

Penggunaan fotokopi berita acara serah terima tanah dan bangunan sebagai jaminan pelunasan utang (studi kasus Putusan Pengadilan Negeri Tangerang Nomor 385/PDT.G/2010/PN.TNG) = Application of copy acceptance of land and building as collateral debt settlement (case study of Tangerang district court verdict No. 385/PDT.G/2010/PN.TNG)

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Abstrak

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Tesis ini membahas mengenai penggunaan fotokopi berita acara serah terima tanah dan bangunan yang dijaminakan untuk pelunasan suatu utang. Fotokopi berita acara serah terima tanah dan bangunan ini tidak dijaminakan dengan suatu perjanjian jaminan secara nyata dan jelas. Selanjutnya, jaminan yang diberikan juga tidak melalui lembaga jaminan khusus. Sehingga permasalahan yang timbul, mengenai keabsahan penyerahan jaminan oleh debitor kepada kreditor tanpa suatu perjanjian jaminan dan kedudukan jaminan fotokopi berita acara serah terima tanah dan bangunan yang telah dijaminakan oleh debitor kepada kreditor.

Penelitian ini merupakan suatu penelitian yang berbentuk penelitian normatif yang bersifat deskriptif. Hasil penelitian ini adalah perjanjian jaminan yang dibuat tidak secara nyata dan jelas asal dengan kesepakatan para pihak adalah sah dan kedudukan fotokopi berita acara serah terima tanah dan bangunan yang dijaminakan adalah sebagai jaminan umum dan kreditor pemegang jaminan umum mempunyai kedudukan sebagai kreditor konkuren. Jaminan umum menurut Pasal 1131 KUHPerdara adalah segala kebendaan milik debitor baik yang bergerak maupun tidak bergerak dan yang sudah ada maupun yang akan ada di kemudian hari menjadi jaminan atas perikatan debitor. Sehingga seluruh kebendaan yang dimiliki debitor menjadi jamianaan pelunasan utangnya. Selanjutnya, disarankan agar ketika membuat suatu perjanjian lebih baik berbentuk tertulis dan otentik, serta jika menjaminkan suatu benda untuk pelunasan utang harus dengan lembaga jaminan khusus yang mudah dieksekusi jika terjadi wanprestasi.

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ABSTRACT

The focus of this Thesis is application of copy acceptance of land and building as collateral debt settlement. This copy acceptance of land and building implemented by an oral Collateral Agreement. This copy acceptance of land and building also implemented by collateral common. Research methods in this thesis is a normative legal research methods refers to the legal norms which is contained in the legislation that is descriptive research. According to article 1131 KUHPerdara

collateral common is every debtor assets not only moving assets but also unmoving assets and not only existing assets but also assets that will be later become collateral debt settlement. This copy acceptance of land and building implemented by an oral Collateral Agreement is lawful. Then position of this copy acceptance of land and building is collateral common. So that creditor position is competition creditor;The focus of this Thesis is application of copy acceptance of land and building as

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