

# Implementasi Asas didahulukan untuk Menjamin Pelunasan Kredit melalui Lelang KPNN Berdasarkan Putusan Mahkamah Agung Nomor 473K/Pdt/2021 = Implementation of Prioritisation Principles to Ensure Credit Payment through Auction KPNN Based on Supreme Court Decision Number 473K/Pdt/2021

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## Abstrak

Pengikatan Hak Tanggungan dilakukan perbankan sebagai persyaratan dalam penyaluran kredit harus dilakukan dengan sempurna, sehingga sebagai kreditur memiliki perlindungan terhadap kepentingannya untuk mendapatkan pelunasan kredit. Namun pada praktiknya kreditur sering kali dihadapkan oleh perlawanan yang dilakukan oleh debitur pada saat dilakukan lelang melalui Kantor Pelayanan Kekayaan Negara dan Lelang. Penelitian ini berdasarkan putusan Mahkamah Agung Nomor 473K/Pdt/2021 antara Nyonya X melawan PT. Panin Bank KPR Centre Pekanbaru. Fokus permasalahan karya ilmiah ini bagaimana Eksekusi Hak Tanggungan yang diikat terhadap agunan berdasarkan Putusan Mahkamah Agung Nomor 473K/Pdt/2021 menurut Undang-undang Hak Tanggungan dan PMK 27/PMK.06/2016 dan kesesuaian putusan peradilan dalam pertimbangan Putusan Mahkamah Agung Nomor 473K/Pdt/2021, tujuan penulisan menganalisis proses pengikatan Hak Tanggungan serta implementasi asas didahulukan dalam penyelesaian kredit sesuai Undang-undang Hak Tanggungan berdasarkan Putusan Mahkamah Agung Nomor 473K/Pdt/2021, metode penelitian hukum doktrinal digunakan dalam karya tulis ini. Mahkamah Agung menolak permohonan kasasi pemohon dan menyatakan putusan Pengadilan Tinggi Pekanbaru tidak salah dalam penerapan hukumnya dan menyatakan perlawanan bersifat prematur. Penulis sependapat dengan keputusan kasasi tersebut karena eksekusi Hak Tanggungan belum dilakukan oleh pihak kreditur. Implementasi dari asas didahulukan dalam Hak Tanggungan dapat dilihat dari Bank sebagai kredit bila debitur mengalami wanprestasi, maka kreditur dapat melakukan penjualan jaminan untuk mendapatkan pelunasan. ....Banks must perfect the bonding of Mortgage Rights as a necessity in lending so that the creditor has protection for his interests in obtaining credit payback. In practise, however, creditors are frequently met with resistance from debtors when auctions are performed through the Office of State Assets Services and Auctions. This study is based on the Supreme Court decision 473K/Pdt/2021 between Mrs. X and PT. Panin Bank KPR Centre Pekanbaru. The problem addressed in this scientific study is how to execute mortgage rights that are collateralized in accordance with Supreme Court Decision Number 473K/Pdt/2021 according to the Mortgage Law and PMK 27/PMK.06/2016 and the suitability of court decisions in consideration of the Supreme Court Decision Number 473K/ Pdt/2021, The goal of this article is to analyse the process of binding Mortgage Rights and implementing the principle of taking precedence in credit settlement according to Mortgage Law based on Supreme Court Decision Number 473K/Pdt/2021, and the doctrinal legal research approach is employed. The Supreme Court rejected the petitioner's cassation and ruled that the Pekanbaru High Court's decision was not incorrect in its application of law and that the resistance was premature. The author agrees with the cassation ruling because the creditor did not carry out the execution of the Mortgage. If the debtor is in default, the creditor can sell the property to get repayment.