

## Eksekusi Jaminan Fidusia Secara Langsung oleh Kreditor (Studi Kasus Putusan Mahkamah Agung Nomor 1978 K/PDT/2020) = Execution Of Fiduciary Guarantees Directly by Creditors (Case Study of Supreme Court Decision No 1978 K/PDT/2020)

Nayaka Fally Diarsa, author

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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. Sebagaimana dikemukakan dalam Putusan Mahkamah Agung Nomor 1978 K/PDT/2020 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 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 sehingga Perusahaan Pembiayaan harus memperbaharui pedoman dalam rangka pelaksanaan eksekusi objek jaminan fidusia.

.....This thesis discusses about the implementation of the execution of fiduciary guarantee objects that are carried out outside the court, more specifically after the decision of the Constitutional Court Number 18/PUU-XVII/2019. As stated in the Supreme Court Decision Number 1978 K/PDT/2020 where the Financing Company executes the fiduciary guarantee object outside the court through an executorial title but other parties do not want this. The problem in this study is the implementation of the execution of the fiduciary guarantee object in the decision which was carried out before the Constitutional Court Decision Number 18/PUU-XVII/2019 was ratified, but was decided after the Constitutional Court decision was ratified. To answer these problems, normative juridical law research methods are used using statutory and case approaches using secondary data accompanied by an explanatory research typology. In this study it was found that the execution of fiduciary guarantee objects may be carried out without going through a court, but must still be based on Law Number 42 of 1999 concerning Fiduciary Guarantees and Constitutional Court Decision 18/PUU-XVII/2019 so that Financing Companies must update the guidelines in the context of implementing the execution of fiduciary guarantee objects.