

ABSTRAK

Jaminan fidusia merupakan hak jaminan atas benda, baik berwujud maupun tidak berwujud, yang kepemilikannya dialihkan kepada kreditur berdasarkan asas kepercayaan sementara objeknya tetap dikuasai debitur. Saham sebagai benda bergerak tidak berwujud dapat dijadikan objek fidusia dan dieksekusi apabila debitur wanprestasi. Penelitian ini bertujuan menganalisis pelaksanaan eksekusi jaminan fidusia atas saham pada Perseroan Terbuka (PT Tbk) dan Perseroan Tertutup (PT), beserta kendala dan solusinya. Metode yang digunakan adalah penelitian hukum empiris, dengan pendekatan yuridis-normatif yang didukung oleh data lapangan hasil wawancara dengan DJKN dan Bursa Efek Indonesia (BEI).

Hasil penelitian menunjukkan bahwa eksekusi saham pada PT Tbk relatif lebih efektif karena didukung oleh sistem digital KSEI dan mekanisme crossing di BEI, meskipun masih menghadapi hambatan berupa disharmoni regulasi antar UUJF, UUPT, dan UU Pasar Modal, serta kurangnya koordinasi antar lembaga. Sebaliknya, pada PT Tertutup, eksekusi menghadapi kendala karena tidak adanya database saham terpusat, keterbatasan akses terhadap Daftar Pemegang Saham (DPS), serta belum tersedia mekanisme pemblokiran saham secara digital. Solusi yang diusulkan antara lain pembentukan Fiduciary Share Registry System, integrasi data antara DJKN–Kemenkumham–OJK–AHU, penyusunan SOP eksekusi fidusia saham, dan peningkatan literasi hukum bagi kreditur maupun instansi terkait.

Kata kunci: Jaminan Fidusia, Eksekusi, Saham, PT Terbuka, PT Tertutup

ABSTRACT

Fiduciary security is a security right over tangible or intangible assets, in which ownership is transferred to the creditor on a trust basis while the object remains under the debtor's control. Shares, as intangible movable property, may serve as fiduciary collateral and be subject to execution upon default. This study analyzes the implementation of fiduciary security execution over shares in Public (Tbk) and Private Limited Companies, including the obstacles encountered and proposed solutions. The research applies an empirical legal method with a normative-juridical approach, supported by field data obtained from interviews with DJKN and the Indonesia Stock Exchange (IDX).

The findings reveal that execution in public companies is relatively more effective due to KSEI's electronic depository system and crossing mechanism in the stock exchange, although hindered by regulatory disharmony between the Fiduciary Law, Company Law, and Capital Market Law, as well as weak inter-agency coordination. In private companies, challenges include the absence of a centralized share registry, limited access to the Shareholders Register, and the lack of a digital blocking mechanism. The study proposes the establishment of a Fiduciary Share Registry System, integration of data among DJKN, MoLHR, OJK, and AHU, the issuance of standardized fiduciary execution SOPs, and improved legal literacy among creditors and related authorities.

Keywords: *fiduciary security, execution, shares, public company, private company*