

ABSTRAK

TANGGUNG JAWAB DEBITOR TERHADAP PIHAK KETIGA AKIBAT EKSEKUSI JAMINAN (Studi Putusan Mahkamah Agung Nomor 1207 K/Pdt/2023)

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Pelaku usaha sering menghadapi berbagai kendala dalam memenuhi kebutuhan modal sehingga fasilitas kredit bank menjadi alternatif utama. Salah satu jaminan yang digunakan ialah objek tanah milik pihak ketiga. Penggunaan jaminan milik pihak ketiga ini sah menurut hukum, tetapi dapat menimbulkan permasalahan ketika debitur melakukan wanprestasi dan kreditor mengeksekusi objek yang bukan milik debitur. Penelitian ini bertujuan untuk mengkaji dan menganalisis pertimbangan hukum Majelis Hakim Agung dalam penyelesaian sengketa utang piutang dengan jaminan hak tanggungan milik pihak ketiga dan tanggung jawab pihak debitur terhadap pihak ketiga akibat eksekusi jaminan.

Metode penelitian yang digunakan merupakan penelitian hukum normatif dengan tipe penelitian deskriptif. Pendekatan masalah menggunakan studi kasus yang telah berkekuatan hukum tetap (*inkracht*) dan perundang-undangan yang berlaku. Data yang digunakan adalah data sekunder melalui studi dokumen dan kepustakaan. Selanjutnya, pengolahan data dilakukan dengan pemeriksaan data, rekonstruksi data, sistematisasi data, serta dianalisis secara kualitatif.

Hasil penelitian menunjukkan bahwa Mahkamah Agung mempertimbangkan bahwa pengikatan hak tanggungan atas objek milik pihak ketiga dilakukan secara sah dan mengikat karena terdapat persetujuan pemilik aset dan pemberian kuasa menjual pada saat perjanjian kredit dibuat. Debitur terbukti wanprestasi karena tidak memenuhi kewajiban pembayaran, sehingga eksekusi jaminan merupakan konsekuensi hukum yang dibenarkan. Putusan *judex facti* yang menetapkan status wanprestasi serta melaksanakan eksekusi telah tepat serta tidak ditemukan kesalahan. Tanggung jawab utama atas risiko kerugian akibat eksekusi tetap melekat pada debitur, sementara perlindungan hukum bagi pihak ketiga dalam perkara ini ditempatkan sebagai perlindungan prosedural dalam pelaksanaan eksekusi, bukan pembebasan dari konsekuensi pengikatan jaminan.

Kata Kunci: Debitur, Pihak Ketiga, Tanggung Jawab.

ABSTRACT***DEBTOR RESPONSIBILITY TOWARDS THIRD PARTIES DUE TO THE
EXECUTION OF COLLATERAL
(Study of Supreme Court Decision Number 1207 K/Pdt/2023)******By*****Sandrina Titi Trisakti**

Business actors often face various obstacles in meeting capital needs. So bank credit facilities become the main alternative one of the collaterals used is land objects owned by third parties. The use of collateral belonging to a third party is legal, but can cause problems when the debtor defaults and the creditor executes an object that does not belong to the debtor. This research aims to examine and analyze the legal considerations of the Supreme Court of Justice in resolving debt and receivable disputes with guarantees of mortgage rights belonging to third parties and the debtor's responsibility towards third parties due to the execution of the guarantee.

The research method used is normative legal research with a descriptive type. The problem-solving approach utilizes legally binding case studies and applicable legislation. The data used is secondary data obtained through document and literature studies. Furthermore, data processing is carried out through data examination, data reconstruction, data systematization, and qualitative analysis.

The research results show that the Supreme Court is of the consider that the binding of mortgage rights over objects owned by third parties was carried out legally and bindingly because there was an agreement from the asset owner and the granting of a power of attorney to sell at the time the credit agreement was made. The debtor was proven to be in default because he did not fulfill his payment obligations, so that the execution of the collateral was a justified legal consequence. The *judex facti* decision that determined the status of default and carried out the execution was correct and no errors were found. The primary responsibility for the risk of loss due to the execution remains attached to the debtor, while legal protection for third parties in this case is placed as procedural protection in the implementation of the execution, not exemption from the consequences of the binding of collateral.

Keywords: Debtor, Responsibility, Third Party