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Reconciling the Dual Legal Nature of Promissory Notes in Indonesian Default Disputes: A Normative Analysis of Supreme Court Ratio Decidendi (2001–2022)

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ABSTRACT
A promissory note constitutes an unconditional written promise by the issuer (maker) to pay a specified sum to the holder (payee) at an agreed time. Although its use in Indonesian corporate financing and cross-border transactions has grown, its legal standing in default (*wanprestasi*) disputes remains governed by overlapping and partly untested provisions of the Commercial Code (KUHD) and Civil Code (*KUH Perdata*). This study employs normative legal research using statutory, conceptual, case-based, and comparative approaches, examining eight Supreme Court and first-instance decisions issued between 2001 and 2022 and comparing them against Article 3 of the United States Uniform Commercial Code, the United Kingdom's Bills of Exchange Act 1882, and the Geneva Convention 1930. The analysis shows that a promissory note occupies a dual legal position as a negotiable instrument under KUHD Articles 174–177 and as a contractual instrument under the KUH Perdata and identifies three recurring jurisprudential inconsistencies: inconsistent application of the abstraction principle, variable tolerance for formal defects, and unsettled criteria for what constitutes sufficient notice of default. These findings indicate that judicial guidance, rather than case-by-case adjudication alone, is needed to stabilize this area of commercial law. The study recommends that the Supreme Court issue a circular letter (SEMA) or regulation (PERMA) through its Civil Chamber plenary meeting to unify these standards, alongside legislative reform of the KUHD's negotiable-instrument provisions.

Keywords: Promissory Note, Negotiable Instrument, Jurisprudence, Legal Certainty, KUHD.

I. Introduction

The development of modern business and trade has given rise to increasingly complex financial instruments, one of which is the promissory note (Rabbani & Isfardiyana, 2025). This instrument constitutes a written document containing an unconditional promise by one party, referred to as the maker, to pay a specified sum of money to another party, known as the payee, at an agreed time. In both international and domestic business practices, promissory notes have become a widely utilized mechanism for financing and debt assurance, particularly in commercial transactions, banking credit agreements, and private business relationships (Amirudin, 2025). In Indonesia, the use of promissory notes has continued to expand in tandem with the growth of economic activity and investment, including within the framework of corporate financing and cross-border transactions. This trend is illustrated by a series of high-profile corporate financing disputes involving promissory notes including the falsified-documentation credit scheme uncovered in the PT SNP Finance case and the payment default involving J Trust Bank both of which drew significant scrutiny from the Financial Services Authority (OJK) and the courts (discussed further in Section 4.3.4). However, this increasing utilization is not always accompanied by an adequate legal understanding among business actors, particularly when promissory notes function as objects or evidentiary instruments in disputes concerning breach of contract (Hadi & Suhartono, 2023). The ambiguity surrounding the legal status of promissory notes within the Indonesian legal system frequently gives rise to legal uncertainty that may disadvantage the parties involved.

Normatively, promissory notes in Indonesia are governed by several intersecting legal regimes, including the Indonesian Commercial Code, particularly Articles 174 to 177 concerning promissory notes, the Indonesian Civil Code governing obligations and contracts, and Law Number 10 of 1998 concerning Banking (Syafitri et al, 2025). The intersection of these legal frameworks has generated unresolved juridical debates, particularly in the context of disputes involving breach of contract. In practice, this normative overlap leaves judges, creditors, and legal practitioners without a settled standard for determining when a matured but unpaid promissory note automatically constitutes default (wanprestasi) under Article 1238 of the Civil Code, and when a separate formal notice of default is still required a gap this study addresses through systematic analysis of Supreme Court jurisprudence (Tice, 2024). This study aims to: first, analyze the legal status of promissory notes within the Indonesian positive legal system; second, examine the legal construction of breach of contract in disputes involving promissory notes along with the available legal remedies; and third, evaluate the consistency and ratio decidendi of the Supreme Court in adjudicating promissory note disputes, including decisions issued after 2020.

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II. Literature Review and Hypothesis Development

2.1. Theory of Negotiable Instruments and Financial Instruments

Negotiable instruments constitute legally binding documents that embody a claim to a sum of money and can be transferred from one holder to another through endorsement or physical delivery. According to Purwosutjipto (1984), negotiable instruments serve three primary functions: as a means of payment, as an instrument for transferring claims, and as a means of extending credit. Within the Indonesian legal context, the regulation of negotiable instruments is dispersed across the Commercial Code, the Civil Code, and various sectoral regulations in the fields of banking and capital markets. The legal theory of negotiable instruments recognizes three fundamental principles that distinguish them from ordinary contractual instruments. The first is the principle of negotiability, referring to the ability of the instrument to be transferred to a third party in good faith with rights free from defects attached to prior legal relationships. The second is the principle of literaliteit, whereby the rights and obligations of the parties are determined solely by the text contained within the document rather than by external or implied agreements. The third is the principle of abstraction, which posits that the obligation to pay embodied in a negotiable instrument stands independently of the underlying agreement from which it originates, such that a holder in good faith cannot be defeated by defenses arising from that underlying relationship (Fuady, 2002). Within the taxonomy of negotiable instruments, a promissory note is classified as a debt instrument of a unilateral nature, in contrast to a bill of exchange, which involves three parties. A promissory note involves only two parties, namely the maker, who undertakes the obligation to pay, and the payee, who is entitled to receive payment (Kulshrestha, 2025). This unilateral characteristic renders the legal structure of the promissory note relatively straightforward, yet it also introduces particular complexities when examined in relation to the principle of abstraction and its connection to the underlying agreement.

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2.2. Theory of Breach of Contract in Contract Law

Theoretically, breach of contract is defined as the failure of one party in an obligation to perform the agreed prestation, whether by not performing at all, performing late, performing improperly, or undertaking an act that is expressly prohibited under the agreement (Subekti, 2005). In the context of Indonesian civil law, breach of contract is primarily regulated under Articles 1238 to 1252 of the Civil Code. Article 1238 stipulates that a debtor is deemed in default through a formal notice or similar instrument, except where the agreement itself provides that the debtor shall be considered in default upon the lapse of a specified period (Ahmad, 2024). The elements of breach of contract in civil law doctrine encompass four cumulative components: first, the existence of a valid obligation between the parties as required under Article 1320 of the Civil Code; second, the existence of an unfulfilled obligation by one party; third, the presence of fault on the part of the non-performing party, whether in the form of intent or negligence; and fourth, the occurrence of loss suffered by the aggrieved party as a direct consequence of the breach (Herkono, 2010). When these elements are satisfied, the creditor is entitled to pursue several legal remedies under Article 1267 of the Civil Code, including demanding specific performance, demanding performance accompanied by damages, claiming damages alone, seeking rescission of the agreement, or seeking rescission accompanied by damages (Ramadhan et al, 2021).

In the context of negotiable instruments, the theory of breach of contract encounters additional complexity due to the dual nature of the promissory note as both a negotiable instrument and a contractual instrument (Morton & Curran, 2022). A central juridical issue arises as to whether the failure to pay a promissory note upon its maturity date automatically constitutes a breach within the meaning of Article 1238 of the Civil Code, or whether the holder is still required to issue a separate formal notice prior to initiating legal action. Some doctrinal views assert that the explicit determination of a maturity date in a promissory note inherently constitutes a fatal clause, whereby the debtor is deemed in default by operation of law upon the expiration of that date without the need for additional notice. Other perspectives emphasize the necessity of formal notice in order to ensure legal certainty, particularly within the context of ongoing commercial relationships (Shebaita & Ghouri, 2026).

2.3. Theory of Legal Certainty and Protection of Good Faith Holders

Legal certainty (*rechtszekerheid*) constitutes one of the primary objectives of law as articulated by Gustav Radbruch, alongside (*Gerechtigkeit*) and utility (*Zweckmassigkeit*). Within the law of negotiable instruments, legal certainty occupies a central position because the circulation of such instruments in commercial practice requires assurance that the rights embodied in the document can be effectively enforced without dependence on tracing the underlying legal relationships. In the absence of sufficient legal certainty, negotiable instruments lose their essential function as liquid and reliable financing tools. Among the doctrines developed to operationalize this certainty, the holder in due course doctrine referring to a party who acquires a negotiable instrument in good faith, for value, and without notice of any defect occupies a central place. The concept of the holder in due course represents a principal manifestation of legal certainty in the law of negotiable instruments. A holder in due course is one who acquires the instrument in complete and regular form, obtains it prior to maturity and without knowledge that it is overdue or has been dishonored, acquires it in good faith, and provides value in exchange. Under the framework of Article 3 of the Uniform Commercial Code in the United States, a holder in due course is protected against nearly all defenses raised by the issuer, except for real defenses such as forgery, absolute incapacity, or transactions contrary to public order. This theoretical framework is highly relevant for evaluating inconsistencies in Indonesian jurisprudence concerning the application of the principle of abstraction.

The theory of protection for good faith holders is closely related to the principle of good faith as codified in Article 1338 paragraph 3 of the Civil Code, which provides that agreements must be performed in good faith. In the law of negotiable instruments, this principle operates in two dimensions: a subjective

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dimension relating to the holder's knowledge or lack of knowledge of defects attached to the instrument, and an objective dimension relating to standards of proper and reasonable conduct in commercial circulation. The tension between the protection of good faith holders on one hand and the protection of issuers against abuse of the instrument on the other remains at the core of an ongoing juridical debate that has yet to be conclusively resolved in Indonesian jurisprudence.

2.4. Theoretical Framework of Normative Legal Research

This study is grounded in the theoretical framework of normative legal research as articulated by Hadjon (1994) and further developed by Indonesian legal scholars. Normative legal research examines law as a system of norms comprising legal principles, legal rules, and judicial decisions. In contrast to empirical legal research, which focuses on actual behavior in society, normative legal research emphasizes the internal consistency of the normative system and its relevance to concrete cases presented before it. In order to analyze the ratio decidendi of Supreme Court decisions, this study adopts the theory proposed by Neil MacCormick, which clearly distinguishes between ratio decidendi as the legal reasoning that determines the operative part of a decision and binds as precedent, and obiter dicta as ancillary legal statements that do not determine the outcome and therefore lack binding force. The application of MacCormick's theory within the Indonesian legal system, which adheres to the civil law tradition, requires adaptation, given that this system does not formally recognize the doctrine of stare decisis as found in common law systems. Nevertheless, Supreme Court decisions that function as jurisprudence possess significant persuasive authority in Indonesian judicial practice, rendering the accurate identification of ratio decidendi practically important for judges, legal practitioners, and business actors.

Overall, the theoretical review in this study supports the analysis on three levels: the normative level, which examines the provisions of the Commercial Code and the Civil Code as the foundation of positive law; the doctrinal level, which employs theories of negotiable instruments, breach of contract, and legal certainty as analytical tools to assess the consistency of jurisprudence; and the comparative level, which utilizes comparisons with Article 3 of the Uniform Commercial Code in the United States and the Bills of Exchange Act 1882 in the United Kingdom to identify best practices that may be selectively adopted in the reform of Indonesian law. These three levels collectively establish a comprehensive analytical framework for addressing the research questions formulated in this study. Building on this theoretical framework, this study advances three analytical propositions in place of statistical hypotheses, consistent with the nature of normative legal research: first, that doctrinal tension between the principle of abstraction and the underlying-agreement doctrine produces variable outcomes across Supreme Court panels rather than a single settled rule; second, that formal defects in a promissory note under Article 174 of the Commercial Code are increasingly evaluated through a substance-over-form standard rather than strict formalism; and third, that the absence of Supreme Court circular guidance perpetuates inconsistency between first-instance courts applying supposedly settled higher-court doctrine. These propositions structure the jurisprudential analysis presented in Section 4.3.

III. Research Method

This study constitutes normative legal research that examines law as a system of norms. The selection of a normative method is grounded in the nature of the issues addressed, which relate to the vagueness of norms and inconsistencies in the application of law within jurisprudence. The study employs four cumulative approaches: the statute approach, the conceptual approach, the case approach through the analysis of Supreme Court decisions, and the comparative approach by examining the legal systems of Indonesia, the United States through Article 3 of the Uniform Commercial Code, and the United Kingdom through the Bills of Exchange Act 1882. Case selection was conducted through the official Supreme Court Decision Directory (Direktori Putusan Mahkamah Agung, putusan3.mahkamahagung.go.id) using the search terms "surat sanggup," "promissory note," and "wanprestasi surat sanggup," supplemented by cross-referencing decisions

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cited in prior doctrinal literature (Widjaja, 2018; Honi, 2023). Purposive sampling was applied to select decisions that (i) directly addressed the validity, evidentiary strength, or breach of a promissory note, (ii) were decided at the Supreme Court level or, for post-2020 developments, at first-instance courts whose reasoning has since been discussed in the legal literature, and (iii) collectively represented the three doctrinal categories examined in this study formal validity, the abstraction principle, and evidentiary strength. Each selected decision was analyzed through document analysis, in which the case facts, legal issues, and judicial reasoning were coded against Neil MacCormick's ratio decidendi/obiter dicta framework to isolate the binding legal reasoning from ancillary judicial commentary.

Primary legal materials include the Commercial Code, the Civil Code, Law Number 10 of 1998, Law Number 37 of 2004, and Supreme Court decisions concerning promissory note disputes. The analysis is conducted qualitatively using descriptive, prescriptive, comparative, and critical methods. In identifying the ratio decidendi of judicial decisions, this study applies the theory of Neil MacCormick, which distinguishes ratio decidendi as the legal reasoning that determines the operative part of a decision from obiter dicta as ancillary statements that do not determine the outcome. This study is limited to normative legal analysis and does not incorporate empirical or socio-legal data on how promissory note disputes are experienced by business actors in practice. Future research employing socio-legal methods such as structured interviews with commercial court judges or surveys of corporate legal counsel would usefully complement the doctrinal findings presented here by revealing how the inconsistencies identified in Supreme Court jurisprudence translate into practical risk for market participants.

IV. Result and Discussion

4.1. Normative Position of Promissory Notes in Indonesian Law

In Indonesian law, promissory notes are referred to as *surat sanggup* or *surat aksep*. The Commercial Code does not explicitly employ the term promissory note but regulates surat sanggup in Book I Title VI Part Three, specifically Articles 174 to 177. Article 174 establishes seven formal requirements that must be satisfied: the inclusion of the clause *surat sanggup* or *promesse aan* order in the document text; an unconditional promise to pay a specified sum of money; the determination of the maturity date; the designation of the place of payment; the name of the person to whom payment must be made; the date and place of execution; and the signature of the issuer or maker. *Promissory notes* possess three essential characteristics that distinguish them from other legal instruments. First is negotiability, referring to their ability to be transferred through endorsement and delivery. Second is the principle of literaliteit, whereby rights and obligations are determined solely by the text of the document. Third is the principle of abstraction, under which the obligation to pay stands independently from the underlying agreement that gives rise to it. These three principles constitute the primary points of tension within Indonesian judicial practice. From a normative perspective, the Commercial Code as the principal legal source governing promissory notes is a product of Dutch colonial codification, known as the Wetboek van Koophandel, which has been in force since 1848 without substantial reform. Its limitations are particularly evident in relation to foreign currency promissory notes, electronic promissory notes, and cross border transactions, all of which must be addressed through analogical application of existing general provisions.

4.2. Legal Construction of Breach of Contract in Promissory Note Disputes

Breach of contract in the context of promissory notes most commonly arises in the form of failure to pay at maturity. According to Subekti's doctrine, breach may occur in four forms: complete non performance, delayed performance, imperfect performance, or the performance of acts prohibited by the agreement. The fundamental provisions governing breach are set out in Articles 1238 to 1252 of the Civil Code, with Article 1243 regulating compensation for costs, losses, and interest, and Article 1267 providing the creditor with

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alternative legal remedies. Where breach of a promissory note is established, the holder may claim performance of the principal payment obligation, payment of default interest whether contractually agreed or statutory at 6% per annum under (Article 1250 of the Civil Code), compensation for costs and damages, or rescission of the underlying agreement. In addition to ordinary civil claims, the holder of an unpaid promissory note may also file a petition for bankruptcy under Law Number 37 of 2004, provided that the issuer has at least two creditors and has failed to pay at least one due and payable debt. One unresolved normative issue concerns the relationship between the promissory note and its underlying agreement. The principle of abstraction requires that the obligation embodied in the promissory note be independent and unaffected by issues arising from the underlying contract. However, in Indonesian judicial practice, the application of this principle varies considerably and lacks consistency, a condition that forms the focus of the jurisprudential analysis in the following section.

4.3. Analysis of Supreme Court Jurisprudence: Ratio Decidendi and Inconsistency

This section presents an in-depth analysis of decisions of the Supreme Court of the Republic of Indonesia concerning promissory note disputes, covering the period from 2001 to 2022. The analysis focuses on identifying the ratio decidendi as the legal reasoning that determines the operative part of each decision, as well as evaluating the consistency and direction of jurisprudential development over time.

a. Jurisprudence on the Formal Validity of Promissory Notes

The issue of formal validity relates to the legal consequences arising when a document fails to satisfy one of the requirements set forth in Article 174 of the Commercial Code. In its development, the Supreme Court has adopted a pragmatic approach that does not automatically invalidate legal claims solely on the basis of formal defects.

Supreme Court Decision No. 3038 K/Pdt/2001 Doctrine of Instrument Conversion
Parties: Document holder (Plaintiff) v. Issuer (Defendant) | Legal Issue: Whether a document lacking the clause “to order” remains enforceable.

> *" A document containing a promise to pay a definite sum of money, even if it does not explicitly include the clause ‘to order’ as required under Article 174 of the Commercial Code, cannot be automatically deemed devoid of legal force. Such a document remains binding upon the parties under the general principles of the law of obligations in the Civil Code, as a valid acknowledgment of debt.."*

Ratio decidendi The panel of judges developed the doctrine of instrument conversion, interpreting that a document which fails to satisfy the formal requirements of a promissory note under the Commercial Code may be converted into an ordinary acknowledgment of debt governed by general contract law under the Civil Code. This reasoning is grounded in the principle of good faith as stipulated in (Article 1338 paragraph 3 of the Civil Code) and the principle that courts should not allow substantive injustice to arise solely on the basis of formal technicalities. This decision establishes the foundation for a substance over form approach in Indonesian promissory note jurisprudence. *Juridical implication*: This decision shifts the burden of proof. Where a promissory note is formally defective and subsequently converted into an acknowledgment of debt, the claimant can no longer rely on the specific evidentiary strength of negotiable instruments but must instead establish the entire underlying legal relationship from which the document arises.

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Supreme Court Decision No. 1455 K/Pdt/2010 Completion of Formal Requirements through Party Practice
Parties: Corporate creditor (Plaintiff) v. Debtor (Defendant) | Legal Issue: Whether the absence of a specified place of payment renders a promissory note invalid

> *"The absence of a specifically designated place of payment in a promissory note does not automatically invalidate the instrument as a legal document, provided that the place of payment can be objectively determined based on established practices between the parties or on the provisions of the underlying credit agreement."*

Ratio decidendi: the panel of judges applied a teleological interpretation of Article 174 of the Commercial Code by referring to the purpose of the formal requirement, namely to ensure certainty regarding the place of payment. Where such certainty can be derived through other means such as established practices or the underlying agreement, the absence of a formal requirement does not necessitate invalidation of the entire document. The judges also referred to Article 175 of the Commercial Code, which provides that where the place of payment is not specified, the place of execution shall be deemed the place of payment. *Juridical implication*: This decision reinforces the substance over form approach established in Decision No. 3038/2001, while grounding it more firmly in the provisions of the Commercial Code itself. At the same time, it introduces a potential risk of legal uncertainty, as the determination of "established practices between the parties" is highly dependent on judicial discretion in each case.

b. Jurisprudence on the Principle of Abstraction and Its Relationship with the Underlying Agreement

The application of the principle of abstraction, which posits that obligations under a promissory note are independent of the underlying agreement, constitutes the most significant source of inconsistency in jurisprudence. The Supreme Court has adopted two distinct and at times conflicting approaches, depending on the composition of the judicial panel and the specific context of each case.

Supreme Court Decision No. 2914 K/Pdt/2005 Application of Absolute Abstraction
Parties: Promissory note holder (Plaintiff) v. Corporate issuer (Defendant) | Legal Issue: Whether the annulment of the underlying agreement automatically extinguishes the obligation under a promissory note.

> *"A promissory note that has been issued and delivered to a holder in good faith possesses independent legal force separate from the agreement underlying its issuance. The annulment or invalidity of the underlying agreement does not automatically extinguish the issuer's obligation to pay under the promissory note. A holder in good faith is entitled to demand payment based on the promissory note without the need to establish the validity of the underlying agreement."*

Ratio decidendi: The panel of judges explicitly applied the principle of abstraction as a central tenet of negotiable instruments law. The judges referred to Article 176 in conjunction with Article 130 of the Commercial Code, which affirm that promissory notes possess independent legal force regardless of defects in the underlying agreement. The decision is grounded in the consideration that maintaining trust in commercial circulation requires that holders in good faith receive legal protection that cannot be undermined by disputes between the issuer and the original holder. This represents one of the strongest ratio decidendi supporting the consistent application of the abstraction principle. *Juridical implication*: This decision significantly benefits holders of promissory notes who acquire them through endorsement from prior holders, as arguments concerning defects in the underlying agreement cannot be invoked as defenses against payment claims. However, it also carries the potential for abuse where promissory notes are used to legitimize transactions that are inherently defective or contrary to law.

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Supreme Court Decision No. 1247 K/Pdt/2012 Limitation of Abstraction: Unlawful Cause
Parties: Holder (Plaintiff) v. Issuer (Defendant) | Legal Issue: Whether the principle of abstraction applies when a promissory note is issued in connection with a transaction that violates the law.

> *" The principle of abstraction in the law of negotiable instruments cannot be invoked to uphold the obligation of payment under a promissory note where it is proven that the note was issued in the context of an agreement that is contrary to law, morality, or public order. In such circumstances, the defect in the underlying agreement is fundamental and pervasive, thereby undermining the legal foundation of the entire transaction, including the promissory note issued in its execution."*

Ratio decidendi: The panel of judges applied the doctrine of ex turpi causa non oritur actio as a limitation on the principle of abstraction. The judges distinguished between two forms of invalidity in the underlying agreement: relative invalidity, such as that arising from coercion or ordinary fraud, which cannot be invoked against a holder in good faith; and absolute invalidity, such as that arising from violations of law or morality, which extends to and nullifies the entire chain of transactions, including the promissory note issued pursuant to it. This decision represents an important exception that must be applied cautiously so as not to undermine the legal certainty of negotiable instruments. *Juridical implication*: This decision explicitly recognizes the limits of the abstraction principle and opens the possibility for issuers to raise defenses based on unlawful cause. However, the burden of proof rests on the issuer to demonstrate that the promissory note originates from a transaction that is null and void by operation of law, a burden that is substantial in practice.

c. Jurisprudence on Proof of Breach and the Evidentiary Strength of Promissory Notes

The third group of decisions concerns the evidentiary strength of promissory notes in litigation and the mechanisms for establishing breach of contract. The following two decisions illustrate the development of jurisprudence in determining how promissory notes function as instruments of proof.

Supreme Court Decision No. 878 K/Pdt/2008 Conclusive Evidentiary Strength of Promissory Notes
Parties: Bank (Plaintiff) v. Corporate debtor (Defendant) | Legal Issue: The extent of the evidentiary strength of a promissory note in a breach of contract claim.

> *" A promissory note that satisfies all formal requirements under Article 174 of the Commercial Code and is signed by the defendant constitutes written evidence with conclusive probative force regarding the existence of a payment obligation and the amount due. The plaintiff is not required to prove the cause or background of the issuance of the promissory note, provided that the defendant is unable to present a legally valid defense."*

Ratio decidendi: The panel of judges relied on the principle of literaliteit, whereby the legal force of a promissory note derives from the text of the document itself, as well as the principle of evidentiary force of privately executed documents as stipulated in Article 1874 of the Civil Code. In the context of negotiable instruments, such documents possess evidentiary strength comparable to authentic deeds between the parties involved. The burden of proof is thus entirely shifted to the defendant to establish a valid defense. This decision affirms that a formally valid promissory note creates a strong presumption of a payment obligation. *Juridical implication*: This decision significantly strengthens the position of promissory note holders in litigation by effectively reversing the burden of proof. As a consequence, issuers seeking to defend themselves must actively establish a valid defense rather than merely denying the existence of the obligation.

d. Post 2020 Jurisprudence: Recent Developments

Developments in jurisprudence after 2020 reveal several notable trends, particularly in response to the increasing complexity of business transactions and the expanded use of promissory notes across various

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financing contexts. The following decisions demonstrate how Indonesian courts have sought to adapt longstanding principles of negotiable instruments law to contemporary business realities.

Surabaya District Court Decision No. 846/PDT.G/2021/PN.SBY Promissory Notes as Debt Instruments in Loan Agreements
Parties: Lender (Plaintiff) v. Borrower and issuer of the promissory note (Defendant) | Decided: 2021, Surabaya District Court | Legal Issue: The legal status of a promissory note in a loan agreement and its consequences in the event of breach.

> *" A promissory note issued by the defendant within the framework of a loan agreement constitutes a debt instrument containing an unconditional promise by the issuer to pay a specified sum of money to the holder. The defendant has been proven to have failed to fulfill the obligation to repay the amount stipulated in the promissory note, and there exists an element of fault on the part of the defendant. Accordingly, the defendant is declared to be in breach of contract and is ordered to pay the principal debt along with court costs."*

Ratio decidendi: The court based its reasoning on two principal pillars. The first is the recognition of the promissory note as a debt instrument that evidences a direct payment obligation without requiring proof of the underlying agreement. The second is the fulfillment of the elements of breach of contract under Article 1243 of the Civil Code, including the existence of a valid obligation, the debtor's failure to perform at maturity, and the presence of fault. This decision implicitly applies a limited abstraction principle, recognizing the independent enforceability of the promissory note while still considering the underlying loan agreement in assessing the validity of the obligation. *Contemporary relevance*: This decision is significant as it reflects a post 2020 trend at the first instance court level toward recognizing the efficiency of promissory notes as instruments for debt enforcement, while applying a more structured standard for proving breach based on established civil law doctrine. The decision has also been examined academically by Honi (2023), whose normative research confirms that judicial reasoning has become more systematic compared to earlier decisions.

Bekasi District Court Decision No. 126/Pdt.G/2020/PN Bks Promissory Notes in Banking Credit Agreements
Parties: Creditor bank (Plaintiff) v. Debtor (Defendant) | Decided: 7 April 2021, Bekasi District Court | Legal Issue: The legal status of promissory notes as additional security in credit agreements and their implications for breach.

> *" Promissory notes issued by the debtor and delivered to the creditor as additional security for credit facilities possess a legal status as confirmation of payment obligations that is accessory in nature, yet as negotiable instruments they may be independently enforced when the principal credit facility becomes non performing. Breach of the promissory note in this context constitutes an integral part of the breach of the underlying credit agreement, entitling the holder to pursue all available legal remedies under both negotiable instruments law and general contract law."*

Ratio decidendi: The court developed the concept of "accessory yet independent" to describe the status of promissory notes in banking practice. While they originate as accessory instruments linked to the credit agreement, they retain independent enforceability as negotiable instruments without requiring prior execution of collateral. The court further emphasized that in banking practice, a matured and unpaid promissory note constitutes sufficient evidence of breach based on established commercial usage, thereby eliminating the need for separate formal notice beyond that already provided within the credit agreement. *Contemporary relevance*: This decision holds significant importance for Indonesian banking practice, where promissory notes are routinely issued as additional credit security. It provides legal certainty that banks may

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directly enforce promissory notes without undergoing the more time consuming process of collateral execution, while also affirming that breaches of credit agreements and promissory notes may be addressed within a single integrated legal action.

Supreme Court Decision No. 1153 K/Pid.Sus/2020 Promissory Notes in the Context of Banking Criminal Law Parties: Public Prosecutor v. Directors of PT SNP Finance (Defendants) | Decided: 11 May 2020, Supreme Court of the Republic of Indonesia | Legal Issue: Whether the issuance of promissory notes based on falsified financial data to obtain credit constitutes a banking crime.

> *" The issuance of promissory notes to a bank as instruments for drawing credit facilities, when based on manipulated financial statements and data that do not reflect the true financial condition, constitutes a banking offense involving the use of false documents to obtain credit as regulated under banking law. Promissory notes issued on the basis of falsified documentation cannot provide legal protection to the issuer or any parties involved in such a scheme."*

Ratio decidendi: The Supreme Court emphasized that although promissory notes may be formally valid under Article 174 of the Commercial Code, such formal validity cannot serve as a shield where the instrument is used as a means to commit unlawful acts, particularly fraud in the banking context. The decision establishes the principle that a formally valid promissory note that forms part of a fraudulent scheme may be challenged not only through civil law mechanisms, such as nullification based on unlawful cause, but also through banking criminal law. The Court affirmed that compliance with formal requirements does not negate criminal liability arising from misuse of the instrument. *Contemporary relevance*: This decision is particularly significant in light of recent corporate promissory note default cases in Indonesia, including those involving SNP Finance and J Trust Bank. It provides a legal basis for the application of banking criminal law to sanction issuers who intentionally provide false information to creditors, while also reinforcing the supervisory role of the Financial Services Authority in overseeing the issuance of promissory notes within corporate financing practices.

e. Comparative Jurisprudence Analysis Matrix

The following table summarizes all analyzed decisions, including the legal issues, ratio decidendi, and their implications:

Table 1. Summary of All Decisions

Decision	Legal Issue	Ratio Decidendi	Implication	Note
Supreme Court No. 3038 K/Pdt/2001	Formal defect without “to order” clause	Doctrine of conversion: a defective document under the Commercial Code remains valid as an acknowledgment of debt under the Civil Code	The holder may still bring a claim, but through general contract law with a heavier burden of proof	Substance over form approach
Supreme Court No. 1455 K/Pdt/2010	Formal defect without specified place of payment	Established practices between the parties may complete unmet formal requirements	Provides flexibility but introduces the risk of subjective judicial assessment	Teleological interpretation of Article 174 of the Commercial Code

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Supreme Court No. 2914 K/Pdt/2005	Annulment of underlying agreement	Absolute abstraction: invalidity of the underlying agreement does not invalidate the promissory note	Strong protection for the holder in due course	Favors legal certainty
Supreme Court No. 1247 K/Pdt/2012	Unlawful cause in underlying agreement	Limited abstraction: unlawful underlying agreement extends to invalidate the promissory note	Establishes limits to abstraction and warns against misuse	
Supreme Court No. 878 K/Pdt/2008	Evidentiary strength of promissory note	Conclusive evidentiary force with burden shifted to the defendant	Strengthens the holder's position in litigation	Application of the principle of literaliteit
Surabaya District Court No. 846/PDT.G/2021	Promissory note in loan agreement (2021)	Promissory note as an independent debt instrument with fulfilled elements of fault constituting breach	More structured standard for proving breach	Post 2020 decision with academic review
Bekasi District Court No. 126/Pdt.G/2020 decided in 2021	Promissory note as banking credit security	Accessory yet independent: enforceable without prior collateral execution	Provides certainty for banking practice in enforcing defaulted notes	Highly relevant for banking practice
Supreme Court No. 1153 K/Pid.Sus/2020	Promissory note based on falsified documents	Formal validity does not eliminate criminal liability in banking law	Criminal law may accompany civil claims in fraudulent promissory note cases	Relevant in post SNP Finance cases

f. Evaluation of Inconsistencies and Jurisprudential Patterns

Based on the analysis of the eight decisions above, three principal patterns of inconsistency in Indonesian promissory note jurisprudence can be identified. First, inconsistency in the application of the abstraction principle is evident, where Decision No. 2914/2005 applies absolute abstraction, while Decision No. 1247/2012 limits it through the doctrine of unlawful cause, without providing clear guidance as to when such limitation should apply. Second, inconsistency arises in the treatment of formal defects, as Decisions No. 3038/2001 and No. 1455/2010 adopt a flexible substance over form approach, yet lack measurable criteria regarding the degree of defect that may still be tolerated. Third, inconsistency is observed in relation to the requirement of formal notice, where some decisions consider maturity to function automatically as notice, while others require a separate formal notice, particularly in cases involving corporate issuers. These inconsistencies sit uneasily against the doctrinal purity of the abstraction principle described in Section 2.1: in theory, the obligation embodied in a promissory note is meant to stand entirely independent of its underlying agreement, yet the jurisprudence reviewed here shows courts repeatedly reintroducing the underlying relationship into their reasoning whether to convert a defective instrument into an ordinary acknowledgment of debt (Decision No. 3038/2001), to limit abstraction on grounds of unlawful cause (Decision No. 1247/2012), or to treat a promissory note as merely "accessory" to a credit agreement (Bekasi District Court Decision No. 126/2020). Theory and practice are, in this sense, only partially reconciled.

Encouraging developments can be observed in post 2020 decisions, particularly Surabaya District Court Decision No. 846/2021 and Bekasi District Court Decision No. 126/2020, which indicate a tendency

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among first instance judges to apply more structured and doctrine-based standards in proving breach of contract. However, in the absence of guidance from the Supreme Court through circular letters or regulations, consistency across courts in different regions of Indonesia remains an unresolved challenge. These findings both extend and refine earlier doctrinal work on this subject. Widjaja (2018) observed that privately executed promissory notes carry strong evidentiary force in civil proceedings but did not examine how this evidentiary strength interacts with the abstraction principle across a developed body of jurisprudence. The present analysis extends that observation by showing that evidentiary strength (Section 4.3.3) and the scope of the abstraction principle (Section 4.3.2) are in practice adjudicated as separate doctrinal questions, which helps explain why individually well-reasoned decisions can nonetheless produce system-level inconsistency. Similarly, Honi's (2023) case study of the Surabaya District Court decision found more systematic judicial reasoning at the first-instance level; the present study corroborates this finding but shows that this improved structure at the trial-court level has not yet been matched by binding guidance from the Supreme Court itself.

4.4. Comparative Review and Its Implications for Indonesian Law

A comparison with the legal systems of the United States and the United Kingdom provides valuable perspectives. In the United States, Article 3 of the Uniform Commercial Code, particularly Section 3-302 concerning the holder in due course, has succeeded in balancing legal certainty for holders with protection for issuers confronted with dishonest practices. The distinction between real defenses and personal defenses within the UCC offers a clear framework for determining when an issuer may assert defenses against a holder in due course, a level of clarity that is notably lacking in Indonesian jurisprudence. In the United Kingdom, the Bills of Exchange Act 1882 provides that a promissory note meeting the requirements of Section 83 possesses independent binding force, and the principle of nemo dat quod non habet affords strong protection to the rightful owner in cases involving loss due to theft or forgery. This degree of certainty contrasts with the flexibility, which at times becomes excessive, observed in Indonesian jurisprudence.

A further comparative reference point is offered by the Geneva Convention Providing a Uniform Law for Bills of Exchange and Promissory Notes (1930), which forms the basis of negotiable-instrument law across much of continental Europe. Unlike the common-law frameworks of the United States and the United Kingdom, the Geneva Uniform Law adopts a civil-law drafting style closer to that of the Indonesian Commercial Code, emphasizing codified formal requirements and defenses rather than judge-made doctrine. Because the KUHD itself derives from Dutch civil-law codification, the Geneva framework arguably offers a more directly transplantable model for reform than either the UCC or the Bills of Exchange Act, particularly with respect to defining a closed list of formal defects that void an instrument versus those that merely shift the burden of proof. For the development of promissory note law in Indonesia, several concepts from the UCC merit selective adoption, including a clear classification between real defenses and personal defenses, a more precise definition of holder in due course, and explicit provisions governing electronic promissory notes.

V. Conclusion

Based on the normative and jurisprudential analysis conducted, three principal conclusions may be drawn. First, promissory notes in Indonesian law occupy a complex dual position as negotiable instruments governed by the Commercial Code, particularly Articles 174 to 177, and as contractual instruments under the Civil Code. This dualism gives rise to juridical complexities that frequently become sources of dispute, particularly where promissory notes are formally defective yet substantively reflect genuine payment obligations . Second, the legal construction of breach of contract in promissory note disputes encompasses claims based on Article 1267 of the Civil Code and or bankruptcy petitions under Law Number 37 of 2004. The relationship between the promissory note and its underlying agreement remains unresolved, as existing normative provisions do not provide sufficient guidance on when the abstraction principle applies and when it should be limited. Third, the analysis of eight Supreme Court decisions from 2001 to 2021 reveals three

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principal inconsistencies in the application of the abstraction principle, the treatment of formal defects, and the mechanism of formal notice. Although post 2020 decisions demonstrate improvements in structuring the proof of breach, they have not yet achieved the level of consistency required in the absence of authoritative guidance from the Supreme Court.

First, the Supreme Court should issue a circular letter (Surat Edaran Mahkamah Agung/SEMA) or regulation (Peraturan Mahkamah Agung/PERMA), following its established practice of issuing binding technical guidelines for lower courts. Such guidance should at minimum address three matters identified in this study's jurisprudential analysis: first, a closed list of formal defects under Article 174 of the Commercial Code that render a promissory note void, as opposed to those that merely permit its conversion into an ordinary acknowledgment of debt under general contract law; second, explicit criteria distinguishing when the abstraction principle applies in full protecting a good-faith holder regardless of defects in the underlying agreement from when it must yield to the doctrine of unlawful cause; and third, a clear rule on whether the maturity date stated in a promissory note itself constitutes sufficient notice of default under Article 1238 of the Civil Code, or whether a separate formal notice (somasi) remains required. Drafting such guidance would most appropriately fall to the Supreme Court's Civil Chamber (Kamar Perdata) through its annual plenary meeting (Rapat Pleno Kamar), the established forum through which the Court has previously issued unifying guidance (rumusan kamar) on other areas of civil law practice. Second, legislative reform of the provisions on negotiable instruments within the Commercial Code is necessary, including regulation of electronic promissory notes, foreign currency promissory notes, and modern endorsement mechanisms. Third, business actors and legal practitioners are advised to incorporate clear clauses within promissory notes regarding interest, dispute resolution mechanisms, and choice of law, particularly in cross border transactions.

Beyond the recommendations above, three specific avenues for further research follow directly from the limitations of this study. First, empirical socio-legal research for example, structured interviews with commercial court judges or survey-based research among corporate legal counsel could test whether the doctrinal inconsistencies identified here in fact translate into measurable litigation risk or financing costs for business actors. Second, doctrinal research specifically on the legal status of electronic promissory notes under Law Number 19 of 2016 concerning Electronic Information and Transactions would address a gap this study could only note in passing. Third, a dedicated comparative study tracing the extent to which the Geneva Convention's Uniform Law for Bills of Exchange and Promissory Notes could be selectively transplanted into the Commercial Code would give legislative reform efforts a more concrete civil-law reference point than the common-law comparators primarily used in this study.

References

Ahmad, G. A. (2024). Critical Analysis of Anti-Slapp Regulations in The Field of Criminal Law in Indonesia. Golden Ratio of Law and Social Policy Review, 4(1), 32–37. https://doi.org/10.52970/grlspr.v4i1.920

Amirudin, A. (2025). Ratio decidendi of judges' decisions on the use of foreign language agreements in Indonesia (Doctoral dissertation, Universitas Islam Negeri Maulana Malik Ibrahim).

Badrulzaman, M. D. (2001). Masalah hukum surat berharga di Indonesia. Jurnal Hukum Bisnis, 12(3), 45–58.

Bills of Exchange Act 1882, Section 83 (United Kingdom). (1882).

Black, H. C. (2014). Black’s law dictionary (10th ed.). Thomson Reuters.

Convention Providing a Uniform Law for Bills of Exchange and Promissory Notes (Geneva Convention 1930). (1930).

Fuady, M. (2002). Hukum surat berharga modern. Citra Aditya Bakti.

Hadi, A., & Suhartono, S. (2023). Ratio legis of combining illegal acts with default in small claim court cases. Al-'Adalah, 20(1), 211-234.

Hadjon, P. M. (1994). Pengkajian ilmu hukum dogmatik (normatif). Yuridika, 9(6), 1–9.

Hernoko, A. Y. (2010). Hukum perjanjian: Asas proporsionalitas dalam kontrak komersial. Kencana.

ISSN [Online]: 2808-2923

Honi, E. W. A. (2023). Kedudukan hukum surat sanggup (promissory note) pada perjanjian pinjam-meminjam dalam perkara wanprestasi (Studi Perkara Nomor 846/PDT.G/2021/PN.SBY) (Skripsi). Universitas Jenderal Soedirman.

Kitab Undang-Undang Hukum Dagang. (n.d.). Buku I Titel VI Pasal 174–177.

Kitab Undang-Undang Hukum Perdata. (n.d.). Buku III Pasal 1238–1252, 1267, dan 1338.

Kulshrestha, S. (2025). Privity of Contract and Voluntary Promises: A Path Towards Legal Reform in Indian Contract Law. Available at SSRN 5353669.

Mahkamah Agung Republik Indonesia. (2001). Putusan Nomor 3038 K/Pdt/2001.

Mahkamah Agung Republik Indonesia. (2005). Putusan Nomor 2914 K/Pdt/2005.

Mahkamah Agung Republik Indonesia. (2008). Putusan Nomor 878 K/Pdt/2008.

Mahkamah Agung Republik Indonesia. (2010). Putusan Nomor 1455 K/Pdt/2010.

Mahkamah Agung Republik Indonesia. (2012). Putusan Nomor 1247 K/Pdt/2012.

Mahkamah Agung Republik Indonesia. (2020). Putusan Nomor 1153 K/Pid.Sus/2020 (Kasus SNP Finance).

Morton, E. F., & Curran, M. F. (2022, March). Technical and legal aspects of tax debt collection and cryptocurrencies. In Australian Tax Forum (Vol. 37, No. 1, pp. 1-26).

Pengadilan Negeri Bekasi. (2021). Putusan Nomor 126/Pdt.G/2020/PN Bks.

Pengadilan Negeri Surabaya. (2021). Putusan Nomor 846/PDT.G/2021/PN.SBY.

Prodjodikoro, W. (1980). Hukum wesel, cek, dan aksep di Indonesia. Sumur Bandung.

Purwosutjipto, H. M. N. (1984). Pengertian pokok hukum dagang Indonesia, jilid 7: Hukum surat berharga. Djambatan.

Rabbani, M. F. S., & Isfardiyana, S. H. (2025). Legal Protection for Creditors of Promissory Notes in Case of Debtor Default: A Comparative Study between Indonesia and Singapore. Journal of Private and Commercial Law, 52-71.

Ramadhan, M. R., Kamal, M., & Wardhana Wikra Mamonto, M. A. (2021). Omnibus Law in Indonesia: Legal Protection of Workers in Employment Contracts. Golden Ratio of Law and Social Policy Review, 1(1), 7–16. https://doi.org/10.52970/grlspr.v1i1.151

Shebaita, M., & Ghouri, A. (2026). Islamic Law and the Governance of State Contracts in Investor--State Arbitration: Legal Pluralism, Normative Tensions, and the Prospects for Harmonisation. Manchester Journal of International Economic Law, 23(1), 32.

Subekti, R. (2005). Hukum perjanjian (Cetakan ke-21). Intermasa.

Syafitri, I., Kamello, T., & Purba, H. (2025). Contemporary legal certainty in insurance default claims: A comparative study of Islamic and positive law perspectives. MILRev: Metro Islamic Law Review, 4(1), 539-565.

Tice, B. (2024). The Promise and the Law-Part I: Establishing the Relationship between Promise Keeping and Contract Law. W. New Eng. L. Rev., 46, 283.

Undang-Undang Nomor 10 Tahun 1998 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 1992 tentang Perbankan. (1998).

Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik. (2016).

Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. (2004).

Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. (2007).

Uniform Commercial Code Article 3: Negotiable Instruments, Sections 3-104 dan 3-302 (United States). (n.d.).

White, J. J., & Summers, R. S. (2010). Uniform commercial code (6th ed.). West Publishing.

Widjaja, G. (2018). Pembuktian surat berharga dalam persidangan perdata. Jurnal Hukum dan Pembangunan, 48(2), 312–334.