

ABSTRAK

Penelitian dengan judul ” *Peranan Notaris dalam Pengikatan Agunan dengan Hak Tanggungan (Studi Kasus pada Koperasi Simpan Pinjam dan Pembiayaan syariah di Kota Pekalongan)*” bertujuan untuk mengetahui peranan notaris dalam Pengikatan Agunan dengan Hak Tanggungan benda tak bergerak, hambatan dan solusi dalam pelaksanaan pengikatan hak tanggungan serta akibat hukumnya bila dilakukan tidak di depan notaris.

Penelitian ini menggunakan pendekatan *Yuridis Empiris*, yaitu penelitian hukum dengan cara pendekatan fakta yang ada dengan jalan mengadakan penelitian kemudian dikaji dan ditelaah berdasarkan peraturan perundang-undangan yang terkait sebagai acuan untuk memecahkan masalah.

Berdasarkan penelitian yang Peneliti lakukan, menghasilkan pada pokoknya (1) Peran notaris dalam pengikatan agunan benda tak bergerak sangat penting, merujuk pada pasal 15 ayat (1) UUHT yang menentukan bahwa Surat Kuasa Membebankan Hak Tanggungan (SKMHT) wajib dibuat dengan akta notaris atau akta PPAT (2) Hambatan-hambatan yang terjadi dalam proses pengikatan agunan dengan hak tanggungan dapat dipetakan dalam dua tahap yaitu tahap sebelum pengikatan, pada umumnya terkait dengan pemberkasan persyaratan pengikatan seperti dari identitas diri para pihak, obyek jaminan, dan kewenangan bertindak para pihak dan tahap setelah pengikatan , pada umumnya terkait dengan sikap debitur dan proses pengikatan pada Badan Pertanahan Nasional setempat(3) Akibat Hukum Pengikatan Agunan Apabila Tidak Dilakukan Di Hadapan Notaris antara lain a. perjanjian yang dilakukan kehilangan otentisitasnya sebagaimana tertuang dalam Pasal 16 ayat (8) UUN, mengakibatkan akta tersebut tidak dapat didaftarkan, sehingga merugikan para pihak khususnya pihak Koperasi b.Selaku penerima Hak Tanggungan jika pembebanan jaminan Hak Tanggungan dilakukan dibawah tangan maka kreditur tidak mendapat kedudukan yang diutamakan (*droit de preference*), c.bila terjadi wanprestasi, jaminan tidak dapat langsung dieksekusi, d.pembuktian terhadap akta yang dibuat tersebut tidak berlaku pada pihak ketiga, sehingga penyelesaian yang bisa ditempuh hanya melalui penyelesaian secara kekeluargaan, e.dalam hal tertentu, mempengaruhi motivasi anggota pembiayaan untuk memenuhi prestasinya dengan baik.

Kata kunci : Perjanjian, Notaris, Hak Tanggungan

ABSTRACT

The study entitled "The role of the Notary in binding Collateral with Encumbrance (Case Study on Credit Unions and Financing sharia in Pekalongan)" aims to determine the role of notaries in the binding of collateral with the Mortgage over immovable property, barriers and solutions in implementing the binding of encumbrance as well as the legal consequences if not done in front of a notary.

This study uses empirical juridical approach, namely legal research with facts approach to the road to conduct research then examined and assessed based on legislation related as a reference to solve the problem.

Based on research that researchers do, resulting in principle (1) That the role of the notary in the binding of collateral immovable property is very important, referring to article 15 paragraph (1) UUHT which determines that the Power of Attorney Imposing Mortgage (SKMHT) shall be made by notarial deed or deed of PPAT (2) that the obstacles that occur in the process of binding of collateral with mortgage can be mapped out in two phases: before bonding, is generally associated with the filing requirements of the binding as of the identity of the parties, the object of the guarantee, and the authority to act of the parties and stage after binding, is generally associated with the attitude of the debtor and the binding process at the local National Land Agency (3) binding of Collateral Effects when not to do in the face of a Notary Public, among others. agreements that do lose their authenticity as stated in article 16 paragraph (8) UUJN, resulting in the deed can not be registered, to the detriment of the parties, especially the cooperative, b.as receiver if the imposition of collateral mortgage, mortgage done under the hands of the lender does not get a position that precedence (*droit de preference*), c. when event of default, the guarantee can not be directly executed, the deed made, d. verification does not apply to third parties, so that settlement can be reached only through a settlement amicably, e. in certain things, financing affect member motivation to comply with good performance.

Keywords: **Treaty, Notary, Encumbrance**

ABSTRACT

The study titled "The Role Deed Official Land of the Installation Encumbrance with Certificate Name Hak deceased conducted the process down Heir to the beneficiary based Justice" aims to determine the role of the Deed Official Land of the Installation Security Right to Name Certificate Properties deceased conducted the process down heir to the beneficiary based Justice, Problems Role Deed official Land of the Installation Encumbrance with Certificate name Hak deceased conducted the process down heir to the beneficiary based Justice and How to resolve Problems Role Land Deed official of the Installation Certificate name Mortgage with Proprietary deceased conducted the process down to the heirs Waris-based Justice.

This research used juridical normative, data collection is more emphasis on parsing and interpretation of the data associated with the rules of law, namely in the form of legislation, examine the rules of law and theory of law as well as add in the interview to the parties concerned with the problems examined.

Based on the results of research by the author, then the results are as follows: (1) Role Deed Official Land of the Installation Encumbrance with Certificate Name Hak deceased conducted the process down Heir to the beneficiary based Justice (2) Problems Role of Officials Deed Land to the Installation Security Right to name Sertifikah Hak deceased conducted the process down heir to the beneficiary based Justice (3) How to resolve Problems Role Deed official Land of the Installation Security Right to name Sertifikah Hak deceased Waris process carried down to the heirs-based Justice.

Keywords : Land Deed Official, Encumbrance Certificates rights Owned, Down Waris