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Application Of Utmost Good Faith Principles In Resolving Insurance Claim Disputes In Indonesian Courts

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Abstract: The purpose of this study is to examine the Application of the Principle of Utmost Good Faith in the Settlement of Insurance Claim Disputes in Indonesian Courts. This study uses a normative juridical legal research method with a case approach to Decision Number 62/Pdt.G/2020/PN.Bpp and is analyzed using an evaluative method. The results of the study show that in the evidentiary process in court proceedings, each party must be able to prove that they have acted in utmost good faith. The insured must be able to show that they have provided complete and accurate information when applying for insurance policies, while the insurer must be able to prove that they have processed claims in utmost good faith and in accordance with the provisions in the policy. If there is any ambiguity in the contract, the court will interpret it in the manner most favorable to the insured (contra proferentem rule), provided that the interpretation is still within the corridor of applicable laws and regulations.

Keyword: Principle of Utmost Good Faith, Insurance Claim Disputes, Contra Proferentem Rule, The Insured, The Insurer.

INTRODUCTION

Article 246 of the Criminal Code defines Insurance as an agreement in which the insurer receives premiums from the insured to provide reimbursement for losses due to uncertain events. Insurance is an agreement between the insured and the insurance company for risk transfer (Setiawati 2018). There are two main types of insurance: life insurance, in which death within a certain time triggers a payment, and loss insurance, in which a specific event such as a fire results in a payment. Loss insurance is the most commonly used (Yikwa 2015).

The Financial Services Authority (OJK) explained that loss insurance companies provide risk management services by providing payments to policyholders/insureds or other entitled parties when an uncertain event occurs resulting in loss, damage, loss of expected profits, or legal liability to third parties. They also provide guarantees of fulfillment of the obligations of the guaranteed party to the other party if the guaranteed party is unable to fulfill its obligations (Guntara 2016). Public awareness of risk protection and an increase in the number of insurance users have been motivators for insurance companies in improving their services, with a wider loss insurance market, as shown by data from Indonesia's Central

Statistics Agency (BPS) in 2019 which recorded 78 loss insurance companies, exceeding the number of life insurance companies by 60 companies (Nitisusastro 2013).

According to Article 246 of the Criminal Code, insurance is an agreement in which an Insurer receives a premium from an Insured to provide compensation for loss, loss, or damage to expected profits due to uncertain events, provided that the parties are legal entities, the object of insurance which can be an object of rights or interests attached to the legal object, an insurance event which is the agreement or agreement of the Insured regarding the object of insurance, and insurance relationships as legal bonds arising from free agreements (Junaedy 2013). Insurance must meet 4 conditions stipulated in Article 1320 of the Indonesian Civil Code, namely an agreement between the parties involved, the ability to make an agreement, the existence of certain causes, and halal causes, which are part of the legal conditions of the agreement (CST and Kansil 2002).

The validity of the coverage agreement must not only comply with Article 1320 of the Indonesian Civil Code, but also Article 251 of the Criminal Code which stipulates the obligation of the Insured to provide all correct information about the insured object. Article 251 of the Criminal Code also states that if the Insured gives false information or refuses to disclose the true circumstances, it may lead to cancellation of coverage. In addition, insurance is based on four main principles according to Article 1320 of the Civil Code: the principle of interest insurable, utmost good faith, compensation, and certain other principles. These principles emphasize the importance of the Insured's relationship with the insured goods, the obligation to provide correct information, and the payment of compensation in accordance with the losses insured, with these four principles being the basis commonly applied in insurance (CST and Kansil 2002).

The application of the principle of utmost *good faith* is an important principle in insurance agreements for the Insured and the Insurer, which is the basis for filing lawsuits in case of violations such as vagueness of information from both parties (Ismanto 2012). The implementation of the principle of good faith is regulated in Article 1338 of the Civil Code which confirms that the agreement must be made in good faith, in line with the conditions for the validity of the agreement as stipulated in Article 1320 of the Civil Code. Although the principle of *utmost good faith* demands clarity of the status of the Insured in accordance with the reality in the insurance contract, sometimes there are still violations committed by the Insured, supported by evidence of dishonesty in his explanation of the actual situation. The principle of *utmost good faith* expects clarity about the condition of the Insured in accordance with the actual facts in the insurance agreement, but there are violations committed by the Insured, often reinforced by evidence or cases that show dishonesty in explaining the actual situation (Nitisusastro 2013).

In the point of view of concepts and theories that form the basis of this research problem, first about agreements and engagements. Article 1313 of the Indonesian Civil Code defines an agreement as an act in which a person binds himself to one or more other people through concrete acts, either in the form of speech or physical actions, with the implication that the agreement results in obligations or achievements from one party to another party entitled to such achievements (Muljadi 2008). Second, the theoretical concept of the problem that general insurance focuses on the protection of objects or values related to objects as objects of coverage, such as vehicles, buildings, and jewelry, with products that include motor vehicle, fire, transportation, and other insurance (Santri 2017). In a general insurance agreement, the underlying principles include insurable interest, best faith, primary cause of loss, indemnity, subrogation, and contribution (Santri 2018).

The principle of *Utmost Good Faith* in insurance agreements requires that each party provide complete information so that the other's decisions are affected, and mutual trust is established between the insurer and the insured, in which case of risk, the insurer will pay

damages, but if there is misinformation or the conclusion of the agreement on different terms if the true circumstances are known, the coverage can be canceled according to Article 251 of the Criminal Code (Santri 2017).

The research in this article aims to review the implementation of the *principle of utmost good faith* contained in the settlement of insurance claim disputes in court, especially in the trial process that considers the best faith aspects of the facts presented, especially in the Balikpapan District Court decision No. 62 / Pdt.G / 2020 / PN.Bpp between PT Alatas Marine Services and PT Asuransi Tugu Pratama Indonesia. Petrkara in the court began with an incident in November 2018, where the Plaintiff, PT Alatas Marine Services, leased a ship to PT Delta Anugrah Bahari Nusantara to be used in transporting project goods, but the ship suffered severe damage due to a major storm in the waters of Palipi, West Sulawesi, and was stranded on the coast of Pamboang, Majene Regency, which caused the destruction of the ship and inability to move.

Plaintiffs, aware of the potential for more severe damage, took immediate steps to rescue the vessel from the aground site by towing it, and also acted preventatively to mitigate the damage that weighed on claims for damage to the vessel, including by chartering tug boats and salvage companies. Despite these attempts, the ship remained stranded, and the Defendant partially dismissed Plaintiff's claim on the grounds of general average without a clear explanation, which caused the Plaintiff to feel aggrieved by not being informed about this when purchasing the ship's insurance policy. The Defendant is considered to have violated consumer protection and insurance laws and harmed the Plaintiff materially and immaterially, so the Plaintiff demanded the Defendant to pay compensation of Rp8,037,212,788, - as compensation for the losses suffered.

The Plaintiff argued that the Defendant violated the Insurance Policy Agreement by demanding compensation for the loss of the ship that ran aground, where the Panel of Judges considered the Proposed Adjustment from PT Tugu Pratama Indonesia and the Proposed Adjustment Claims Office Of Indonesia, but the Defendant admitted the payment of the insurance claim without determining a clear amount. Although witness statements showed the value of the ship's loss of Rp. 2,400,000,000, the Defendant gave different calculations and delayed the payment of the claim even though a summons from the Plaintiff's Legal Representative had been submitted, which ultimately resulted in the Plaintiff filing a lawsuit at the Balikpapan District Court. Although it does not directly violate the Insurance Policy Agreement, the Defendant's action is considered a default because it stalls and changes the value of losses, which is considered detrimental to the Plaintiff. The actions committed by the Defendant are considered to have violated the principle of utmost *good faith* in an insurance policy.

In an effort to maintain the originality of the scientific work that the author compiled on the topic of the problem, the author will use several scientific articles that are references for research and explain the location of differences and the value of updates. The articles that the author refers to are as follows:

1. Article written by Caroline Tresnoputri and Gunawan Djajaputra with the title Application of the Utmost Good Faith Principle in Carrying Out Insurance Responsibility. The article will be published in 2023 in Jurnal Kertha Semaya Vol. 11 No. 12 of 2023. The subject matter in the article focuses on normative juridical concepts in general related to the application of *the principle of utmost good faith* in General Insurance. The discussion explained that the application of the principle of utmost good faith is a basic principle that must always be updated by the Insurer, which requires the Insurer to notify the Insured of changes in the terms and information of the company, and violation of this principle can lead to the cancellation of the insurance agreement in accordance with Article 1320 of the Civil Code along with Article 251 of the Code of the Civil Code. The

difference with the topic discussed by the author is the approach taken which will examine the application of the principle of best faith *(utmost good faith)* in a court decision that decides general insurance claim cases, especially in the scope of the *marine hull and machinery insurance field*.

2. Article written by Rinitami Njatrijani with the title Marine Hull And Machinery Claims In Coverage Practice. The article was published by Diponegoro Private Law Review Vol. 3 No. 1 of 2018. The study examines the issue of *marine hull and machinery* insurance which examines juridically normative legal norms in insurance policy agreements between insurers and insured. One of them is the existence of principles that must exist in an insurance claim settlement clause that emphasizes the principle of best faith *(utmost good faith)* as one of the principles that need to be considered. The results of the author's study on the insurance policy, concluded that PT P's rights and obligations as the Insurer for Marine Hull and Machinery claims are carried out in accordance with insurance law and the basic terms of the agreement, using the ITC (Institute Time Clause) Hull 1.10.83 Clause 280 policy which regulates partial losses, and the claim settlement process is in accordance with the procedures established in Indonesia, and this claim has been closed by the Insurer on March 26, 2015. The difference in the research conducted by the author, is that the type of marine hull and machinery insurance claim that the author will review focuses on the problem of how to apply the principle of best faith *(utmost good faith)* in an insurance claim dispute that takes place in court. Another thing, also that the author will focus more on examining how the principle becomes an aspect that appears in the facts and considerations of the panel of judges.

METHOD

The research that the author conducted is a normative juridical research because it is based on a point of departure related to various problems that arise in the marine *hull and machinery insurance claim process* which does not lead to litigation settlement. Also related to how the application of the principle of best faith *(utmost good faith)* which is the subject of discussion and consideration in the trial process. The approach method used is a case *approach* with primary legal material in the form of court decisions. Primary legal material is collected by systematic method and analyzed by evaluative method.

RESULTS AND DISCUSSION

Application of *the Utmost Good Faith* Principle in Resolving Insurance Claim Disputes in Indonesian Courts

In the context of trade and commercial contracts, the caveat *emptor* principle underlines the freedom of the buyer to know the condition of the goods or services he will buy. Meanwhile, in insurance agreements, the principle of utmost *good faith* is the main principle that is upheld, which is related to notification obligations as stipulated in Article 251 of the Criminal Code (Tresnoputri n.d.). According to Abdulkadir Muhammad, the obligation of such notification does not depend on the good faith of the insured; Failure to provide accurate information, even if unintentionally, can lead to cancellation of insurance. Article 251 of the Criminal Code identifies three situations affecting notification obligations: when the insured gives erroneous, incorrect information, or when he does not give information about matters known to him (Buku and Muhammad 2014).

According to Djoko Prakoso, Article 251 of the Criminal Code only focuses on misunderstanding and fraud against the asurador, not paying attention to mistakes or fraud against the insured. If the insured party is wrong or deceived, Civil Code Article 1322 and Article 1328 are used as additional explanations (Murtika and Prakoso 2004). The insurance agreement, as stipulated in KUHD Article 255 and Article 258, must be made in writing in

the form of a policy. The principle of *utmost good faith* is applied in the policy, but this principle begins to be applied to loss insurance agreements when filling out the Insurance Closing Request Letter (SPPA), based on Article 257 Paragraph (1) of the KUHD. The provision of information in the loss insurance agreement begins when filling in the SPPA by the insured, and the policy is issued based on the SPPA or memorandum of agreement.

In the performance of a trade or commercial contract, each party has the right to investigate the goods or services to be purchased and cancellation is not justified if the goods or services are clearly described without the element of fraud. This principle is known as Best Faith, which applies to insurance coverage. The insured is obliged to disclose all material facts related to the object of coverage that may influence the decision of the insurer, and violation of this principle may lead to the cancellation of the insurance agreement. This principle also applies to insurers, according to the rules in Carter v. Boehm 1766, which prohibits insurers from concealing information that could cause harm to the insured in insurance contracts (Saputra, Listiyorini, and Muzayanah 2021).

Jurisprudence related to the non-disclosure of appropriate information as an act that violates the principle of utmost *good faith*, is contained in the Medan District Court Decision Number 382 / Pdt.G / 2004 / PN.Mdn. The non-disclosure of events that actually occurred so that the insured goods were destroyed is an act of obscuring information when claiming. Because in accordance with the facts in the trial, the actual event began with the arrival of a gang of unknown gunmen wearing masks and burning the object of coverage which belonged to the insured and then looting. In fact, the incident has caused three casualties who are employees of the insured party and two people have been taken hostage by the unknown group. From this description, it can be concluded that the motivation of the armed group is not just to commit theft or looting, but more serious, namely to commit acts that cause riots and security disturbances accompanied by looting of goods in the factory. The judgment of the district court which stated that the incident that happened to the object of insured in the form of a palm oil mill and its contents belonging to the insured PT Wirya Perca was only an act of theft was a mistake. This will have a huge impact on the insured if the court declares that the incident is an act of theft. This statement results in the insured party will not get compensation for the destruction of the insured object because the event is not included in the risk borne by the policy (Angger 2009).

It should be understood that an insurance policy claim, is a formal request to the insurance company for payment under the terms of the insurance policy, which will be reviewed for validity before being paid to the Insured (Amrin 2006). In claims proceedings, *the principle of utmost good faith* is used as a basis for assessing unlawful acts by each party, especially during disputes in court. The process of settling claims submitted by the Insured must be carried out without delay by the Insurer, because the claim is the right of the Insured funded by the premium paid to the Insurer, and delay in the claim process.

Furthermore, in the Central Jakarta District Court Decision Number 29 / Pdt.G / 2012 / PN.Jkt.Pst the principle of *utmost good faith* has been violated since the occurrence of the insurance agreement, the plaintiff, namely Samrida as the insured party has provided incorrect facts regarding warehouse ownership, so he cannot change these facts that have been stated in the policy because these circumstances will change and will be void according to the provisions of Article 251 of the KUHD. Plaintiffs who do not apply the principle of utmost *good faith* result in losing their right to get compensation because the fire insurance agreement entered into with the defendant, namely PT Asuransi Adira Dinamika as the insurer has become void.

Last in South Jakarta Court Decision Number 1301 / Pdt.G / 2009 / PN / Jkt.Sel. The principle of *utmost good faith* that was violated was the difference in the departure date of the ship on June 19, 2008 and June 24, 2008 on the grounds that it did not get a sailing permit

from Syahbandar, but in fact the existing documents listed the departure date of the ship on June 19, 2008 while for the change to June 24, 2008 there was no finding complete reporting with respect to ship documents, cargo and others related to it to the Insurer, this in the Insurance Law is called Misrepresentation and is a manifestation of a violation of the *principle of utmost good faith*.

The principle *of utmost good faith* in loss insurance starts from the procurement of the agreement, especially when filling out the Insurance Closing Application Letter (SPPA) by the insured, according to Suharnoko's explanation that good faith must exist when the agreement is made or signed (Suharnoko 2015). Based on Article 251 of the Criminal Code, if at the time of entering into a loss insurance agreement the insured provides information about the object to be insured incorrectly or incorrectly, or there is a concealment of circumstances, then the coverage will not be held or not held under the same conditions. Therefore, the insurer who knows the real condition of the insured object causes the insurance agreement that has been held to be void.

Changes in facts in the loss insurance agreement are changes in the function / purpose of use of the insured object. In the fire insurance agreement, risk weighing is regulated in the provisions of KUHD Article 293. If there is a risk aggravation in the loss insurance agreement, the method of resolution can be appointed Article 251 of the Criminal Code. If the insured does not notify the insurer, then the insurance is void, or if it incurs a loss, the insurer is not obliged to pay the claim for damages. So, changes in facts that affect the risk will only result in the cancellation of the loss insurance agreement if the change in facts is not notified to the insurer and results in the insured risk becoming more severe.

The principle *of utmost good faith* must be applied at the time of an uncertain event. If the event is caused by the insured's own fault, the insurer is free from his obligation to provide compensation as stipulated in the provisions of Article 276 of the Criminal Code. According to Sri Rejeki Hartono, the provisions as stipulated by Article 276 of the KUHD in the policy are commonly referred to as exceptions (Rejeki and Prasetya 2022). In this regard, if in the event of an event that causes losses caused by the fault of a third party, and accompanied by payment of a claim for compensation by the insurer, then the provisions of Article 284 of the Criminal Code apply, namely the principle of subrogation.

According to Djoko Prakoso, in order for the insured party to obtain insurance money payments from the asurador, it must be proven that an event occurred that was initially unexpected (Murtika and Prakoso 2004). If a loss insurance agreement ends but no event occurs, while the insured party has acted in good faith, the premium that has been paid to the insurer can be demanded for return under the provisions of Article 281 of the Criminal Code. According to Abdulkadir Muhammad, Article 281 of the Criminal Code emphasizes the condition that insurance is void or void not because of the fault of the insured, but because the insurer does not face danger. It is appropriate that the premium that has been paid by the insured is returned by the insurer. This is in accordance with the principle of balance and sense of justice (Muhammad n.d.). The provisions of Article 282 of the Criminal Code, if the insurance is void due to the bad faith of the insured, for example because of reason, fraud, fraud, then in this case there is no restorno premium. Premiums that have been paid remain the right of the insurer as a punishment for the insured in bad faith even without prejudice to criminal charges if there is a reason for it (Muhammad 2002).

Application of the *Utmost Good Faith* Principle in Court Proceedings in Decision Number 62/Pdt.G/2020/PN.Bpp Reviewed from Laws and Regulations

On June 5, 2017, PT Alatas Marine Services tied marine hull insurance coverage with PT Asuransi Tugu Pratama Indonesia Tbk for the LCT NIAGA JAYA 89 vessel worth Rp. 6,500,000,000,-, with two policy extensions. In November 2018, the insured vessel was

chartered by PT Delta Anugerah Bahari Nusantara for the project, but it washed up on the coast of Pamboang, Majene Regency, South Sulawesi due to a major storm. Then PT Alatas Marine Services took action to save the stranded ship, because it could not float in the waters and was at risk of damage, as an effort in the principle of good faith to minimize losses even though it had been insured. The effort was carried out in two ways: first, by renting a Tug Boat that failed to pull out the ship because the towing rope broke and lost the maximum tidal momentum at a cost of Rp. 300,000,000,-; second, by appointing a salvage company PT Top Mandiri Salvage recommended by a partner surveyor of PT Asuransi Tugu Pratama Indonesia Tbk at a cost of Rp. 1,600,000,000,-.

After the rescue effort and the ship sailed again, PT Alatas Marine Services submitted a claim to PT Asuransi Tugu Pratama Indonesia Tbk. with complete documents, including supporting documents, worth Rp. 2,804,507,994, - for the cost of salvage and repair of the ship. After submitting a claim, PT Asuransi Tugu Pratama Indonesia Tbk. sent a *Proposed Adjustment letter* rejecting several claims, so that the claim received was only Rp. 1,343,451,682, - without providing details about the reason for rejection. On December 10, 2019, PT Asuransi Tugu Pratama Indonesia Tbk. again sent a Proposed Adjustment Revision Letter rejecting several claims and reducing the claim offer to Rp. 1,327,625,792, - without providing a detailed explanation of the reason for rejection and the basis for calculation. In *the Proposed Adjustment* received, PT Asuransi Tugu Pratama Indonesia Tbk. stated that the two rescue efforts carried out by PT Alatas Marine Services are considered as *the General Average* (GA) category, so that insurance is only obliged to reimburse part of the rescue costs, while the rest is the responsibility of the cargo owner or cargo insurance.

PT Alatas Marine Services feels that it has never been given an explanation about *the General Average* (GA) when offered insurance products, and only learned about these provisions when the claim submission process was carried out, because there was no explanation about it in the coverage agreement or insurance policy. PT Alatas Marine Services considers that PT Asuransi Tugu Pratama Indonesia Tbk. committed several violations, including: First, it does not comply with the rights of PT Alatas Marine Services to obtain clear information about the insurance products offered, violates Article 4 paragraph (3) of Law No. 8 of 1999 concerning Consumer Protection. In addition, violations of Article 7 paragraph (b) of the Law also occur because they do not provide true, clear, and honest information about the conditions and guarantees of goods and services that are dishonest and discriminatory. Second, PT Asuransi Tugu Pratama Indonesia Tbk. is considered to violate Article 31 paragraph (2) of Law No. 40 of 2014 concerning Insurance because it does not provide true and not misleading information about the risks, benefits, and obligations related to the insurance products offered. In addition, it does not handle claims and complaints through a fast, simple, and fair process, as stipulated in paragraph (3) of the Law.

In its defense, PT Asuransi Tugu Pratama Indonesia Tbk. put forward several arguments. First, they confirmed that the request for marine hull insurance coverage came from PT Alatas Marine Services because the previous coverage period with PT Fairfax Insurance Indonesia had expired, and the policy extension was carried out by PT Alatas Marine Services itself. Second, regarding the General Average (GA), this has been explained by the surveyor, PT Asuka Bahari Nusantara, who recommends the GA declaration to cargo owners. Third, the calculation of losses involves a third party appointed by PT Alatas Marine Services itself, namely PT MCO Prima Indonesia. Fourth, the loss value is based on information from the cargo commercial invoice, with adjustments that may be required. Fifth, regarding PT Alatas Marine Services' incomprehension regarding GA, in the agreed insurance policy, Article 11 paragraph (1) specifically mentions General Average and Salvage, which is considered as the application of the principle of utmost good faith.

The Balikpapan District Court on June 10, 2021 issued Decision No. 62/pdt. G/2021/PN.Bpp regarding the lawsuit of PT Alatas Marine Services against PT Asuransi Tugu Pratama Indonesia Tbk., with a ruling: The decision of the Balikpapan District Court in the exception rejected the defendant's exclusion entirely. In the main case, the court partially granted the plaintiff's claim by stating that it was valid and binding the Insurance Policy Agreement Letter dated June 5, 2017 which had been extended 2 times, stating that the defendant was in default with the plaintiff, and punishing the defendant to pay an insurance claim in the amount of Rp. 2,400,000,000 to the plaintiff and pay the plaintiff's right to an obligation that was not fulfilled on time in the amount of Rp. 144,000,000 in cash. The plaintiff's suit for anything else was dismissed. The court also ordered the defendant to pay the cost of the case in the amount of Rp. 1,080,000, - and the plaintiff to pay the cost of the case in the amount of Rp. 234,000,-.

The Balikpapan District Court decision granted the plaintiff's lawsuit considering that the Marine Hull & Machinery Insurance Number PFH1700034 Policy and the extension of the Marine Hull &; Machinery Insurance Number Policy PFH1800081 recognized as valid by both parties, while the amount of loss of the LCT Niaga Jaya 89 vessel has been determined at Rp. 2.4 billion based on surveys and recommendations of PT. Asuka Bahari Nusantara. The court concluded that the defendant did not provide insurance claim services in a professional and proportionate manner, by slowing down the claim process and providing variable loss values, causing losses to the plaintiff. Although it is not considered a violation of the Insurance Policy Agreement Letter dated June 5, 2017, the action is considered a default that harms the plaintiff because it does not comply with the deadlines specified in the agreement.

Case studies of insurance claim disputes that take place in this court, the author will review the judicial process, the facts, and the judge's consideration. The arguments raised by each party to an insurance claim dispute are based on the principle of utmost *good faith*, which is rooted in legal facts that occur during the claim process, where an insurance policy claim is a formal request for payment in accordance with the terms of the policy, reviewed for validity, and paid to the Insured after approval, with the aim of providing benefits under the terms of the policy to the Insured.

Claim is the submission of the Insured's right to the Insurer to obtain coverage for losses based on an existing agreement or contract, which is simply the process of submitting participants to receive the sum insured after paying off all premium obligations to the Insurer (Amrin 2006). The first argument submitted by the plaintiff for the rejection of insurance claims by the insurer is considered to violate the provisions of Article 4 paragraph (3) and Article 7 paragraph (b) of Law No. 8 of 1999 concerning Consumer Protection. The provisions of Article 19 paragraph (1) of the Law state that the insurer is responsible for compensation for losses incurred by the insured or caused by accidental events and elements of accident, including those caused by third parties, in accordance with Law Number 8 of 1999 Consumer Protection (Santri 2018). Law Number 8 of 1999 concerning Consumer Protection has principally taken into account the interests of insurance policyholders by providing clear regulations regarding their rights, as well as affirming the principles of insurance law that must be carried out by both parties, both the insured and the insurer (Rambe and Sekarayu 2022).

Second, regarding the argument of violation of the provisions of Article 31 paragraphs (2) and (3) of Law No. 40 of 2014 concerning Insurance. The provisions in the norm regulate the obligation of insurance companies to provide correct information to policyholders, with a penalty of imprisonment of up to 5 years and a fine of up to Rp. 5,000,000,000.00 if they do not meet these conditions, in accordance with Article 31 paragraph 2 and Article 75 (Njatrijani 2018). Then related to claim settlement in Marine Hull and Machinery, as in loss

insurance in general, involves fulfilling the rights of the insured by the insurer in accordance with the terms and conditions stated in the policy, with the insurer required not to slow down the claim process because claims are rights that are anticipated from the beginning and financed from premiums, so claim handling must be done quickly, precise, and efficient (Simanjuntak, Harjono, and Widiarty 2021).

The Balikpapan District Court decision in Decision Number 62/Pdt.G/2020/PN/Bpp where the judge saw the efforts of PT Alatas Marine Services which, when the ship sank, used third party assistance to assist in efforts to rescue the ship so that the damage did not get worse, was an act of good faith, in the insurance agreement by the insured. Because according to the author, PT Alatas Marine Services strives to minimize damage, and this information is clearly conveyed in the disclosure in the claim submission process.

Efforts made by the insured party include *Marine Salvage actions*, which are categorized as assistance to ships and / or their cargo that experience incidents or are threatened with danger in the waters, including efforts such as raising shipwrecks or removing underwater obstacles in accordance with Article 4 of the Minister of Transportation Regulation Number 71 of 2013 (Mandatra and Koesrianti 2018). In the facts of the trial, it was also explained that *the marine salvage* had been informed to the insurer, this was in accordance with the provisions of Article 645 of the Criminal Code which emphasized that if the insured knew of an incident that befell the ship or its cargo, he must immediately notify the insurer, so that rescue action against the insured goods can be carried out immediately, in the hope of preventing or minimizing losses.

The problem with the claim dispute contained in this case lies in the disagreement about the amount of loss that will be borne by the insurer. Claim disputes generally involve 2 (two) main things, namely the admission of responsibility for claims arising from the insurer and the amount of claims demanded or granted (Junaedy 2013). The amount of loss claims submitted by the insured amounted to Rp. 2,804,507,994, - then submitted by adjustment through *the first Proposed Adjustment* which rejected several claims, so that the claims received were only Rp. 1,343,451,682. Then the second *Proposed Adjustment* was also resubmitted and lowered the claim offer to Rp. 1,327,625,792,-. The basic foundation of the insurer is that the *salvage* that has been done includes GA and just adds to the shortcomings.

The panel of judges considered that the *provosed adjusment* carried out many times as evidence that PT Tugu Pratama Indonesia acknowledged the payment of insurance claims to the Plaintiff, however, there was a difference in the amount of claims due to inconsistent loss calculations and not clearly communicated to the Plaintiff. This is contrary to the survey evidence and damage value recommendations that have been carried out by PT Asuka Bahari Nusantara as the *average adjuster* appointed by the insurer.

Regarding the amount of loss, in the facts of the trial consider the testimony of the average *adjuster* company appointed by each party. *The Average Adjuster* is appointed to assess claims from the Insured to the Insurer based on damage or loss of the insured object, while the Surveyor conducts an objective assessment of ship damage based on costs incurred by the owner for repairs, salvages, and the like, focusing on the conditions stated in the insurance policy (Tanda, Chumaida, and Widyantoro 2023).

The act of changing the value of losses through *provosed adjusment* that changes and is not in accordance with the value set by the *average ajuster* of the insurer, is considered a form of not providing professional and proportionate insurance claim services, slowing down the claim process and providing inconsistent loss values, causing losses to the plaintiff, even though there is no violation of the Insurance Policy Agreement Letter, action It is considered a default that harms the plaintiff because it does not comply with the deadlines set in the agreement by the panel of judges.

Default in insurance policy claims occurs when the insurance company violates the agreement by not paying benefits or insurance claims in accordance with the provisions in the policy (Sinaga and Darwis 2020). Default also has an element where there is error caused by negligence or intentionality (Sinaga and Zaluchu 2021). Therefore, the author agrees with the judge's consideration that the actions of the insurer who made changes many times related to the amount of loss value and were not in accordance with the *average adjustor*'s assessment were intentional negligence so that it was bound in default to the insurance policy.

In running an insurance business, it is important for both parties, both the insured and the insurance company, to comply with the principle of utmost *good faith* and carry out obligations in accordance with the policy agreement. Violation of this principle and default in the insurance policy can result in serious consequences for all parties involved. Therefore, transparency, honesty, and compliance with the agreement are key in ensuring a mutually beneficial relationship between the insured and the insurance company.

CONCLUSION

The insurance agreement places the principle of utmost *good faith* as the main principle that is upheld, related to notification obligations as stipulated in Article 251 of the Criminal Code. Violation of the principle can result in the cancellation of insurance, as happens in some court cases. It should be understood that an insurance policy claim is a formal request to the insurance company, which will be reviewed for validity before payment to the Insured. In claims proceedings, *the principle of utmost good faith* is used as a basis for assessing unlawful acts by each party, especially during disputes in court. Therefore, the implementation of the *utmost good faith principle* in the loss insurance agreement begins from the procurement of the agreement, and changes in facts that are not disclosed honestly can result in the cancellation of the loss insurance agreement. Therefore, a good understanding of this principle is very important in carrying out insurance agreements so that fairness and compliance with rules can be guaranteed.

The insurance claim dispute case between PT Alatas Marine Services and PT Asuransi Tugu Pratama Indonesia Tbk. reveals violations and defaults committed by insurance companies. The Balikpapan District Court ruled that PT Asuransi Tugu Pratama Indonesia Tbk. committed default by not paying insurance claims in accordance with the policy provisions. These violations include unprofessionalism in handling claims, inconsistent changes in the amount of losses, and vagueness in providing explanations for claim denial. The ruling affirms the importance of adhering to the principles of *utmost good faith*, transparency, and adherence to policy agreements in conducting insurance business to prevent serious consequences for all parties involved.

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