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# BANK LIABILITY FOR MISUSE OF CUSTOMERS' PERSONAL DATA IN FICTITIOUS CREDIT SCHEMES

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**Abstract:**
This study examines the legal consequences and legal liability of Rural Banks (Bank Perekonomian Rakyat/BPR) for the misuse of customers' personal data through fictitious credit schemes, an issue left unsettled by the ambiguity of norms in Law Number 27 of 2022 on Personal Data Protection and Law Number 10 of 1998 on Banking. The research employs normative legal research using statutory and conceptual approaches, analyzing primary, secondary, and tertiary legal materials obtained through library research and examined through legal interpretation and legal argumentation. The findings show that the misuse of customers' personal data in fictitious credit practices produces multidimensional legal consequences, namely civil, administrative, criminal, and institutional, stemming from BPR's failure to properly exercise its authority and supervisory function. BPR's liability, as a Personal Data Controller under the Personal Data Protection Law, is institutional rather than merely individual, arising whenever BPR breaches its legal duty to secure customers' data. The study concludes that harmonizing the Personal Data Protection Law, the Banking Law, Law Number 4 of 2023, and Financial Services Authority regulations is necessary to establish clear standards of institutional liability, strengthen internal control and governance, and restore customers' rights.

## INTRODUCTION

The expansion of Indonesia's micro-banking industry through Rural Banks (Bank Perekonomian Rakyat/BPR) has become the backbone of financial access for the public and Micro, Small, and Medium Enterprises (MSMEs). In extending credit, BPR collects and processes a wide range of customers' personal data, from personal identity and financial history to family information, as the basis for assessing creditworthiness. The growing volume of personal data under BPR's control is accompanied by an increasing risk of misuse by unauthorized parties, particularly through fictitious credit schemes carried out without the customer's consent or knowledge. Such practices not only cause financial losses but also create legal liabilities in the form of debt obligations that the customer never applied for, showing that personal data protection in banking is no longer merely a matter of confidentiality but also a matter of institutional legal responsibility. Personal data protection is constitutionally guaranteed under Article 28G paragraph (1) of the 1945 Constitution and further regulated by Law Number 27 of 2022 on Personal Data Protection (the PDP Law) and Law Number 10 of 1998 on Banking, which requires banks to maintain the confidentiality of customer information; however, neither law explicitly defines the scope of BPR's liability where the misuse is committed by internal employees or third parties, or results from weaknesses in internal control. This normative ambiguity has produced divergent positions in practice: some BPRs disclaim

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responsibility on the ground that the misuse was an individual employee's wrongdoing, while affected customers and other stakeholders argue that BPR, as the party in full control of customer data, must bear responsibility, illustrated by a widely reported case of fictitious credit disbursed under the names of dozens of market traders in Denpasar, Bali, in 2024.

Several prior studies have examined related issues, including legal protection of customer data in digital banking (Apriandini, 2023), cyberattacks and data breaches at Islamic financial institutions (Lubis, 2024), corporate liability for personal data breaches in general (Lestari, 2022), bank liability under account-opening agreements (Christiana, 2024), internal control systems for preventing data misuse at microfinance institutions (Sartika, 2023), and the vicarious liability of financial institutions for employees' acts (Santoso, n.d.). These studies, however, focus either on digital banks, Islamic financial institutions, corporations in general, or internal control systems in isolation, without specifically linking the misuse of personal data to fictitious credit schemes at Rural Banks, and without constructing a comprehensive framework of BPR's civil, criminal, administrative, and institutional liability grounded in the interaction between authority and supervision theory. This gap constitutes the scientific novelty of the present study, which examines BPR's liability comprehensively, situates it within a concrete Balinese case, and integrates the Theory of Authority, the Theory of Supervision, the Theory of Legal Responsibility, and the Theory of Legal Protection to construct an ideal model of institutional liability.

Although the protection of customers' personal data in the banking sector is addressed in Article 39 of the PDP Law, Article 40 paragraph (1) of the Banking Law, and Financial Services Authority (OJK) Regulation Number 11/POJK.03/2021 on the Protection of Customer Data, none of these instruments expressly regulates the form and limits of BPR's legal liability when customers' personal data under its control is misused for fictitious credit. It remains unclear, for instance, whether BPR bears full responsibility when the misuse is committed by an outside party exploiting a system vulnerability, or how liability should be apportioned when a bank officer colludes with an external actor. This normative ambiguity creates legal uncertainty both for BPR, in determining preventive measures, and for customers, in obtaining legal protection.

Based on this background, the study addresses two questions: (1) what are the legal consequences of the misuse of customers' personal data at Rural Banks (BPR)? and (2) what is the legal liability of Rural Banks (BPR) for the misuse of customers' personal data through fictitious credit schemes?

## METHODS

This research employs normative legal research (doctrinal/library research), using the statutory approach and the conceptual approach. Legal materials consist of primary legal materials, listed in Table 1, together with secondary legal materials (textbooks, scholarly journal articles, and prior theses) and tertiary legal materials (legal dictionaries, encyclopedias, and research-methodology references). Legal materials were collected through documentary study and literature review, and were analyzed using legal interpretation and legal argumentation techniques, including content analysis of statutory norms, to identify normative ambiguity and synchronization gaps concerning the institutional liability of Rural Banks (BPR) for the misuse of customers' personal data in fictitious credit practices.

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**Table 1. Primary Legal Materials Analyzed**

| No. | Legal Instrument | Relevant Provision |
|---|---|---|
| 1 | 1945 Constitution of the Republic of Indonesia | Article 28G(1) – constitutional right to personal data protection |
| 2 | Law No. 10 of 1998 on Banking | Article 40(1) – bank secrecy obligation |
| 3 | Law No. 27 of 2022 on Personal Data Protection | Articles 1(4), 4, 16, 39 – data controller status and obligations |
| 4 | Government Regulation No. 19 of 2024 | Implementation of the Personal Data Protection Law |
| 5 | OJK Regulation No. 11/POJK.03/2021 | Protection of customer data in the financial services sector |
| 6 | Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK) | Governance and consumer protection in the financial sector |

## RESULT AND DISCUSSION

The misuse of customers' personal data in fictitious credit practices at Rural Banks (BPR) cannot be reduced to the unlawful act of an individual perpetrator; it also reflects weaknesses in the exercise of BPR's authority and in its internal supervisory function. In extending credit, BPR obtains customers' personal data, including identity documents, employment information, financial condition, and collateral documents, and its authority to collect and process such data is not unlimited: under Philipus M. Hadjon's Theory of Authority, authority conferred by statute may be exercised only for the purpose for which it is granted, so that any use of customer data to construct a fictitious credit facility constitutes an abuse of authority (detournement de pouvoir). At the same time, Joseph E. Stiglitz's Theory of Supervision explains that banking, as a trust-based industry marked by information asymmetry between the institution and the public, requires an effective system of supervision to correct market failure and prevent opportunistic conduct; the occurrence of fictitious credit therefore also signals a supervisory failure, such as inadequate verification procedures, insufficient access controls, and weak internal control, rather than solely individual misconduct. Because authority and supervision are complementary, the wider the authority BPR holds over customers' personal data, the greater its legal obligation to maintain an effective system of oversight, and any failure to do so becomes the basis on which institutional legal liability arises.

From the perspective of Alan F. Westin's concept of privacy, personal data is not merely administrative information but an extension of an individual's control over information about themselves; using a customer's data without valid consent is therefore a violation of that individual right, not only an administrative lapse. Legal certainty in protecting customers' personal data depends not only on the existence of statutory norms but also on the actual implementation of information security systems, internal supervision, and compliance with the prudential banking principle, which requires banks to act carefully, thoroughly, and professionally, including in verifying the validity of data used in the credit process. The enactment of the PDP Law strengthens this normative basis by classifying BPR, by virtue of its authority to determine the purpose and means of processing customer data, as a Personal Data Controller under Article 1(4) of the PDP Law, thereby subjecting BPR to the data-protection principles in Article 16, including purpose limitation, data security, accuracy, and accountability.

The misuse of customers' personal data in fictitious credit practices produces legal consequences that are multidimensional. In civil law terms, the unauthorized use of a customer's identity vitiates the element of consent required under Article 1320 of the Civil Code, calling into

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question the validity of the resulting credit agreement and giving rise to a claim in tort under Article 1365 of the Civil Code. In administrative terms, BPR's failure to implement adequate information security, access control, and prudential standards exposes it to administrative sanctions under the PDP Law and OJK regulations. In criminal terms, fictitious credit is typically accompanied by document forgery, unauthorized use of identity, or fraud, which may give rise to individual criminal liability and, where the conduct occurred within the scope of the bank's business, potentially corporate criminal liability as well. Taken together, these findings indicate that the legal consequences of personal data misuse should be understood as arising from an imbalance between the exercise of authority and the effectiveness of supervision in the management of personal data, so that liability falls not only on the direct perpetrator but also on BPR as the institution entrusted with, and obligated to protect, customers' personal data.

**Table 2. Forms of Legal Liability of Rural Banks (BPR) for the Misuse of Customers' Personal Data**

| No. | Form of Liability | Legal Basis | Triggering Condition |
|---|---|---|---|
| 1 | **Administrative** | PDP Law; OJK regulations on consumer protection and governance | Failure to implement data security, access control, or breach notification |
| 2 | **Civil** | Civil Code Art. 1320 & 1365; fiduciary banking relationship | Material or immaterial loss suffered by the customer as a result of data misuse |
| 3 | **Criminal** | PDP Law criminal provisions; Penal Code (forgery/fraud) | Misuse involving forged documents, unauthorized use of identity, or fraud |
| 4 | **Institutional** | Prudential banking principle; good corporate governance | Failure of internal control, verification, or supervision that enables misuse |

Source: Author's analysis (2026), based on Law No. 27 of 2022 on Personal Data Protection, Law No. 10 of 1998 on Banking, the Civil Code, and OJK regulations.

The legal basis of BPR's liability for the misuse of customers' personal data lies in its status as a Personal Data Controller under the PDP Law, a status that carries an inseparable duty to guarantee the security, confidentiality, and lawful use of the data it controls. Applying H.L.A. Hart's Theory of Legal Responsibility, liability arises whenever a legal subject breaches a legal duty imposed by law; because BPR's authority to collect and process customer data is coupled with obligations under the PDP Law, the Banking Law, and OJK regulations, BPR may be held liable not only when it is proven to have actively misused customer data but also when it fails to prevent misuse by its own personnel. This is reinforced by the Theory of Legal Protection advanced by Robert A. Kagan and David M. Trubek, which holds that law must provide both preventive protection, through information security systems, credit-verification procedures, access restrictions, and internal supervision, and repressive protection, through dispute resolution, compensation, and sanctions, for parties in a structurally weaker position, such as bank customers vis-à-vis a data-controlling institution.

Analysis of the prevailing legal framework identifies four forms of liability attaching to BPR for the misuse of customers' personal data, summarized in Table 2: administrative liability, arising from BPR's failure to meet statutory obligations on data security, access control, and breach notification; civil liability, arising where the misuse causes material or immaterial loss to the customer and satisfies the elements of tort or breach of the fiduciary banking relationship; criminal liability, arising where the misuse meets the elements of an offense under the PDP Law or other

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criminal provisions, potentially extending to corporate criminal liability; and institutional liability, grounded in the prudential banking principle and the principle of good corporate governance, which requires BPR to remedy customers' rights, strengthen its data-security systems, and improve its governance regardless of whether an individual perpetrator is also sanctioned. These forms of liability, however, remain scattered across sectoral regulations without a clear, integrated standard for institutional liability where the misuse is committed by internal personnel, leaving room for divergent interpretations of when BPR is directly liable and when liability rests solely with the individual perpetrator.

Because the existing regulatory framework does not explicitly integrate these four forms of liability into a single standard of institutional responsibility, an ideal construction of BPR's liability should combine legal obligation, strengthened corporate governance and internal control, and an effective mechanism for restoring customers' rights, applied both preventively, before misuse occurs, and repressively, after misuse is discovered. Achieving this requires harmonizing the PDP Law, the Banking Law, Law Number 4 of 2023 on Financial Sector Development and Strengthening, and OJK regulations so that BPR's institutional liability as a Personal Data Controller, including for misuse committed by internal personnel due to weak internal control, is explicitly and consistently established.

## CONCLUSION

This study concludes, first, that the legal consequences of the misuse of customers' personal data in fictitious credit practices at Rural Banks (BPR) extend beyond the unlawful act of an individual perpetrator: they also reveal weaknesses in BPR's exercise of authority and in its supervisory function, producing multidimensional consequences that affect the validity of the credit relationship, the protection of customers' rights, and BPR's status as a Personal Data Controller. Second, BPR's liability for such misuse cannot be confined to the individual perpetrator but attaches to BPR itself as the institution vested with authority, and the corresponding legal duty, to manage customers' personal data; this liability takes administrative, civil, criminal, and institutional forms, and the study identifies a persisting normative ambiguity regarding the limits of BPR's institutional liability where misuse is committed by internal personnel.

Applying the Theory of Authority, the Theory of Supervision, the Theory of Legal Responsibility, and the Theory of Legal Protection, this study proposes that BPR's liability be understood as institutional responsibility with both preventive and repressive dimensions, realized through strengthened governance, internal control, personal data protection, and remedies for affected customers. Achieving legal certainty and effective customer protection ultimately requires harmonizing and reconstructing the Personal Data Protection Law, the Banking Law, Law Number 4 of 2023, and OJK regulations to explicitly establish BPR's institutional liability as a Personal Data Controller, accompanied by clear minimum standards for internal control, information security, risk management, and mechanisms for restoring customers' rights. Future research may usefully extend this normative analysis with empirical study of BPR's actual data-governance practices and adjudicated cases of fictitious credit.

## REFERENCES

Agustini Kori, N. L. W., Pemayun Anom, C. I., & Rudy, D. G. (2018). Pertanggungjawaban bank terhadap nasabah yang identitasnya dipakai tanpa izin dalam kredit fiktif. Kertha Semaya: Journal Ilmu Hukum, 5(1).

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Indexed By : GARUDA Google ROAD ISJD EBSCO

Aritonang, L. M., Zyetwill, & Handayani, R. (2025). Analisis hukum terhadap kebocoran data pribadi dan penyalahgunaan identitas dalam perbankan berdasarkan Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi. Ranah Research: Journal of Multidisciplinary Research and Development, 7(5), 1700–1712.

Faisal Aziz, M., Hamzah, & Adhan S., S. (2025). Perlindungan hukum terhadap nasabah atas penyalahgunaan data pribadi oleh pihak bank di era digitalisasi perbankan. Al-Zayn: Jurnal Ilmu Sosial & Hukum, 3(6), 1180–1192.

Fuady, M. (2017). Perbuatan melawan hukum: Pendekatan kontemporer. Citra Aditya Bakti.

Fuady, M. (2018). Hukum perbankan modern. Citra Aditya Bakti.

Fuady, M. (2019). Hukum perkreditan kontemporer. Citra Aditya Bakti.

Hadjon, P. M. (2011). Pengantar hukum administrasi Indonesia. Gadjah Mada University Press.

Hart, H. L. A. (1968). Punishment and responsibility: Essays in the philosophy of law. Oxford University Press.

Hart, H. L. A. (2012). The concept of law (3rd ed.). Oxford University Press.

Hermansyah. (2020). Hukum perbankan nasional Indonesia. Kencana.

Kagan, R. A. (2001). Adversarial legalism: The American way of law. Harvard University Press.

Kalsum, R. U., Marina, M., Nabila, N., & Sinurat, E. B. (2025). Peran tanggung jawab bank dalam perlindungan kerahasiaan data pribadi nasabah. ULIL ALBAB: Jurnal Ilmiah Multidisiplin, 4(7), 1602–1604.

Kasmir. (2021). Dasar-dasar perbankan (Rev. ed.). PT Raja Grafindo Persada.

Rahardjo, S. (2014). Ilmu hukum. Citra Aditya Bakti.

Ramadhan, R. M. (2025). Pertanggungjawaban hukum atas praktik kredit fiktif dalam perbankan. Dinamika, 31(2).

Rosadi, S. D. (2017). Prinsip-prinsip perlindungan data pribadi nasabah kartu kredit menurut ketentuan nasional dan implementasinya. Sosiohumaniora, 19(3), 210–219.

Rosadi, S. D. (2018). Perlindungan privasi dan data pribadi dalam era ekonomi digital di Indonesia. Refika Aditama.

Solove, D. J. (2008). Understanding privacy. Harvard University Press.

Stiglitz, J. E. (1993). The role of the state in financial markets. In M. Bruno & B. Pleskovic (Eds.), Proceedings of the World Bank annual conference on development economics. The World Bank.

Stiglitz, J. E. (2000). Economics of the public sector (3rd ed.). W. W. Norton & Company.

Stiglitz, J. E. (2001). Information and the change in the paradigm in economics [Nobel Prize Lecture]. The Nobel Foundation.

Stiglitz, J. E. (2003). The roaring nineties. W. W. Norton & Company.

Sunggono, B. (2020). Metodologi penelitian hukum. PT Raja Grafindo Persada.

Trubek, D. M., & Santos, A. (Eds.). (2006). The new law and economic development: A critical appraisal. Cambridge University Press.

Westin, A. F. (1967). Privacy and freedom. Atheneum.

Widarto, J., & Runekawati, M. (2025). Perlindungan hukum dalam melindungi kerahasiaan data pribadi nasabah di era digital (Studi pada PT BPR Prima Sejahtera berdasarkan Peraturan

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Otoritas Jasa Keuangan Nomor 22 Tahun 2023). Arus Jurnal Sosial dan Humaniora, 5(2), 2571–2579.

Republic of Indonesia. (1945). 1945 Constitution of the Republic of Indonesia.

Republic of Indonesia. (1998). Law Number 10 of 1998 on Banking (Amendment to Law Number 7 of 1992). State Gazette of the Republic of Indonesia 1998 No. 182.

Republic of Indonesia. (2022). Law Number 27 of 2022 on Personal Data Protection. State Gazette of the Republic of Indonesia 2022 No. 196.

Republic of Indonesia. (2023). Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector.

Republic of Indonesia. (2024). Government Regulation Number 19 of 2024 on the Implementation of the Personal Data Protection Law.

Financial Services Authority (OJK). (2021). OJK Regulation Number 11/POJK.03/2021 on the Protection of Customer Data.