

ABSTRAK

Penelitian ini berjudul “Perlindungan Hukum Terhadap Kreditur Dalam Hal Terjadi Pengalihan Obejk Agunan Fidusia Tanpa Persetujuan Kreditur (Studi Kasus PT Pegadaian (Persero) Balikpapan)” dilatarbelakangi adanya wanprestasi terhadap praktik perjanjian pinjaman kredit dengan agunan fidusia. Kemudian tidak terpenuhinya prestasi merujuk pada perlindungan hukum terhadap pihak kreditur. Penelitian ini bertujuan mengetahui pelaksanaan perlindungan hukum terhadap kreditur pada perjanjian kredit dengan agunan fidusia dalam hal terjadi pengalihan objek agunan tanpa sepengetahuan kreditur serta solusi penyelesaiannya.

Dalam upaya memberikan perlindungan hukum terhadap kreditur yang terjadi di PT Pegadaian (Persero) wilayah Kota Balikpapan dalam hal pengalihan objek agunan fidusia tanpa sepengetahuan kreditur maka metode penelitian ini menggunakan perdebatan yuridis sosiologis yang menggunakan data primer namun tetap mengacu pada data sekunder. Sumber data yang diperoleh melalui penelitian lapangan (wawancara) dan penelitian pustaka. Analisa data menggunakan metode analisis data kualitatif.

Berdasarkan hasil penelitian dapat ditarik kesimpulan bahwa pelaksanaan perjanjian kredit pada produk Kreasi (Kredit Angsuran Fidusia) di PT Pegadaian (Persero) merupakan bentuk dari perjanjian pokoknya, sedangkan perjanjian fidusia merupakan perjanjian tambahan yang mengikuti perjanjian pokok (*accessoir*). Bentuk kesepakatan bersama antara PT Pegadaian (Persero) dengan debitur dalam hal pinjaman kredit, adanya kewajiban melunasi utang pokok, adanya kewajiban membayar biaya sewa modal dan adanya jangka waktu tertentu dalam hal pelunasan setelah dana diterima debitur. Jika terjadi wanprestasi oleh debitur pada perjanjian kredit dalam hal pengalihan objek agunan fidusia tanpa sepengetahuan PT Pegadaian (Persero), pihak kreditur memiliki hak untuk mendapatkan perlindungan hukum berdsarkan Undang-Undang Jaminan Fidusia. Upaya hukum yang dilakukan oleh pihak kreditur atas objek agunan fidusia terdaftar pada Kantor Pendaftaran Fidusia terdapat tiga macam yaitu, titel eksekutorial, penjualan objek agunan fidusia melalui pelelangan umum, serta yang terakhir penjualan dibawah tangan berdasarkan kesepakatan antara pemberi dan penerima fidusia.

Kata Kunci : Perlindungan Hukum, Wanprestasi, Perjanjian Kredit, Agunan Fidusia

ABSTRACT

This research entitled "Legal Protection of Creditors in the occurrence Fiduciary Collateral Transfer without Creditors' Approval (Case Study of PT Pegadaian (Persero) Balikpapan)" was motivated by default against the practice of credit loan agreements with fiduciary collateral. Then the failure to fulfill the achievement refers to the legal protection of the creditor. This study aims to determine the implementation of legal protection against creditors in a credit agreement with fiduciary collateral in the occurrence of the collateral object been transferred without the knowledge of the creditor as well as the settlement solution.

In an attempt to provide legal protection to creditors that occur in PT Pegadaian (Persero) Balikpapan City area in terms of transferring fiduciary collateral objects without the knowledge of creditors, this research method uses sociological juridical debate that uses primary data but still refers to secondary data. Sources of data were obtained through field research (interviews) and library research. In analyzing data used qualitative data analysis methods.

Based on the results of the study, it can be concluded that the implementation of the credit agreement on Kreasi (Kredit Angsuran Fidusia) products at PT Pegadaian (Persero) is a form of the main agreement, while the fiduciary is an additional agreement that follows the main agreement (accessoir). A form of mutual agreement between PT Pegadaian (Persero) and debtors in terms of credit loans, an obligation to pay off primary debt, an obligation to pay capital lease costs, and a certain period in terms of repayment after the funds are received by the debtor. If there is a default by the debtor on the credit agreement in the occurrence of the fiduciary collateral object been transferred without the knowledge of PT Pegadaian (Persero), the creditor has the right to take legal protections based on the Fiduciary Guarantee Law. There are three types of legal remedies made by the creditor on the object of fiduciary collateral registered at the Fiduciary Registration Office, specifically the executorial title, the sales of the fiduciary collateral object through a public auction, and the last is the private sales based on an agreement between the fiduciary giver and receiver.

Keywords : Legal Protection, Defaults, Credit Agreement, Fiduciary Collateral