

Perlindungan hukum kreditur terhadap peralihan jaminan hak tanggungan dalam jual beli piutang melalui Cessie : studi kasus Putusan Pengadilan Negeri Nomor 79/Pdt.G/2019/PN Tab dan Putusan Peninjauan Kembali Nomor 754 PK/Pdt/2011 = Legal protection of creditor for the transfer of mortgage guarantees in the sale and purchase of receivables by using Cessie : study case Putusan Pengadilan Negeri Nomor 79/Pdt.G/2019/PN Tab and Putusan Peninjauan Kembali Nomor 754 PK/Pdt/2011

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Abstrak

Bank selaku kreditur seringkali mengalihkan piutang melalui cessie terhadap kredit. Persoalan yang timbul setelah piutang dialihkan identik dengan keterkaitan keabsahan cessie terhadap peralihan jaminan hak tanggungan yang diikatkan pada perjanjian pokok. Timbul perbedaan implementasi hukum pada tiap-tiap perbedaan kondisi. Adapun permasalahan yang diangkat dalam penelitian ini yaitu mekanisme pengalihan piutang melalui cessie pada bank konvensional menurut hukum Indonesia, perkembangan pengaturan pendaftaran peralihan hak tanggungan karena cessie, dan akibat hukum pengalihan piutang (cessie) terhadap objek jaminan hak tanggungan berdasarkan Putusan Pengadilan Negeri Nomor 79/Pdt.G/2019/PN Tab dan Putusan Peninjauan Kembali Nomor 754 PK/Pdt/2011. Metode penelitian yang digunakan adalah penelitian yuridis normatif yang menitikberatkan pada penggunaan data sekunder berupa peraturan perundang-undangan, penelusuran literatur, serta wawancara narasumber dari pihak Bank Konvensional dan Badan Pertanahan Nasional dengan pendekatan kualitatif, dan tipologi penelitian deskriptif.

Berdasarkan hasil analisis dapat ditarik kesimpulan bahwa Mekanisme pengalihan piutang melalui cessie pada Bank Tabungan Negara (BTN) menurut Pasal 613 KUHPerdara dan Perjanjian Kredit antara BTN dengan debitur dilakukan sebagai salah satu cara penyelamatan kredit macet. Cessie telah mengalami perubahan metode dari yang sebelumnya dilakukan secara konvensional dengan beban tanggung jawab pengecekan berkas berada di Kantor Pertanahan saja menjadi secara elektronik yang telah membagi tanggung jawab pengecekan berkas kepada Kantor Pertanahan, Kreditur, dan PPAT. Walaupun hak tanggungan yang terikat pada perjanjian pokok ikut beralih ke kreditur baru secara hukum, tetapi tetap perlu dilakukan serangkaian prosedur administrasi dengan mendaftarkan peralihan hak tanggungan dalam rangka memenuhi syarat publisitas di Kantor Pertanahan tempat jaminan berada.

.....Banks act as creditors for selling receivables through a cessie to credit. Problems that arise after the transfer of receivables are identical to the relevance of the validity of the cessie to the mortgage guarantee transfer stipulated in the main agreement. There are differences in the legal consequences in each conditions. The problems discussed in this research are the mechanism through a cessie in conventional banks according to Indonesian law, the development of the regulation on registration of transfer of mortgage, and the legal consequences of the act (cessie) on objects of mortgage guarantee based on the District Court Decision Number 79/Pdt. G/2019/PN Tab and Judicial Review Decision Number 754 PK/Pdt/2011. This research used normative juridical research method which focuses on the use of secondary data in the form of legislation, literatures, as well as interviewing sources from the Conventional Bank and

Badan Pertanahan Nasional with a qualitative approach, and descriptive research typology. Based on the analysis, it can be concluded that the mechanism through the cessie at the Bank Tabungan Negara (BTN) according to Article 613 of the Civil Code and the Credit Agreement between BTN and the debtor is carried out as one way of non-performing loan. Cessie has experienced a change from what was previously done conventionally with the responsibility of checking files being handled by the Land Office transformed into using electronic method that divides the responsibility of checking files to the Land Office, Creditors, and PPAT. Even though the mortgage applicable in the main agreement is legally transferred to the new creditor, it still needs to be carried out through registration of transfer of mortgage in order to fulfill the publicity requirements at Badan Pertanahan Nasional where the collateral land is located.