

ABSTRAK

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ANALISIS YURIDIS TENTANG PELAKSANAAN EKSEKUSI (PARATE EKSEKUSI) TERHADAP OBJEK JAMINAN FIDUSIA PASCA PUTUSAN MAHKAMAH KONSTITUSI NOMOR 18/PUU-XVII/2019.

(55 Halaman, 1 Lampiran)

Jaminan fidusia merupakan hak jaminan atas benda bergerak baik yang berwujud maupun yang tidak berwujud. Jaminan fidusia berawal dari perjanjian utang piutang yang didasarkan pada isi UU No. 42 Tahun 1999 Tentang Jaminan Fidusia. Apabila terjadi wanprestasi atau cidera janji, eksekusi terhadap benda yang menjadi objek Jaminan Fidusia dapat dilakukan dengan cara pelaksanaan titel eksekutorial, penjualan objek Jaminan Fidusia atas kekuasaan Penerima Fidusia sendiri melalui pelelangan umum, dan penjualan di bawah tangan yang dilakukan berdasarkan kesepakatan Pemberi dan Penerima Fidusia.

Pada tanggal 18 November 2016 PT. Astra Sedaya Finance bersama dengan Aprilliani Dewi dan Suri Agung Prabowo (selanjutnya disebut pemohon) telah sepakat mengadakan Perjanjian Pembiayaan Multiguna. Pada tanggal 10 November 2017 perwakilan dari PT. ASF (*Debtcollector*) mendatangi rumah pemohon dengan membawa surat kuasa yang ditandatangani pejabat dari PT. ASF dengan maksud ingin mengeksekusi obyek jaminan merk Toyota Type Alphard. Pemohon merasa keberatan dengan tindakan sewenang-wenang dan tindakan paksa yang dilakukan oleh debtcollector pada saat melakukan eksekusi jaminan fidusia. Pemohon mengajukan gugatan ke MK atas uji materil akibat pasal 15 ayat (1), ayat (2), dan ayat (3) UU Jaminan Fidusia, karena merasa dirugikan hak konstitusionalnya.

MK mengabulkan permohonan untuk sebagian, berdasarkan putusan MK tersebut timbul rumusan masalah adakah akibat hukum yang timbul pasca putusan Mahkamah Konstitusi No.18/PUU-XVII/2019 yang berkaitan dengan pelaksanaan eksekusi fidusia dalam UU No. 42 Tahun 1999 Tentang Jaminan Fidusia.

KATA KUNCI: Jaminan Fidusia, Wanprestasi, Cidera Janji, Eksekusi Jaminan Fidusia.

Referensi: 23 (1973-2020)

ABSTRACT

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(55 Page,1 Attachment)

Fiduciary security is a security right for movable objects, both tangible and intangible. Fiduciary security originates from a debt agreement based on the contents of Law no. 42 of 1999 concerning the Fidusa Guarantee. In the event of default or breach of contract, the execution of the object which is the object of the Fiduciary Guarantee can be carried out by implementing the executorial title, the sale of the Fiduciary Guarantee object at the power of the Fiduciary himself through a public auction, and under-hand sales made based on the agreement of the Fiduciary Giver and Recipient.

On 18 November 2016 PT. Astra Sedaya Finance together with Aprilliani Dewi and Suri Agung Prabowo (hereinafter referred to as the applicant) have agreed to enter into a Multipurpose Financing Agreement. On 10 November 2017 representatives from PT. ASF (Debtcollector) comes to the applicant's house with a power of attorney signed by an official from PT. ASF with the intention of executing the Toyota Type Alphard brand guarantee object. The Petitioner objected to the arbitrary and coercive actions taken by the debtcollector during the execution of the fiduciary guarantee. The Petitioner filed a lawsuit to the Constitutional Court for a judicial review due to article 15 paragraph (1), paragraph (2), and paragraph (3) of the Fiduciary Guarantee Law, because they felt their constitutional rights had been impaired.

The Constitutional Court granted the petition in part, based on the Constitutional Court decision, the problem was that there were legal consequences after the Constitutional Court decision No.18 / PUU-XVII / 2019 relating to the implementation of fiduciary executions in Law No. 42 of 1999 concerning Fiduciary Guarantee.

KEY WORDS: *Fiduciary Guarantee, Default, Default, Fiduciary Guarantee Execution.*

Reference: 23 (1973-2020)