ABSTRAK

Pada dasarnya, Hak Tanggungan memiliki prinsip yang mendasar yaitu memberi kemudahan bagi para kreditor pemegang Hak Tanggungan untuk mengambil pelunasannya sendiri manakala debitor wanprestasi. Namun *parate executie* masih sering menemui permasalahan dalam pelaksanaannya. Kontradiksi tersebut timbul karena perbedaan amanat Putusan Mahkamah Agung Nomor 3021K/Pdt/1984 tertanggal 30 Januari 1986 dengan Undang-Undang Nomor 4 Tahun 1996 tentang Hak Tanggungan.

Perbedaan tersebut berpengaruh terhadap cara pandang hakim yang bersifat independen dalam memutus suatu perkara. Analisis mengenai hubungan antara peraturan yang berlaku dalam pelaksanaan eksekusi Hak Tanggungan yang dilakukan tanpa melalui Lelang Eksekusi dilakukan dengan studi kasus Putusan Nomor 159/Pdt/2020/PT.Smg dapat dilakukan menggunakan metode yuridis normatif dan spesifikasi penelitian deskriptif analitis yang diperkuat dengan wawancara hakim.

Dari penelitian tersebut diperoleh hasil bahwa kontradiksi dari pelaksanaan eksekusi Hak Tanggungan yang dilakukan melalui Lelang Non Eksekusi Berdasarkan Putusan Pengadilan Tinggi Jawa Tengah Nomor 159/Pdt/2020/PT.Smg terjadi akibat dilaksanakannya eksekusi Hak Tanggungan yang hanya didasarkan pada UUHT tanpa dibarengi dengan analisis dan pengetahuan hakim terhadap Penjelasan dalam Undang-Undang terkait serta peraturan pelaksanaan yang sebenarnya. Berkaitan dengan hal tersebut mengenai hubungan antara peraturan yang berlaku dalam pelaksanaan eksekusi Hak Tanggungan yang dilakukan tanpa melalui Lelang Eksekusi sudah seharusnya menggunakan Reglemen HIR dan Rbg khususnya Pasal 224 HIR yang menyatakan bahwa setiap eksekusi *grosse hypotheek* harus melalui dan dipimpin oleh Ketua Pengadilan Negeri karena Undang-Undang Hak Tanggungan lahir tanpa dibekali dengan peraturan pelaksanaan, oleh sebab itu sebaiknya dalam pelaksanaannya harus mengacu pada peraturan pelaksanaan yang masih berlaku.

Kata Kunci : *Lelang Eksekusi, Hak Tanggungan, Putusan Pengadilan.*

ABSTRACT

Basically, the Mortgage has a fundamental principle, which is to make it easy for creditors who hold the Mortgage to take their own payments when the debtor defaults. However, parate executies still often encounter problems in their implementation. This contradiction arises because of the difference in the mandate of the Supreme Court Decision Number 3021K / Pdt / 1984 dated January 30, 1986 with Law Number 4 of 1996 concerning Mortgage Rights.

These differences have an effect on the perspective of judges who are independent in deciding a case. The analysis of the relationship between the applicable regulations in implementing the execution of the Mortgage which is carried out without going through the Execution Auction is carried out with a case study of Decision Number 159 / Pdt / 2020 / PT.Smg can be carried out using the normative juridical method and analytical descriptive research specifications which are strengthened by interviews of judges.

From this research, it was found that the contradiction in the execution of the mortgage execution which was carried out through the Non-Execution Auction based on the Decision of the Central Java High Court Number 159 / Pdt / 2020 / PT.Smg occurred due to the execution of the Mortgage which was only based on UUHT without being accompanied by analysis and the judge's knowledge of the Elucidation in the relevant Law as well as the actual implementing regulations. In this regard, the relationship between the applicable regulations in the implementation of the execution of Mortgage Rights which is carried out without going through the Execution Auction should use the HIR and Rbg Reglemen, especially Article 224 HIR which states that every grosse hypotheek execution must go through and be led by the Head of the District Court because of the Law The Mortgage Rights Law was born without any implementing regulations, therefore it is better if its implementation must refer to the implementing regulations that are still in effect.

Keywords: Execution Auction, Mortgage, Court Decision.