

Kewajiban Pembayaran Utang Berdasarkan Akta Cessie (Studi Putusan Pengadilan Niaga Pada Pengadilan Negeri Jakarta Pusat Nomor Nomor 131/PDT.SUS-PKPU/2018/PN.JKT.PST) = Role Of Public Notary Related Submitting Applications For Suspension Of Payment Based On The Cessie Deed (Study Of Commercial Court Decisions Of Jakarta District Court Number 131/PDT.SUS-PKPU/2018/PN.JKT.PST)

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Abstrak

Penelitian untuk tesis ini difokuskan pada penyelesaian utang jaminan fidusia terhadap debitur yang meninggal dunia sebagaimana ditemukan dalam perkara pada Putusan Pengadilan Negeri Jambi Nomor 127/Pdt.G/2019/Pn-Jmb. Sengketa di dalam perkara tersebut adalah berkaitan dengan beralihnya utang jaminan fidusia kepada debitur baru. Oleh karena itu permasalahan yang diangkat dalam penelitian ini adalah tentang akibat hukum yang terjadi apabila debitur dalam perjanjian fidusia meninggal dunia. Selain itu juga peran notaris dalam penyelesaian utang jaminan fidusia terhadap debitur yang meninggal dunia. Bentuk penelitian ini adalah yuridis normatif di mana data sekunder dikumpulkan melalui studi kepustakaan. Hasil analisis secara kualitatif menemukan bahwa perjanjian fidusia mengikuti perjanjian pokok, sehingga apabila perjanjian pokok kredit beralih maka perjanjian fidusianya pun akan ikut berpindah kepada debitur baru. Apabila debitur tersebut meninggal dunia maka jaminan fidusia menjadi jaminan kebendaan yang akan mengikuti kepada siapa yang memilikinya, sehingga dapat beralih kepada ahli waris yang menerima harta dari pewaris selaku debitur. Adapun peran notaris dalam konteks penyelesaian utang jaminan fidusia terhadap debitur yang meninggal dunia adalah tidak hanya berperan dalam pembuatan akta fidusia, tetapi juga memberikan penyuluhan hukum tentang pemberian utang jaminan fidusia ke pihak ketiga sesuai dengan ketentuan perundang-undangan.

.....Notaries have a strategic and crucial role in supporting business (business) activities, but in fact, not always the products produced by a notary can provide legal certainty for business transactions that have been carried out. This can lead to a dispute as the case registered in the Central Jakarta District Court under Number 131/Pdt.Sus-PKPU/2018/PN.Niaga.Jkt.Pst. The dispute is related to bankruptcy, in this case the change of creditor from the old one to the new one through a cessie deed, which must be known or approved by the debtor. As an authentic deed, the cessie deed should have perfect proving power, but in reality the validity of the cessie deed is questionable. Therefore, the problems raised in this study are the position of the cessie deed in fulfilling the requirements for the application for Suspension of Debt Payment Obligations (PKPU) and the role of the notary as the compiler of the cessie deed in the a quo case. To answer this problem, juridical-normative research is used. Where the secondary data obtained through document studies are then analyzed qualitatively. From the analysis carried out, it can be stated that although the cessie deed is an authentic deed, in the context of the PKPU case, simple proof must be carried out. In addition, it must also consider the position of the debtor, the validity and binding power of the cessie to the debtor. In relation to the role of a notary, it can be explained that as a public official, a notary must ensure that the cessie has been carried out in accordance with the applicable legal provisions, impartially. Therefore, the notary should play an active role in giving notification to the debtor after confirming that the obligatory agreement on the

cessie is not a simulated agreement.