

## Fiat eksekusi dalam pelaksanaan lelang ditinjau dari undang-undang hak tanggungan nomor 4 tahun 1996 = fiat execution in auctions based on the mortgage law no 4 of 1996

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### Abstrak

[Tesis ini membahas tentang fiat eksekusi dalam pelaksanaan lelang Hak Tanggungan ditinjau dari Undang-Undang Hak Tanggungan. Banyaknya gugatan terhadap lelang eksekusi Hak Tanggungan meningkat akibat adanya perbedaan interpretasi atas ketentuan eksekusi barang jaminan pada Undang-Undang Hak Tanggungan Nomor 4 Tahun 1996 serta tidak lengkapnya aturan pelaksanaan di bawahnya, yaitu Peraturan Menteri Keuangan Republik Indonesia Nomor 106/PMK.06/2013. karena hal tersebut, maka dilakukan penulisan Tesis ini adalah untuk mengetahui ketentuan fiat eksekusi dalam pelaksanaan lelang Hak Tanggungan juga penerapan ketentuan fiat eksekusi dalam pelaksanaan lelang ditinjau dari Undang-Undang Hak Tanggungan. Penelitian ini menggunakan metode pendekatan yuridis normatif dengan spesifikasi penelitian deskriptif analitis yang melukiskan fakta-fakta berupa data dan data sekunder yang berhubungan dengan Hak Tanggungan. Berdasarkan hasil penelitian yang dilakukan, diketahui adanya ketidakselarasan antara ketentuan dalam Undang-Undang Hak Tanggungan yang dapat menimbulkan banyaknya interpretasi. Selanjutnya, terdapat ketidakharmonisan antara Undang-Undang Hak Tanggungan dengan peraturan pelaksanaannya. Peraturan Menteri Keuangan sebagai peraturan pelaksanaan Undang-Undang Hak Tanggungan tidak sepenuhnya terkait dengan undang-undang tersebut dan tidak mengatur secara lengkap pelaksanaan lelang eksekusi Hak Tanggungan; This thesis discusses the fiat execution in auctions based on the Mortgage Law. The number of lawsuits against auction execution has increased substantially due to different interpretations of articles on collateral execution of the Mortgage Law No. 4 of 1996 and incomplete rules of the implementing regulation, namely the Minister of Finance Regulation No. 106/PMK.06/2013. Therefore, the thesis is aimed to examine whether the auction execution of mortgages apply the provisions of fiat execution stipulated in the Mortgage Law No. 4 of 1996. This study uses normative juridical approach to the specification of descriptive analytical research depicting the facts in the form of primary data and secondary data relating to mortgage, based on the results of research conducted. The author found that the auction execution rules of the Mortgage Law No. 4 of 1996 could create multi-interpretations. Furthermore, there is lack of harmony between the Mortgage Law and its implementing regulation. The Minister of Finance Regulation as an implementing regulation does not fully relate to the law and does not comprehensively regulate the auction execution of mortgages., This thesis discusses the fiat execution in auctions based on the Mortgage Law. The number of lawsuits against auction execution has increased substantially due to different interpretations of articles on collateral execution of the Mortgage Law No. 4 of 1996 and incomplete rules of the implementing regulation, namely the Minister of Finance Regulation No. 106/PMK.06/2013. Therefore, the thesis is aimed to examine whether the auction execution of mortgages apply the provisions of fiat execution stipulated in the Mortgage Law No. 4 of 1996. This study uses normative juridical approach to the specification of descriptive analytical research depicting the facts in the form of primary data and secondary data relating to mortgage, based on the results of research conducted. The author found that the auction execution rules of the Mortgage Law No. 4 of 1996 could

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