

ABSTRAK

Lembaga jaminan fidusia dalam sistem hukum Indonesia memiliki peran yang strategis dalam akses permodalan, namun sering kali mengalami benturan dengan penegakan hukum pidana. Penelitian ini membahas mengenai akibat hukum objek jaminan fidusia yang dijadikan barang bukti dalam tindak pidana. Ketika objek jaminan fidusia menjadi barang bukti, terjadi pergeseran status hukum, di mana objek yang semula digunakan sebagai jaminan berubah menjadi instrumen dalam proses hukum pidana. Penelitian ini menggunakan metode yuridis-empiris dengan pendekatan kasus dan konseptual, serta analisis deskriptif analitis. Pengumpulan data dilakukan melalui studi kepustakaan, studi dokumen, dan wawancara dengan narasumber terkait. Hasil penelitian menunjukkan bahwa penyitaan objek jaminan fidusia sebagai barang bukti dalam perkara pidana menimbulkan ketimpangan antara hukum pidana dan hukum perdata. Negara memang memiliki kewenangan untuk merampas aset melalui Pasal 241 KUHP 2025, namun penerapannya seringkali mengabaikan hak kebendaan kreditur sebagai pihak ketiga yang beritikad baik. Kondisi ini berisiko menyebabkan hilangnya jaminan fidusia tanpa kompensasi atau restitusi yang sepadan. Di sisi lain, perlindungan hukum terhadap lembaga pembiayaan masih terbatas secara preventif hanya pada pendaftaran fidusia, sementara perlindungan represif belum optimal karena minimnya keterlibatan penegak hukum dalam mempertimbangkan posisi hukum kreditur. Ketidakielasan batasan negara dalam kewenangan merampas sehingga merugikan kreditur. Barang berbeda dengan perbuatan iadi tidak dapat di samakan. Akibat dari ketidakielasan itu merugikan kreditur. Oleh karena itu, dibutuhkan interpretasi progresif terhadap ketentuan Pasal 134 KUHP 2025 dan penguatan mekanisme perlindungan represif seperti pemberian ruang bagi kreditur dalam proses pidana serta penguatan gugatan in rem/inclam, agar proporsionalitas dan kepastian hukum dapat dijamin secara adil dalam relasi antara kepentingan negara dan pihak swasta.

Kata Kunci: perlindungan hukum; lembaga pembiayaan; jaminan fidusia; barang bukti; tindak pidana.

ABSTRACT

Fiduciary guarantee institutions in the Indonesian legal system have a strategic role in access to capital, but often clash with criminal law enforcement. This study discusses the legal consequences of the object of fiduciary guarantees that are used as evidence in criminal acts. When the object of fiduciary guarantee becomes evidence, there is a shift in legal status, where the object that was originally used as collateral turns into an instrument in criminal law proceedings. This study uses juridical-empirical methods with case and conceptual approaches, as well as analytical descriptive analysis. Data collection was carried out through literature studies, document studies, and interviews with relevant sources. The results of the study show that the confiscation of the object of fiduciary guarantee as evidence in criminal cases causes inequality between criminal law and civil law. The state does have the authority to confiscate assets through Article 241 of the 2025 Criminal Code, but its application often ignores the property rights of creditors as a third party in good faith. This condition risks causing the loss of fiduciary guarantees without commensurate compensation or restitution. On the other hand, legal protection for financing institutions is still limited preventively only to fiduciary registration, while repressive protection is not optimal due to the lack of involvement of law enforcement in considering the legal position of creditors. The inevitability of state restrictions in the authority to confiscate seized is detrimental to creditors. Goods are different from other deeds that cannot be equated. The consequences of this indiscretion are detrimental to creditors. Therefore, a progressive interpretation of the provisions of Article 134 of the 2025 Criminal Procedure Code and the strengthening of repressive protection mechanisms such as providing space for creditors in criminal proceedings and strengthening *in rem/inclam* lawsuits, so that proportionality and legal certainty can be guaranteed fairly in the relationship between the interests of the state and the private sector.

Keywords: legal protection; financing institutions; fiduciary security; evidence; criminal offense.