

Analisis Peran Penyidik Sat Reskrim Polres Pandeglang Terhadap Tindak Pidana Pengalihan Objek Jaminan Fidusia = Analysis of Polres Pandeglang Crime Investigator's Role Regarding to the Transfer of Objects Fiduciary Guarantees

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Abstrak

Tindak pidana pengalihan objek jaminan fidusia menjadi salah satu perkara penting yang banyak ditangani oleh penyidik di Satuan Reserse Kriminal khususnya di wilayah hukum Polres Pandeglang. Banyak lembaga jasa pembayaran yang mengeluhkan bahwa debitur yang tidak mampu melaksanakan kewajibannya kemudian melakukan take over di bawah tangan atau sepengetahuan leasing. Banyak masyarakat awam yang mengira bahwa mengalihkan objek jaminan fidusia hanyalah ranah perdata yang apabila dikemudian hari terjadi ganti rugi maka permasalahan selesai. Namun yang diatur dalam UU No. 42 tahun 1999 tentang Jaminan Fidusia khususnya di pasal 36 menyebutkan bahwa debitur yang mengalihkan objek jaminan fidusia jelas melakukan tindak pidana. Ditambah lagi pihak-pihak ketiga, keempat, dan seterusnya menganggap bahwa permasalahan tersebut hanyalah sebatas antara kreditur dan debitur atau yang bertanda tangan dalam kontrak. Dalam hal ini penyidik Polres Pandeglang, mempunyai peran penting dalam penegakan hukum. Apalagi dalam azas hukum dikenal adanya azas keadilan, yang mana dalam perkara pengalihan objek jaminan fidusia, harus dituntaskan sampai ke tangan terakhir. Dijelaskan juga bahwa perbuatan melawan hukum berkaitan dengan tindakan yang dapat menimbulkan kerugian bagi pihak lain sehingga pihak tersebut dapat memberikan gugatan, sehingga dapat dimaknai bahwa penerima objek jaminan fidusia di luar dari kontrak pun melakukan tindak pidana. Namun dalam hal ini, terdapat beberapa kendala yang dialami penyidik seperti sulitnya mencari alat bukti yang mengarah tentang take over di bawah tangan, kemudian barang bukti yang sulit ditemukan, serta terlapor maupun saksi yang sulit untuk dimintai keterangan. Sehingga tujuan dari penelitian ini yaitu mengetahui sejauh mana peran penyidik Sat Reskrim Polres Pandeglang dalam menangani perkara pengalihan objek jaminan fidusia dengan menggunakan teori peran, konsep perbuatan melawan hukum, konsep penyidikan, serta konsep fidusia itu sendiri. Dalam penelitian ini digunakan metode kualitatif dengan tipe penelitian studi kasus agar lebih tajam dalam menganalisa peran penyidik.

.....The crime of transferring the object of fiduciary security is one of the important cases that is handled by many investigators in the Criminal Investigation Unit, especially in the jurisdiction of the Pandeglang Police. Many payment service institutions complain that debtors who are unable to carry out their obligations then take over under the hand or with the knowledge of the leasing. Many ordinary people think that transferring the object of fiduciary guarantees is only a civil matter, if compensation occurs in the future, the problem will be solved. However, what is regulated in Law no. 42 of 1999 concerning Fiduciary Guarantees, especially in article 36 states that the debtor who transfers the object of the fiduciary guarantee is clearly committing a crime. In addition, third, fourth and so on parties consider that the problem is only between the creditor and the debtor or those who sign the contract. In this case the Pandeglang Police investigator has an important role in law enforcement. Moreover, in the principle of law, there is a principle of justice, which in cases of transfer of objects of fiduciary guarantees, must be completed to the last hand. It

was also explained that acts against the law are related to actions that can cause harm to other parties so that the party can file a lawsuit, so it can be interpreted that the recipient of the fiduciary object outside of the contract also commits a crime. However, in this case, there were several obstacles experienced by investigators, such as the difficulty in finding evidence that led to underhanded take-over, then evidence that was difficult to find, and the reported and witnesses who were difficult to question. So that the purpose of this study is to find out the extent of the role of investigators from the Criminal Investigation Unit of the Pandeglang Police in handling cases of transferring fiduciary guarantee objects by using role theory, the concept of unlawful acts, the investigative concept, and the fiduciary concept itself. In this study a qualitative method was used with the type of case study research in order to be sharper in analyzing the role of the investigator.</p>