

Legal Consequences of Fiduciary Registration Over Time

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Abstract

The needs and desperateness of the community in its economy make the transaction also buy goods with the object of buying and selling vehicles that are used as objects of fiduciary guarantee. Vehicle / object of fiduciary guarantee in can be credited to the financing/ leasing institution with payment in installments. Against guarantees for repayment of the financing is charged guaranteed in a fiduciary. In practice the transfer of the fiduciary guarantee without being known by the financing institution. Even though the transfer or sale and purchase of the fiduciary guarantee object must be registered in advance to the Fiduciary Registration Office. This resulted in the emergence of cases that can be punished debtor. The problem is how the legal consequences for debtors who sell fiduciary guarantees with late registration and how to settle against creditors who sell the fiduciary guarantee. The approach method used is the empirical juridical approach, the research is analytically descriptive, the approach is used to analyze qualitatively. Regarding the legal consequences of transferring fiduciary guarantee objects that are transferred or sold to another party. The right of creditors to get repayment on the loans granted is not lost even if it results from the invalidity of the fiduciary guarantee certificate, but results in creditors no longer having preferent rights. Law Enforcement through the means of criminal law is delayed, so there is no discussion, whether in this case there is a criminal act in the form of diverting, pawning or renting goods that become objects that become fiduciary guarantees without the permission of fiduciary recipients as referred to in Article 23 Jo Article 36 of Ri Law No. 42 of 1999 concerning Fiduciary Guarantee allegedly carried out by WARMO Bin (alm) CARWANbrothers.

Keywords

buying and selling; credit;
fiduciary guarantee; creditors



I. Introduction

The development of Fiduciary in Indonesia shows progress with the number of people who need credit with fiduciary guarantees, especially the Indonesian state is actively carrying out development. The development aims to realize a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

Continuous development of both government and legal entities requires large funds. The provision of funds is done by giving credit to the community. Credit means the trust of a customer who gets credit from the bank. The bank is simply defined as a financial institution whose business activities are collecting funds from the public (Purba, 2020). According to the

law the item has been his since the time it was handed over to the buyer, although the price has not been paid, because according to the law that determines the property rights. For an item, what is sold is the surrender. they will certainly avoid or reject the offer with various reasons, such as fear of debt, add a lot of costs, life becomes more wasteful, and others (Dianto, 2020). One of which has an impact on the banking world, where many debtors experience financial difficulties so that they are unable to pay their credits (Aji, 2021).

In any form, the granting of credit is held in essence that what happens is a loan agreement as stipulated in the Civil Code Article 1754 to Article 1768. The elements of credit are trust, time, level of risk and achievement. The provision of credit must be based on prudence, in the taking of credit there is a guarantee either in the form of a material guarantee or an individual guarantee. One kind of material guarantee is the fiduciary guarantee. According to Article 1 of Law No. 42 of 1999 on Fiduciary:

"Fiduciary is the transfer of the property rights of an object on the basis of trust on the condition that the object whose property rights are transferred remains in the possession of the owner of the object."

In fiduciary, the security of the creditor whose receivables are guaranteed, against the debtor is quite guaranteed, because he, the creditor holds the title of transfer of property, coupled with the presence of criminal threats to the debtor, if he dares to sell the goods to others, but security against other creditors is still less guaranteed, because there is no publicity about the right to he belongs to the trust he acquired in those collateral items.

An example of a fiduciary guarantee is the purchase of a car or motorcycle on credit through or using a financing or leasing company. In writing, the goods purchased are still the property of the financing company that has purchased them in cash from the dealer. But as a debtor who repays the goods to leasing. The debtor owns the vehicle. Fiduciary is entitled, using, lending or modifying it as long as there are no problems in the process of repayment of its debts.

The leasing party gives the right to the ownership to debtor with the belief that the concerned will pay back the funds incurred to buy the vehicle until it is paid off along with the interest in accordance with the agreed terms. After all loans are paid off, then the ownership rights will change hands to the debtor completely. Because only based on the principle of trust that has a legal basis, the process of transferring ownership is called Fiduciary. While the purchased vehicle becomes a Fiduciary guarantee, because it can still be taken back by the actual owner (creditor) as long as the debtor has not paid the loan until it is paid off.

In practice, fiduciary guarantee is regulated in Law No. 42 of 1999 on Fiduciary which regulates the rights and obligations of debtors and creditors. Regarding the fiduciary guarantee itself is actually *accessoir* because it can change in accordance with the conditions of the main agreement, namely the receivable debt agreement.

Therefore, if the debt given has been repaid in the terms agreed upon by both parties, then the agreement on Fiduciary guarantees will also be erased. But what happens if, on the way a debtor releases or sells fiduciary security goods, such as cars or motorcycles to others, because it is desperate by economic needs or No longer able to repay or pay off the debt, because this can happen in people's lives. The question is how are the legal consequences for Creditors who sell fiduciary guarantees with late registration and Aspects of Pidana Against Creditors who sell fiduciary guarantees with registration time.

Of course, based on the above, with the base law governing it, violations of Fiduciary agreements and Fiduciary guarantees, can be subject to legal ksi both criminal and civil.

II. Review of Literature

Fiduciary is the transfer of property rights of an object on the basis of trust on the condition that the object whose ownership rights are transferred remains in the possession of the owner of the object. Article 11 paragraph (1) of Law No. 42 of 1999 on fiduciary requires that objects burdened with a fiduciary guarantee will bind after the object is registered. As a result, if the fiduciary agreement is not registered, then the agreement with the fiduciary guarantee is only an agreement under the hands that does not have the executive power to execute directly the goods in the control of the consumer.

In relation to the above, the theory used is the theory of legal certainty. The theory of legal certainty contains 2 (two) understandings, namely the first is the existence of rules that are general to make individuals know what actions can or should not be done, and secondly in the form of legal security for individuals from government authority because with the existence of a general rule of law that individuals can know what can be caused or done by the State against individuals. Legal certainty is not only in the form of articles in the law but also consistency in the judge's decision between the decision of one judge and the decision of another judge for a similar case that has been decided.

In addition, the conceptual framework is: a. the force of law is a provision of law that has had a definitive effect. That the legal consequences arising from the provisions of the law are rights and obligations (of course) and can be utilized by the party who obtained it. While the operational basis is: the transfer of ownership rights to objects guaranteed on the basis of trust with the condition that the object whose ownership rights are transferred remains in the possession of the fiduciary (debtor). Proof of ownership rights to the guarantee is submitted to the creditor of the guarantee holder but the position of the guaranteed object remains in the hands of the debtor of the owner of the object. It also means that the authority to take consensus on the guaranteed object remains owned by the debtor.

The loading of Fiduciary is carried out using instruments that are disburdened with the Fiduciary Guarantee Deed, which must meet the conditions in the form of a Notary Deed and registered with the competent Authority. With this registration, it is expected that the debtor, especially the rogue, can no longer grant creditors or prospective creditors by fiduciary once again or even sell fiduciary guarantee objects without the knowledge of the original creditor at the Fiduciary Registration Office under the auspices of the Department of Law and Human Rights R.I. Sertipikat Fiduciary Guarantee as proof that the Fiduciary recipient has the fiduciary rights.

Fiduciary recipients have the Right of Pretension which is the right to take repayment of their receivables on the results of the execution of objects that become Fiduciary Guarantee Objects. The new Pretension Rights are obtained at the time of the registration of the Fiduciary at the Fiduciary Registration Office and the Rights in question are not removed due to insolvency and/or liquidation of the Fiduciary Giver. If the receivable is transferred to another party, then the Fiduciary who guarantees the debt also switches to the party receiving the fiduciary transfer. So, if for any reason, the Fiduciary Guarantee object is transferred to the hands of others, then the Fiduciary on the object is still valid and there is no obligation and responsibility of the Fiduciary Recipient for the result of error (intentionality or negligence) of the Fiduciary Giver, arising from a contractual relationship or because of unlawful acts, in connection with the use and transfer of objects that are the Object of the Fiduciary Guarantee.

If the same object becomes the object of a Fiduciary Guarantee of more than 1 (one) Fiduciary Guarantee agreement, then the rights that take precedence as referred to in Article 27, are granted to the right that first registers it with the Fiduciary Registration Office.

In Article 4 of the Law of the Republic of Indonesia No. 42 of 1999 it is stated that the Fiduciary Guarantee is an assessment agreement of a principal agreement that gives rise to an obligation for the parties to fulfill an achievement, then the Fiduciary Guarantee agreement has the nature: Dependence on the main agreement; Its validity is solely determined by the invalidity of the principal agreement; As a conditional agreement, which can only be implemented if the provisions required in the principal agreement have been or are not met.

UUJF stipulates that that which can be burdened with a Fiduciary Guarantee is everything that can be transferred, in this case it can be tangible or intangible objects that are registered or unregistered, that are moving or irreseable and that cannot be burdened by dependent rights.

If we pay attention to the understanding of objects that can be objects of the Fiduciary Guarantee then the object is also included receivables (Receiables). Specifically, regarding the results of objects that become Fiduciary Guarantees, the law stipulates that the Fiduciary Guarantee covers these results as well as insurance claims unless otherwise promised. The description of the object that is the object of the Fiduciary Guarantee must be clear in the deed of fiduciary guarantee both the identification of the object, as well as the explanation of the letter of proof of ownership and for inventory objects that are always changing and or still must be explained the type of object, the brand of the object and its quality. Fiduciary agreement is an assessment, the existence of this agreement depends on the principal agreement which is usually in the form of a money lending agreement with the Bank.

In banking practice this fiduciary agreement is often held as an additional principal guarantee while the principal guarantee is considered less for the fulfillment of the guarantee on the disbursed credit. Sometimes fiduciaries are also held separately in the sense of not as an addition to the principal guarantee, which is as often used by small employees, small traders, retailers, and others as a guarantee of their credit requested to the Bank.

The consequence of this Asesor agreement is that if the principal agreement is invalid, or for any reason is lost or declared invalid, then legally the fiduciary agreement as an assessor agreement also becomes void. The juridical construction of this fiduciary is the handover of property rights in confidence to the property of the debtor who is the object of the Fiduciary Guarantee to the creditor, with the control of the object remains with the debtor with the provision that if the debtor has paid off his debt on the promised time, then the creditor must return the property rights of the object to the debtor. In the Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees, it is regulated regarding the procedures for registration of fiduciary guarantees. This registration is the first time in the history of law in Indonesia because before the existence of UUJF. Fiduciary does not regulate the procedure and registration process, so there is no obligation for such registration for fiduciary guarantees.

The absence of registration obligations is strongly felt in practice as a deficiency and weakness for the fiduciary law system. Because in addition to causing legal uncertainty, the absence of the Fiduciary Guarantee registration obligation causes the Fiduciary Guarantee does not meet the publicity element, making it difficult to control. This can lead to unhealthy things in practice, such as the existence of fiduciary twice without the knowledge of the creditor, the transfer of fiduciary goods without the knowledge of creditors, and others. Fiduciary Guarantee registration provides guarantee of legal certainty to interested parties and fiduciary guarantee registration gives preferantrightsto fiduciary recipients to other creditors.

In addition, the registration of Fiduciary Guarantee is one form of the principle of publicity. With registration, it is expected that the debtor, especially the rogue, can no longer fictionalize once again or even sell or transfer the object of the Fiduciary Guarantee to the third party without the knowledge of the creditor. Fiduciary registration must be registered at

the fiduciary registration office, for the first-time fiduciary registration is established in Jakarta, then gradually, as needed, established in provincial capitals throughout Indonesia, and can also be established in every Level II Area that must be adjusted to the Law of the Republic of Indonesia Number 22 of 1999 concerning Local Government. In accordance with the Presidential Decree of the Republic of Indonesia Number 139 of 2000 jo. Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.03. PR. 07.10 of 2001 jo. Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02. PR.07.10 of 2002. Since April 1, 2001 the Fiduciary Registration Office of the Directorate General of General Legal Administration no longer registers fiduciary certificates and registration is carried out at the Fiduciary Registration Office at the Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia at the fiduciary position.

At this time the fiduciary registration is registered by the recipient of the Fiduciary Guarantee to the fiduciary registration office at the Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia located in the provincial capital. The application is submitted to the Minister of Law and Human Rights of the Republic of Indonesia through the Fiduciary Registration Office at the fiduciary licensee's position in writing in Indonesian by the fiduciary recipient, his or her representative, by attaching a statement of Fiduciary Guarantee Registration and filling out a form and contents stipulated by Appendix I of the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M-01. UM.01.06 of 2000, which contains:

1. The identity of the giver and recipient which includes:
Full name;
Residence/place of residence;
Work.
2. Date and number of Fiduciary Guarantee deed, name and place of notary that makes the fiduciary guarantee deed
3. The principal agreement is about the kind of agreement and debt guaranteed by fiduciary.
4. Description of objects that are the object of Fiduciary Guarantee (See explanation of Article 6 of Law No. 42 of 1999).
5. Guarantor value
6. Value of objects that are objects of Fiduciary Guarantee

After the exit of UUJF and Government Regulation No. 86 of 2000 on The Procedure for Registration of Fiduciary Guarantees and The Cost of Making Fiduciary Guarantee Deeds, then fiduciary registration is something that cannot be separated from the Fiduciary Guarantee itself. With registration, it will provide a legal certainty for creditors and other interested parties. However, in reality in practice, there are still many we find the Fiduciary Guarantee is not registered, due to various reasons and there are still many problems regarding the Fiduciary Guarantee Registration itself. These issues include the obstacles found in the registration of fiduciary guarantees and how efforts to overcome obstacles in the registration of fiduciary guarantees.

A fiduciary agreement is an agreement that must be made by a notary deed in Indonesian and is a fiduciary guarantee deed. Fiduciary registration is a fiduciary guarantee born on the date recorded in the fiduciary list book and is a proof of creditor as a fiduciary guarantee holder is given a fiduciary certificate issued by the Fiduciary Registration Office.

Prohibition for fiduciary holders is contained in article 23 Paragraph 2 of UUJF; Fiduciary rights holders are prohibited from transferring, pawning, or renting to other parties. Thus, the object that becomes the object of fiduciary guarantee which is not a supply object.

Regarding the criminal provisions in UUJF are regulated in:

Article 35 reads:

"Any person who knowingly falsifies, alters, eliminates or in any way gives misleading information, who if it is known by either party does not give birth to a Fiduciary Guarantee agreement, shall be punished with a prison term of at least 1 (one) year and a maximum of 5 (five) years and a fine of at least Rp.10,000,000.00 (ten million rupiah) and at most Rp.100,000,000, 00 (one hundred million rupiah). ""

Article 36 reads:

"Fiduciary Givers who transfer, pawn, or rent Objects that are the object of Fiduciary Guarantee as referred to in Article 23 paragraph (2) conducted without the prior written consent of the Fiduciary Recipient, shall be punished with a maximum imprisonment of 2 years."

III. Research Methods

The authors take an approach to this study using empirical juridical methods. The juridical approach is used to analyze various laws and regulations relating to the focus of the problem, while the empirical approach is used to analyze the law by looking at something of reality in the law in society. Collection Techniques in this study use Document Studies and interviews.

This research is descriptive, which is research that aims to describe about the state of things in a particular area and at a certain time. This research is based on its nature is analytical descriptive research that aims to explain the results of research as detailed as possible about the above problems, as well as the obstacles faced and what legal efforts can be taken to solve the problem.

The data to be collected is data in the form of primary data, secondary data and tertiary data.

- a. Primary data. The data in question is obtained directly from the field by means of interviews on parties related to the provision of fiduciary guarantees, and materials which is closely related to primary legal materials such as research results, undergraduate opinions, literature and so on
- b. Secondary Data This secondary data includes:
 - 1) Primary Legal Materials, which are legal materials that the author uses as a reference in this study, which among others consists of: a) The Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection. b) Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantee. c) Government Regulation No. 86 of 2000 concerning The Procedure for Registration of Fiduciary Guarantees and The Cost of Making a Fiduciary Guarantee Deed. d) Permenkeu Number 130/PMK.010. /2012 on Fiduciary Guarantee Registration for Financing Companies That Conduct Consumer Financing for Motor Vehicles with Insurance Loading e) Police Regulation No. 8 of 2011 concerning Security of Fiduciary Guarantee Execution, State News of the Republic of Indonesia Number 360.
 - 2) Secondary Legal Materials, i.e., legal materials that provide explanations of primary legal materials, which can help, analyze, understand, and explain them. Even this law comes from literature in the form of books, which relate to the issues discussed. This secondary legal material is obtained from: a) The results of the study. b) Library of Faculty of Law Unand c) Books and lecture materials owned
 - 3) Tertiary Legal Materials, which are materials that provide explanations and instructions for primary and secondary legal materials, such as legal dictionaries.

- c. Analysis is the preparation of data processed to get conclusions. The analysis used is qualitative that assesses and decomposes data that is not in the form of numbers associated with laws and regulations, legal theories, the opinions of experts and finally drawn conclusions that are the answer to the problem.

IV. Discussion

4.1 Legal Consequences for Creditors who Sell Fiduciary Guarantees with Lew Registration at Time

Normative Dimensions of Fiduciary Guarantee Registration

Fiduciary guarantee registration has been regulated in various forms of legislation. The arrangement of fiduciary guarantee registration in general has been regulated in Article 11 to Article 18 of Law No. 42 of 1999 on Fiduciary Guarantee.

The rules in UUJF only regulate the applicant's legal obligation to register a fiduciary guarantee and do not regulate related sanctions in an attempt to enforce the rule.

Government Regulation No. 86 of 2000 on The Procedure for Fiduciary Registration and The Cost of Making a Fiduciary Guarantee Deed and pp also does not regulate the period of registration of fiduciary guarantees.

Regulation of the Minister of Finance of the Republic of Indonesia Number 130/PMK.010/2012 on Fiduciary Guarantee Registration for Financing Companies That Conduct Consumer Financing for Motor Vehicles with Fiduciary Guarantee Loading. This rule has regulated the period of registration of special fiduciary guarantees for motor vehicles.

The period of registration of the fiduciary guarantee is given no later than 30 (thirty) days from the date of the consumer financing agreement. The period of 1 (one) month is given because the registration of fiduciary guarantee must be done at the Fiduciary Registration Office in each Provincial Capital manually so that it takes a long time.

Permenkeu 130 / PMK.010 / 2012 in addition to regulating the period of registration of fiduciary guarantees, also regulates the sanctions of non-implementation of these obligations. The sanctions are in the form of administrative sanctions in the form of warnings, freezing of business activities, or revocation of business licenses.

Bis based on PP No. 21 of 2015 concerning the Procedure for Registration of Fiduciary Guarantees and AJF Fees, namely the Application for Fiduciary Guarantee registration is submitted within a maximum period of 30 (thirty) days from the date of making the Fiduciary Guarantee deed (article 4 pp ri Number 21 of 2015 concerning the Procedure for registration of Fiduciary Guarantee).

The purpose of the fiduciary guarantee registration is: given 30 days to register with the Fiduciary office from the date of the financing agreement is for example If there is a Credit or Financing Agreement signed on January 1, 2016, then the Creditor must start submitting to the notary at least 7 days later which is January 7, 2016. So, the Notary still has time to prepare his deed and sign the fiduciary guarantee deed, publish a copy and register no later than January 30, 2016.

Based on the statement "starting from the date of the fiduciary guarantee deed", it means that the 30-day period is calculated starting from the implementation of the registration application process, obtaining proof of registration, paying the registration fee until the certificate printing process is signed electronically.

Thus the 30-day period referred to in the Regulation is not as the date of issuance of the fiduciary certificate listed on the Fiduciary Guarantee Certificate.

The question then is the legal consequences of the passage of the fiduciary guarantee registration period?

Based on Article 4 of PP No.21 of 2015 of the government regulation, against the application for registration of guarantees that have passed 30 days there is no provision of the article governing the sanctions that must be given to the applicant if applying for registration past 30 days.

Is registration of fiduciary guarantees past a period of 30 days can be said to be valid and can still continue the registration process or fiduciary guarantee registration cannot be registered and must re-register.

Related to this according to Article 4 PP No.21 of 2015 the registration of fiduciary guarantees through a period of 30 days that cannot be registered. Re-registration can be done, due to the non-fulfillment of the requirements of the essence i.e., payment of the registration fee. If the applicant does not conduct a re-registration process, it causes legal consequences that the applicant does not have the status of a creditor who precedes (preference) and the absence of legal certainty and legal protection for interested parties.

According to the Supreme Court of the Republic of Indonesia No. 1420 K / Sip / 1978 dated May 1, 1979, which states, "The Court cannot invalidate a notary deed, but can only declare the notary deed in question has no legal force".

However, Penvoy of Surabaya District Court Number 80 / Pdt.G / 1987 / PN Sby, dated April 3, 1987 jo. East Java High Court Decision No. 58 / PDT / 1988 / PT Sby, jo. Supreme Court decision of the Republic of Indonesia Number 1462 / K / Pdt / 1989, dated November 29, 1993, stated that it should be a fiduciary guarantee certificate at the time of registration using an Inauthentic AJF null and void, and cannot be used to execute fiduciary guarantee objects from debtors who have delinquent financing facilities. Consequently, the right of creditors to get repayment on the loans granted is not lost even if it results from the invalidity of the fiduciary guarantee certificate, but results in creditors no longer having preferent rights. The right of creditors to take precedence in getting back their receivables on the debtor becomes lost.

4.2 Legal Analysis of Cases of Fiduciary Guarantee Registration over a Period of Time

a. Case Position

That on July 29, 2016 warmo bin (Alm) brother CARWAN and PT. ADIRA MULTI FINANCE Jatibarang Branch (Leasing) agreed to bind itself in since it has agreed on a financing agreement of one unit of R4 Mitsubishi Pajero Dakar 4x2 car, Black No. Pol: E-1020-RE, in 2016 Noka: MMBGUKR10GH031297 Nosin: 4N15UAX8277, with the financing of the purchase of the vehicle financed by PT. ADIRA MULTI FINANCE Jatibarang Branch which is located at Jl. Raya Widasari District Widasari Indramayu Regency. The down payment was paid by WARMO Bin (alm) BROTHER CARWAN to PT. TEJA BERLIAN CERIBON amounting to Rp. 126,475,000, -(one hundred and twenty-six million four hundred and seventy-five thousand rupiah), thus brother WARMO Bin (alm) CARWAN has an obligation to pay installments for 48 (forty-eight) months / installments with the size of his monthly installment amounting to Rp. 11,750,000, - (six million seven hundred seventy-seven two thousand seven hundred rupiah), to PT. ADIRA MULTI FINANCE Jatibarang Branch.

This is notin 1 (one) bendel financing agreement number: 025116200060 dated July 29, 2016 between PT. ADIRA FINANCE Jatibarang Branch with WARMO brothers.

That since August 2016 warmo bin (alm) brother CARWAN carries out its obligation to pay the installment of Mitsubishi Pajero car loan with No. pol: E-1020-RE to PT. ADIRA MULTI FINANCE Jatibarang Branch. But because the business of WARMO Bin (alm) brother CARWAN is experiencing difficulties and requires funds, then after the 7th

installment (seven) the vehicle is transferred or transferred to Sdr. HENRY YUSEPH without the permission and knowledge of fiduciary recipients, namely PT. ADIRA MULTI FINANCE Jatibarang Branch.

The transfer / transfer of the vehicle was carried out by brother WARMO Bin (alm) CARWAN to brother HERY YUSEPH dishowroom belonging to brother HENRY YUSEPH In his showroom Didae majasem Karyamulya District Kesambi Kodya Cirebon with a value of over unit vehicles worth Rp 116,000,000, - (one hundred and sixteen million rupiah) on January 31, 2017. At that time HENRY YUSEPH's brother said that the process of switching the car will be taken care of by employees from PT. ADIRA AREA CIREBON. After the car was handed over HENRY YUSEPH's brother continued the payment of credit installments until May 2017.

That on December 28, 2016 was made a Fiduciary Guarantee Deed by Notary SATRY FITRIANI, S.H., M. Kn. On the deed the parties are the first party of warmo bin (alm) carwan brother represented by brother DEVA BRAHMAN based on power of attorney dated July 29, 2016, and the second party PT. ADIRA MULTI FINANCE is also represented by the brother of DEWA BRAHMAN.

On January 13, 2017 at 13.32.12 WIB, the fiduciary guarantee fee was paid by notary SATRY FITRIANI, S.H., M. Kn. and at the same time issued 1 (one) sheet of Fiduciary Guarantee Certificate number: W11. 00067903.AH.05.01 Year 2017 dated January 13, 2017 at 13.32.12 WIB issued by the Jaminan Fiduciary Registration Office of the Ministry of Finance of West Java.

b. Case Analysis.

As outlined above, that Tfencing July 29, 2016 agreed to a Letter of Credit Agreement, and Tfencing December 28, 2016 was made a Fiduciary Guarantee Deed by Notary SATRY FITRIANI, S.H., M. Kn., then on January 13, 2017 also issued 1 (one) sheet of Fiduciary Guarantee Certificate number: W11. 00067903.AH.05.01.

Analyzing the proble\\\\ms in this case, between the Agreed Letter of Credit Agreement dated July 29, 2016 and the Fiduciary Guarantee Deed by Notary SATRY FITRIANI, S.H., M. Kn, Tanggal December 28, 2016, normatively the registration of fiduciary guarantee has passed period of 30 days.

As for the normative consideration in Article 4 PP No 21 Year 2015 About Ordinances Registration Guarantee Fiduciary and Regulation Minister Finance Republic Indonesian Number 130/PMK.010/2012 about Registration Guarantee Fiduciary In essence, it confirms that compass time Maximum 30 (three ten) day Uncountable since date Manufacture deed Guarantee Fiduciary and or date covenant financing user.

Thus, the period of 30 days referred to in the Regulation is not as the date of issuance of the fiduciary certificate listed on the Fiduciary Guarantee Certificate and or the statement "from the date of the fiduciary guarantee deed", meaning that the 30-day period is calculated starting from the implementation of the registration application process, obtaining proof of registration, paying the registration fee until the process of printing sertifikasi by being signed electronically.

Based on the description as above, considering normatively the evidence of letters in the form of Letters of Credit Agreement, Fiduciary Guarantee Deeds and Certificates of Fiduciary Guarantee normatively problematic validity, then in order to ensure legal certainty and legal protection for interested parties need to be tested through a civil lawsuit to the local District Court.

Thus, Law Enforcement through the means of criminal law is delayed pending legal certainty on the validity of the Letter of Credit Agreement, Fiduciary Guarantee Deed and Fiduciary Guarantee Certificate number: W11. 00067903.AH.05.01.

V. Conclusion

5.1 Conclusion

Legal consequences of the registration of fiduciary guarantees over a period of time, then the right of creditors to get repayment on the loans granted is not lost even if it results from the invalidity of the fiduciary certificate, but resulted in creditors no longer having preferential rights. The right of creditors to take precedence in getting back their receivables on the debtor becomes lost.

Law Enforcement through the means of criminal law is delayed, so there is no discussion, whether in this case there is a criminal act in the form of transferring, pawning or renting goods that become objects that become fiduciary guarantees without the permission of fiduciary recipients as referred to in Article 23 Jo Article 36 of RI Law No. 42 of 1999 concerning Fiduciary Guarantee allegedly carried out by Warman bin (alm) Carwan brothers.

5.2 Suggestion

Caution is required in understanding about the Fiduciary Guarantee Registration, essentially confirming that a period of at least 30 (thirty) days from the date of creation of the Fiduciary Guarantee deed and or the date of the consumer financing agreement.

It should also be understood that the period of 30 days is not as the date of issuance of the fiduciary certificate listed on the Fiduciary Guarantee Certificate and or the statement "from the date of the fiduciary guarantee deed deed", means that the period of 30 days is calculated starting from the implementation of the registration application process, obtaining proof of registration, paying the registration fee until the certificate printing process is signed as soon as possible an electronic.

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