

ABSTRAK

Perkembangan praktik pembiayaan di Indonesia mendorong meningkatnya penggunaan jaminan fidusia sebagai instrumen perlindungan hukum bagi kreditur dan debitur. Permasalahan muncul setelah Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 yang mengubah mekanisme pelaksanaan eksekusi jaminan fidusia, sehingga menimbulkan kebutuhan akan penguatan peran notaris dalam menjamin kepastian hukum dan kekuatan eksekutorial sertifikat jaminan fidusia.

Penelitian ini bertujuan untuk menganalisis pelaksanaan eksekusi jaminan fidusia pasca putusan Mahkamah Konstitusi serta mengkaji penguatan peran notaris dalam menjaga kekuatan eksekutorial sertifikat jaminan fidusia dalam sistem hukum Indonesia. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Data diperoleh melalui studi kepustakaan terhadap bahan hukum primer, sekunder, dan tersier yang dianalisis secara deskriptif analitis.

Hasil penelitian menunjukkan bahwa sertifikat jaminan fidusia tetap memiliki kekuatan eksekutorial, namun pelaksanaannya tidak lagi dapat dilakukan secara sepihak apabila terdapat keberatan dari debitur mengenai wanprestasi. Penguatan peran notaris diperlukan melalui penyusunan akta autentik yang jelas, sah, dan sesuai ketentuan hukum guna meminimalkan sengketa dalam pelaksanaan eksekusi. Secara umum, penelitian ini menyimpulkan bahwa penguatan peran notaris memiliki fungsi strategis dalam menjamin kepastian hukum, perlindungan para pihak, dan efektivitas kekuatan eksekutorial sertifikat jaminan fidusia pasca Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019.

Kata Kunci: Peran Notaris, Kekuatan Eksekutorial, Jaminan Fidusia, Putusan Mahkamah Konstitusi.

ABSTRACT

The development of financing practices in Indonesia has increased the use of fiduciary guarantees as a legal instrument providing protection for both creditors and debtors. Legal issues arose following Constitutional Court Decision Number 18/PUU-XVII/2019, which changed the mechanism for executing fiduciary guarantees, thereby creating the need to strengthen the role of notaries in ensuring legal certainty and the executorial power of fiduciary guarantee certificates.

This study aims to analyze the implementation of fiduciary guarantee execution after the Constitutional Court decision and to examine the strengthening of the notary's role in maintaining the executorial power of fiduciary guarantee certificates within the Indonesian legal system. The research employed a normative juridical method using statutory, conceptual, and case approaches. Data were collected through library research on primary, secondary, and tertiary legal materials, which were analyzed descriptively and analytically.

The results indicate that fiduciary guarantee certificates still possess executorial power; however, their execution can no longer be carried out unilaterally when the debtor disputes the occurrence of default. Strengthening the role of notaries is necessary through the preparation of authentic deeds that are clear, legally valid, and compliant with applicable legal provisions in order to minimize disputes in the execution process. In general, this study concludes that strengthening the role of notaries has a strategic function in ensuring legal certainty, protecting the interests of the parties, and maintaining the effectiveness of the executorial power of fiduciary guarantee certificates after Constitutional Court Decision Number 18/PUU-XVII/2019.

Keywords: *Role of Notary, Executorial Power, Fiduciary Guarantee, Constitutional Court Decision.*