

Eksekusi Objek Jaminan Fidusia oleh Perusahaan Pembiayaan Diluar Pengadilan (Studi Putusan Pengadilan Negeri Gorontalo Nomor 60/PDT.G/2019/PN.GTO dan Putusan Pengadilan Negeri Sumber Nomor 25/PDT.G/2020/PN.SBR) = Execution of Fiduciary Guarantee Objects by Finance Companies Out of Court (Study District Court of Gorontalo Decision Number 60/PDT.G/2019/PN.GTO and District Court of Sumber Decision Number 25/PDT.G/2020/PN.SBR)

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Abstrak

Tesis ini membahas mengenai pelaksanaan eksekusi objek jaminan fidusia yang dilakukan diluar pengadilan, lebih khusus setelah diputusnya Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 yang diperkuat dengan Putusan Mahkamah Konstitusi Nomor Nomor 2/PUU-XIX/2021. Sebagaimana dikemukakan dalam Putusan Pengadilan Negeri Gorontalo Nomor 60/PDT.G/2019/PN.GTO dan Putusan Pengadilan Negeri Sumber Nomor 25/PDT.G/2020/PN.SBR. dimana Perusahaan Pembiayaan melaksanakan eksekusi objek jaminan fidusia diluar pengadilan melalui titel eksekutorial namun pihak lain tidak menghendaki hal tersebut. Permasalahan pada penelitian ini tentang pelaksanaan eksekusi objek jaminan fidusia dalam kedua putusan tersebut yang dilaksanakan sebelum Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 disahkan, namun diputus setelah putusan Mahkamah Konstitusi tersebut disahkan. Untuk menjawab permasalahan tersebut digunakan metode penelitian hukum yuridis normatif menggunakan pendekatan perundang-undangan serta kasus dengan menggunakan data sekunder disertai tipologi penelitian eksplanatoris. Dalam penelitian ini ditemukan bahwa pelaksanaan eksekusi objek jaminan fidusia boleh dilakukan tanpa melalui pengadilan, namun harus tetap berdasar pada Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia dan Putusan Mahkamah Konstitusi 18/PUU-XVII/2019 diperkuat dengan Putusan Mahkamah Konstitusi 2/PUU-XIX/2021 sehingga Perusahaan Pembiayaan harus memperbaharui pedoman dalam rangka pelaksanaan eksekusi objek jaminan fidusia.

.....This thesis discusses about the execution of fiduciary guarantee objects which are held outside the court, especially after the Constitution Court Decision Number. 18/PUU-XVII/2019 has been applied which is strengthened by Constitution Court Decision Number. 2/PUU-XIX/2021. As has been informed in District Court of Gorontalo Decision Number 60/PDT.G/2019/PN.GTO and District Court of Sumber Decision Number 25/PDT.G/2020/PN.SBR where Consumer Finance executes fiduciary guarantee objects outside the court through the parate executie but the consumers do not desire it. The problem in this research is about The Financing Company carries out the execution of the object of the fiduciary guarantee out of court through the executorial title but the other party does not want this. The problem in this study is about the execution of the object of fiduciary security in the two decisions which were carried out before the Constitutional Court Decision Number 18/PUU-XVII/2019 was ratified, but was decided after the Constitutional Court's decision was ratified. To solve this problem, normative juridical law research method is used with legislation and case approach using secondary data accompanied by explanatory research typology. This research found that the execution of the object of fiduciary security may be carried out without going through a court, but it must still be based on Law Number 42 of 1999 concerning Fiduciary

Guarantees and the Constitutional Court Decision 18/PUU-XVII/2019 strengthened by Constitutional Court Decision 2/PUU-XIX/2021 so that the Finance Company must update the guidelines in the context of implementing the execution of the object of fiduciary security.