

Perlindungan Hukum Bagi Penerima Fidusia Berdasarkan Undang - Undang Nomor 42 Tahun 1999 Tentang Jaminan Fidusia (Studi Kasus Terhadap Putusan Mahkamah Agung RI No. 2654 K/PDT/2011) = The Legal Protection For Fiduciary Receiver Pursuant To The Act Number 42 Year 1999 Concerning Fiducia (Case Study On Indonesia Supreme Court Decision Number 2654 K/PDT/2011)

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Abstrak

Tesis ini membahas mengenai perlindungan hukum bagi penerima fidusia apabila terjadinya wanprestasi atas suatu perjanjian fidusia berdasarkan Undang Undang Jaminan Fidusia, akibat hukum bagi Pihak Ketiga mengajukan sita eksekusi atas objek jaminan fidusia, serta perlindungan hukum bagi pemberi fidusia atas permohonan sita eksekusi yang diajukan oleh Pihak Ketiga berdasarkan pertimbangan Mahkamah Agung dalam memutus perkara yang berkaitan. Metode penelitian yang digunakan adalah yuridis normatif. Hasil penelitian adalah apabila pemberi fidusia melakukan wanprestasi maka penerima fidusia dapat melakukan sita eksekusi, penjualan dibawah tangan dan pelelangan atas objek jaminan fidusia, dan apabila Pihak Ketiga mengajukan permohonan sita eksekusi atas benda yang bukan miliknya, maka perbuatan tersebut merupakan perbuatan melawan hukum.

.....This thesis discusses about the legal protection for fiduciary reciever should there be any default of fiduciary agreement arrises pursuant to the Fiduciary Act; the legal consequences for the third party who file the executorial seizure of the fiduciary object; and the legal protection for the fiduciary giver of the executorial seizure filed by the third party based on the Supreme Court consideration in making decision for the related dispute. This thesis uses an analytical method through approach of normative juridis. The result shows that if there is any default conducted by the fiduciary giver, therefore the fiduciary giver may process the executorial seizure and conduct the under hand sale and purchase agreement and auction for the fiduciary object. Furthermore, if the third party files the executorial seizure request for the objects that do not belong to them, then the party has conducted an unlawful act.