

Perlindungan kepada kreditur yang hak tanggungannya tidak dapat dieksekusi (Analisis Atas Putusan Nomor: 396 K/Pdt/2009) =  
Protection to the creditor whose mortgage rights can not be executed  
(Analysis of Verdict Number : 396 K/Pdt/2009)

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Abstrak

[Tesis ini membahas tentang perlindungan kepada kreditur terhadap perjanjian kredit antara debitur dan kreditur dengan jaminan hak tanggungan untuk mengamankan kreditur apabila debitur cidera janji. Tetapi pada kenyataannya meskipun telah mendapat dan memegang hak tanggungan belum tentu posisi kreditur sepenuhnya aman, sebab tidak selalu hak tanggungan tersebut dapat dieksekusi sehingga mengakibatkan kerugian bagi kreditur. Penelitian ini adalah yuridis normatif dengan desain preskriptif. Analisis kasus dilakukan terhadap

putusan Mahkamah Agung Nomor 396 K/Pdt/2009 yang menyatakan bahwa kreditur tidak dapat mengeksekusi hak tanggungan yang diberikan sebagai jaminan kepadanya. Hasil penelitian menyatakan bahwa kurangnya komitmen kreditur dalam melaksanakan prinsip kehati-hatian dapat mengakibatkan kerugian bagi kreditur, maka dari itu disarankan agar kreditur menjalankan semua tahapan dalam proses penilaian calon debitur sehingga kreditur mendapat perlindungan

menyeluruh, dan notaris hanya bertanggung jawab sebatas kebenaran formal.;This thesis deals with protection for creditor over a credit agreement between a creditor and a debtor with security taking the form of mortgage right to protect the creditor if debtor is in default. However in practice in spite of having obtained and having held the mortgage right the position of creditor is not necessarily safe (secure), because the mortgage right is not always executable as to cause loss to creditor. This research (study) is judicially normative in prescriptive design. Case analysis is done on the Verdict of the Supreme Court Number: 396 K/Pdt/2009 stating that creditor cannot execute the mortgage right granted for him/her/its security. The research result shows that because creditor looking commitment in prudence principle may cause a loss to creditor, and therefore it is recommended that creditor should take all phases (action) in the assessment process of

prospective debtor so that creditor get an overall protection and notary public is only responsible to the extent of formal authenticity., This thesis deals with protection for creditor over a credit agreement between a

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