

# Perlindungan hukum pemberi gadai pada pegadaian swasta di Jakarta = The legal protection of pledgors of private pawnshops in Jakarta

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## Abstrak

[Gadai lahir karena penyerahan kekuasaan atas barang gadai dari pemberi gadai kepada pegadaian. Pegadaian BUMN adalah lembaga yang sah dalam melakukan usaha berdasarkan hukum gadai. Seiring dengan berkembangnya kebutuhan hidup masyarakat akan dana tunai, banyak pihak swasta yang juga mendirikan Pegadaian Swasta di Jakarta. Sehubungan dengan itu maka timbul permasalahan bagaimana pelaksanaan atau proses pegadaian pada pegadaian swasta di Jakarta, dan bagaimana perlindungan hukum pemberi gadai pada pegadaian swasta di Jakarta. Jenis penelitian tesis ini adalah penelitian hukum normatif, metode analisis data yang digunakan adalah kualitatif. Bentuk hasil penelitian ini adalah preskriptif analitis. Analisis data dilakukan dengan mengumpulkan data primer dan data sekunder selanjutnya dilakukan evaluasi dan analisis secara kualitatif untuk membahas permasalahan yang ada. Proses gadai pada pegadaian swasta yang ada di Jakarta bertentangan dengan KUH Perdata terutama dalam Pasal 1159 ayat (1) dan ayat (2) dan Pasal 1425 mengenai Hak Kompensasi. Dalam mengeksekusi barang gadai pegadaian swasta di Jakarta juga tidak sesuai dengan ketentuan KUHPerdata dan Vendu Reglement jo. Peraturan Menteri Keuangan Nomor 93/PMK.06/2010 tentang Petunjuk Pelaksanaan Lelang yang sebagaimana diubah dengan Peraturan Menteri Keuangan Nomor 106/PMK.06/2013. Dalam hal perlindungan hukum, pemberi gadai tidak mendapatkan perlindungan hukum yang memadai karena Pemerintah belum mengatur suatu ketentuan yang mengatur praktek pegadaian swasta.; Pawn was born since the handover of a pledged good from a pledgor to a Pawnshop. The Indonesian State Owned Enterprises Pawnshop is a legitimate institution that doing business under the law. Along with the needs of cash in life necessities, many individuals setting up their own private pawnshops in Jakarta. The aforementioned situation then raise questions on how these private pawnshops operate and how the legal protection of pledgors of private pawnshops in Jakarta. The type of the research is Normative Legal Research using qualitative analyzing data method. The form of the result of this study is Prescriptive Analytical. Data Analyzing was performed by collecting and evaluating primary data and secondary data. The research found that the practices of the private pawnshops in Jakarta violated the Civil Code Article 1159 verse (1) and verse (2) and also Article 1425 with regard to Compensation Rights. The execution of pledged goods of private pawnshops in Jakarta also did not conform with the auction provisions of the Civil Code and the Auction Act (Vendu Reglement) jo. the Minister of Finance Regulation Number 93/PMK.06/2010 on the Implementations of Auction Guidelines as already amended by the Minister of Finance Regulation Number 106/PMK.06/2013. In terms of legal protection, the pledgors of private pawnshops do not have sufficient legal protection since there is no regulation governing the practice of private pawnshops has been enacted by the Government. , Pawn was born since the handover of a pledged good from a pledgor to a Pawnshop. The Indonesian State Owned Enterprises Pawnshop is a legitimate institution that doing business under the law. Along with the needs of cash in life necessities, many

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