ABSTRAK

Menurut UU Nomor 42 Tahun 1999." Dengan ruang lingkup masalah yang dibahas meliputi: (1) Bagaimana prosedur atau pelaksanaan kredit dengan jaminan fidusia di Indonesia; (2) Apa hambatan dan solusi dalam pelaksaaan kredit dengan jaminan fidusia di Indonesia, dan (3) Apa akibat hukum jaminan fidusia yang di daftarkan menurut UU No 42 Tahun 1999.

Untuk memperoleh hasil penelitian dari permasalahan tersebut, penulis menggunakan metode ilmiah dengan pendekatan yang bersifat yuridis empiris dan normatiif. Secara empiris yaitu meneliti data sekunder terlebih dahulu dan kemudian dilanjutkan dengan mengadakan penelitian data primer di lapangan. Secara yuridis yaitu mempelajari aturan–aturan yang ada dengan masalah yang di teliti.

Selanjutnya dari hasil penelitian dapat peroleh pemahaman bahwa *pertama*, Bahwa perjanjian kredit yang dibuat oleh debitor dan kreditor merupakan perjanjian pokok yang mengacu prinsip-prinsip umum perjanjian, sedangkan pembebanan jaminan fidusia meruapakan perjanjian ikutan atau accesoir, yang mendaftarannya telah diatur dengan UU Nomor 42 Tahun 1999, dan di atur lebih lanjut melalui Peraturan Pemerintah Nomor 21 Tahun 2015; *Kedua,* pendaftaran jaminan fidusia merupakan kewajiban pihak kreditor, tetapi kadang kalam kreditor tidak mendaftarkannya, dengan alasan biaya atau karena akta perjanjian dibuat di bawah tangan. Sehingga hak akta jaminan fidusia dimaksud masuk kategori akta perjanjian dibawah tangan. Oleh karena itu, solusi yang diambil oleh kreditor dapat melakukan penyelesaian dengan musyawarah atau mengajukan permohonan melalaui lembaga peradilan. Ketiga, Jaminan Fidusia harus dibuat dengan Akta Natariil (Akta Notaris) dan didaftarkan pada Kantor Kementerian Hukum dan HAM, agar memiliki kekuatan eksekutorial, di samping itu, kreditor akan memperoleh hak preferen. Apabila jaminan fidusia tidak dibuatkan dibawah tangan dan tidak didaftarkan sesuai kekentuan perundang-undangan, maka tidak memiliki kekuatan eksekutorial, dan hak hak preferen serta dapat menjadi batal demi hukum *(vernitigbarheid).*

Bahwa untuk lebih mewujudkan prinsip utama Jaminan Fidusia memberikan perlindungan hukum bagi para pihak, maka perlu adanya revisi pengaturan

jaminan fidusia dalam perundang-undangan agar lebih memberikan kepastian hukum.

Kata kunci : Jaminan Fidusia, Tata Cara Pendaftaran, dan Akibat Hukum

ABSTRACT

Fiduciary agreements by notarial deed are not sufficient, but should be continued with fiduciary registrants. Fiduciary agreements set forth in notarial deeds without registration do not grant preferential rights to fiduciary recipients. Whereas the objective of Law Number 42 Year 1999 is basically to provide legal protection for creditors from losses caused by default from debtor. From this, the authors in this thesis take the title "Consequences of Fiduciary Guaranty Laws Not Registered According to Law Number 42 Year 1999." With the scope of the issues covered include: (1) How the procedure or implementation of credit with fiduciary guarantee in Indonesia; (2) What are the constraints and solutions in the implementation of credit with fiduciary guarantee in Indonesia, and (3) What are the consequences of fiduciary guarantee law enlisted under Law No. 42 of 1999.

To obtain the results of research from these problems, the authors use the scientific method with an approach that is juridical empirical and normatiif. Empirically that is researching secondary data first and then continued by conducting research of primary data in field. The jurisdiction is to study the rules that exist with the problem in the perusal.

Furthermore, from the results of the research can obtain the understanding that the first, that the credit agreement made by debtors and creditors is the principal agreement that refers to the general principles of the agreement, while the imposition of fiduciary collateral meruapakan follow-up agreement or accesoir, which registers it has been regulated by Law No. 42 of 1999 , And set further through Government Regulation No. 21 of 2015; Second, the registration of fiduciary security is a creditor's obligation, but sometimes the creditor does not register it, for cost reasons or because the treaty deed is made under the hand. Therefore, the right of the fiduciary guarantee certificate is categorized as a treaty under the hand. Therefore, the solution taken by the creditors can make the settlement by deliberation or applying through the judiciary. Third, Fiduciary Guarantees must be made by the Deed of Natariil (Notarial Deed) and registered to the Office of the Ministry of Justice and Human Rights, in order to have executorial power, in addition, the creditor will obtain the preferred right. If fiduciary warranties are not made under the hands and are not registered in accordance with legislative provisions, they have no executorial force, and the right of preference and may become void (vernitigbarheid). Whereas to further realize the main principle of Fiduciary Guarantee provides legal protection for the parties, it is necessary to revise the regulation of fiduciary guarantee in legislation in order to give more legal certainty.

Keywords: Fiduciary Security, Registration Procedures, and Legal Effects