacta Sunt Servanda principle. This principle, recognizing agreements as binding laws to their creators, empowers the judge to enforce fulfillment of obligations if either party fails to adhere to the agreed terms. Pacta Sunt Servanda ensures legal protection for the rights and obligations outlined in agreements. Furthermore, the judge acknowledged the potential public and individual benefits of the decisions. Despite a predominant focus on legal certainty, the decisions align with Jeremy Bentham's Greatest Happiness Principle, emphasizing the well-being of parties and society. While expediency is not fully prioritized, penalties for installment payments and accompanying material losses demonstrate a balance between legal considerations and practical expediency. The rulings not only secure the plaintiff's rights but also serve as a channel for negative emotions and a source of satisfaction. In essence, the decisions have effectively translated into a realization of happiness in the matter at hand. [*W*]

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