

Abstrak

PERLINDUNGAN HUKUM DALAM PELAKSANAAN EKSEKUSI JAMINAN FIDUSIA PASCA PUTUSAN MAHKAMAH KONSTITUSI NOMOR 18/PUU-XVII/2019

Lahirnya putusan mahkamah konstitusi nomor 18/PUU-XVII/2019 karena adanya permohonan gugatan oleh korban tindakan sewenang-wenang *debt collector* yang diberi tugas oleh penerima fidusia untuk eksekusi barang yang dikuasai tanpa melalui prosedur hukum yang benar. Putusan mahkamah konstitusi mengubah pengertian dari frasa kekuatan eksekutorial terhadap sertifikat fidusia, sama dengan putusan pengadilan dan cidera janji. Putusan mahkamah konstitusi tersebut dianggap berpotensi menimbulkan sejumlah dampak tidak hanya bagi pihak penerima fidusia namun juga pemberi fidusia, sehingga diperlukan perlindungan hukum terhadap penerima fidusia dan pemberi fidusia dengan adanya putusan tersebut.

Metode penelitian yang digunakan dalam tesis ini adalah metode pendekatan hukum yuridis normatif, spesifikasi penilitan yang digunakan adalah deskriptif analitis, sumber dan jenis data menggunakan data sekunder. Teknik pengumpulan data menggunakan studi kepustakaan dan Teknik analisis data yang digunakan dengan analisis kualitatif.

Hasil penelitian menunjukkan bahwa sebelum putusan mahkamah konstitusi nomor 18/PUU-XVII/2019 pelaksanaan eksekusi jaminan fidusia dilakukan secara sepihak oleh penerima fidusia. Setelah putusan mahkamah konstitusi bilamana eksekusi dilakukan secara sepihak oleh penerima fidusia namun pemberi fidusia tidak terima, maka permohonan eksekusi dapat dilakukan melalui pengadilan. Putusan mahkamah konstitusi memberikan perlindungan hukum bagi pemberi fidusia namun tidak memberi rasa keadilan serta perlindungan hukum bagi penerima fidusia.

Kata Kunci : *Eksekusi, Jaminan Fidusia, Perlindungan Hukum*

Abstract

LEGAL PROTECTION IN THE IMPLEMENTATION OF FIDUCIA SECURITY EXECUTION OF THE CONSTITUTIONAL COURT NUMBER 18 / PUU-XVII / 2019

The decision of the constitutional court number 18/PUU-XVII/2019 was born due to a lawsuit request by a victim of arbitrary action by a debt collector who was assigned the task of the recipient of fiduciary to execute controlled goods without going through the correct legal procedures. The decision of the constitutional court changes the meaning of the phrase executorial power of fiduciary certificate, which is the same as a court decision and default. The decision of the constitutional court is considered to have the potential to have several impacts not only on the fiduciary recipient but also on the fiduciary so that legal protection for the fiduciary recipient and the fiduciary is necessary with the existence of this decision.

The research method used in this thesis is the normative juridical legal approach, the research specifications used are descriptive-analytical, the source and type of data use secondary data. Data collection techniques using literature study and data analysis techniques used with qualitative analysis.

he results showed that before the decision of the constitutional court number 18/PUU-XVII/2019, the execution of fiduciary guarantees was carried out unilaterally by the fiduciary recipient. After the decision of the constitutional court, if the execution is carried out unilaterally by the fiduciary recipient but the fiduciary does not accept, the request for execution can be made through the court. The decision of the constitutional court provides legal protection for the fiduciary but does not provide a sense of justice and legal protection for the fiduciary.

Keywords : *Execution, Fiduciary Guarantee, Legal Protection*