

Jaminan pelunasan hutang berupa harta bawaan istri: studi kasus putusan Mahkamah Agung Republik Indonesia Nomor: 3574 k/Pdt/2000

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Abstrak

ABSTRAK

Perjanjian utang piutang merupakan suatu perjanjian dimana seseorang menyerahkan uang dan pihak yang lain berkewajiban untuk mengembalikannya. Pihak yang menyerahkan uang tersebut berhak untuk meminta kembali uangnya kepada pihak yang lain guna untuk memenuhi prestasi yang harus dilakukan oleh pihak si berutang. Menurut Pasal 1131 Kitab Undang-undang Hukum Perdata, perjanjian yang dibuat tersebut akan mengikat setiap benda milik si berutang untuk dijadikan jaminan pelunasan utang. Jaminan terhadap perjanjian yang dibuat oleh kedua belah pihak meliputi harta bawaan suami istri serta harta campur suami istri yang didapat selama perkawinan. Hal tersebut sesuai dengan Pasal 35 (1) Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan. Menurut Pasal 1318 Kitab Undang-undang Hukum Perdata, apabila salah satu pihak dalam perjanjian meninggal dunia sebelum menunaikan prestasinya, maka perjanjian tersebut dapat diwariskan kepada ahli warisnya untuk menyelesaikan penunaian prestasi orang yang meninggal. Dengan demikian, timbul permasalahan tentang harta yang dijadikan jaminan pelunasan utang, apakah harta bawaan istri dapat dijadikan jaminan pelunasan utang suami dan dapat diletakan sita jaminan oleh pengadilan, dan apabila salah satu pihak dalam perjanjian meninggal sebelum menunaikan prestasinya, apakah ahli waris diharuskan membayar utang beserta dengan bunga dan kerugiannya? Dalam meneliti permasalahan tersebut, penulis menggunakan penelitian hukum normatif. Mahkamah Agung Republik Indonesia memutuskan bahwa harta bawaan istri tidak dapat dijadikan jaminan pelunasan utang suami dan tidak dapat diletakkan sita jaminan sesuai dengan Pasal 35 ayat (2) jo Pasal 36 ayat (2) Undang-undang Perkawinan. Berdasarkan pada Pasal 175 ayat (2) Kompilasi Hukum Islam, Mahkamah Agung Republik Indonesia juga memutuskan bahwa ahli waris bertanggungjawab hanya terbatas pada jumlah atau nilai harta peninggalan Pewaris. Pelaksanaan terhadap perjanjian utang piutang yang terdapat dalam masyarakat, diharapkan lebih memperhatikan peraturan-peraturan yang ada, yaitu Kitab Undang-undang Hukum Perdata, serta memperhatikan apakah harta bawaan/pribadi masing-masing suami istri atau harta persatuan/campuran yang menjadi jaminan.

<hr><i>ABSTRAK</i>

The agreement of the debit and credit is an agreement where someone handed over his money and the other side has an obligation to return him. The side that handed over this money has the right to ask again for his money from the other side to fill the achievement that must be carried out by the side that owned the money. According to the Article 1131 of Civil Code, the agreement that was made will tie every each property object of the owned money to be made off the paying guarantee of the debt. The guarantee towards the agreement cover the husband and wife's dowry as well as the mixed wealth along the marriage. This is accordance with the Article 35 (1) Number Regulation 1 in 1974 about the Marriage. According to the Article 1318 of Civil Code, if one of the side agreement died before fulfilling his achievement, then this agreement could be bequeathed to his heir to complete the achievement of the person who died. Therefore,

emerged the problem about the wealth that was made the paying off guarantee of the debt, could the wife's dowry be made the paying off guarantee of the husband's debt and could be despised seized the guarantee by the court, and if one of the sides in the agreement died before fulfilling his achievement, was his heir required to pay the debt along with the interest and his loss? In researching this problem, I used the normative legal research. The Republic of Indonesia Supreme Court decided that the wife's dowry could not be paying off guarantee of her husband's debt and could not be placed seized the guarantee in accordance with the Article 35 (2) jo 36 (2) Marriage regulation. Based on the Article 175 (2) of the Compilation of the Islam Law, the Republic of Indonesia Supreme Court also decided that the responsibility of his heir was only limited in the value of the Heir of the legacy wealth. The Implementation toward the agreement of the debit and credit that is receive in the community, is hope more pay attention to the available regulation, that is the civil code, and as well as pay attention to whether dowry the husband and wife or the association wealth that become the guarantee.</i>