

LEGAL PROTECTION OF DEBTORS FOR FIDUCIARY COLLATERAL OBJECTS WHOSE DEBTS HAVE BEEN PAID OFF BASED ON THE FIDUCIARY GUARANTEE LAW AND GOVERNMENT REGULATION NUMBER 21 OF 2015

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ABSTRACT

Fiduciary Guarantee is an accessory agreement that follows the principal agreement it guarantees. If the principal agreement ends, the Fiduciary Guarantee agreement also ends. However, the recording of the encumbrance and granting of the Fiduciary Guarantee contained in the Fiduciary Guarantee Register Book at the Fiduciary Registration Office can be crossed out or deleted (roya) if requested by the Fiduciary Beneficiary (Article 25 paragraph (3) of Law No. 42/1999 on Fiduciary Guarantee). Legal protection is provided in the event of full repayment or repayment of the debt secured by the Fiduciary Guarantee Object. Based on Article 25 paragraph (1) of Law No. 42/1999, this is one of the reasons for fiduciary abolition. The Fiduciary is obliged to notify the abolition of the Fiduciary Guarantee to the Fiduciary Registration Office so that the Fiduciary Guarantee can be removed from the Fiduciary Guarantee Register Book. The nature of the Fiduciary Guarantee depends on the existence of the receivables whose repayment is guaranteed. If the receivables are written off due to debt repayment or disposal, the related Fiduciary Guarantee is automatically deleted. If the Creditor does not perform the deletion, the Debtor may take legal action, either through litigation or non-litigation. An obstacle to legal protection for the Fiduciary is if the Fiduciary does not complete the Fiduciary Guarantee Certificate online. Law No. 42/1999 and its implementing regulation, PP No. 21/2015, do not include sanctions for the Fiduciary or its representative if the Fiduciary Guarantee Certificate is not done. This results in no legal certainty over the object of the Fiduciary Guarantee if the Fiduciary does not perform it, because the object used as collateral remains registered with the Ministry of Law and Human Rights and the Fiduciary Guarantee Certificate is still considered valid and cannot be re-registered in accordance with Article 17 paragraph (2) of Government Regulation No. 21 of 2015.

Keywords: Legal Protection; Fiduciary Guarantee

Introduction

Credit can be given by anyone who has the ability, for this reason, it is through a debt and receivable agreement between the debt giver (creditor) on one side and the debt recipient (debtor) on the other side. After the agreement is agreed upon, an obligation arises for the creditor, namely to hand over the agreed money to the debtor, with the right to receive the money-back from the debtor in due time, accompanied by the interest agreed upon by the parties when the credit agreement was approved by the parties party.

The rights and obligations of the Debtor are reciprocal with the rights and obligations of the Creditor. As long as this process does not encounter problems in the sense that both parties carry out their rights and obligations by what was agreed upon, then problems will not arise (Meliala, 2015).

"Usually new problems arise if the debtor fails to return the loan money at the agreed time." (Widjaja & Yani, 2001).

The granting of credit is carried out based on an agreement and there is also a guarantee, the granting of credit provided by the Bank is also based on trust, thus the granting of credit is a grant of trust to the Debtor, the agreement between the Creditor and the Debtor can be made into a written Credit Agreement.

The activities of economic actors are those who can finance their business activities with their funds, while some do not have sufficient funds to finance their business activities so they require sources of funds from other parties. In business practice, every investment effort carried out somewhere requires funds. The funds in question can come from within or from abroad, which are usually channeled through banking institutions or financial institutions (Fuady et al., 2003).

These institutions are financial intermediaries, namely intermediaries between the owner of the funds and the borrower. Because the money is lent to fund lenders, to ensure the smooth return of the funds, it is bound by a security interest. Without credit financing from these institutions for entrepreneurs' business movements, the economy could not run as it does today. To be able to make Creditors willing to provide financing funds to Debtors, regulations are needed that can guarantee fair treatment between Creditors if the Debtor is unable to pay all of its debts. One of them is the Fiduciary Guarantee regulations (Badrulzaman, 1991).

Fiduciary Guarantee is a guarantee that is based on trust between the Debtor/Fiduciary Giver and the Creditor/Fiduciary Recipient). A fiduciary can accommodate the emptiness of collateral rights and becomes a unique guarantee because the basis of collateral is trust. To increase economic and trade progress in the field of credit and credit facilities, Fiduciary Guarantee institutions are often used in business practices (Sibarani, 2001).

The enactment of Law No. 42 of 1999 concerning Fiduciary Guarantees, provides clear and complete provisions regarding fiduciaries and also creates legal certainty. Regarding Fiduciary Guarantees which have been widely used in lending and borrowing transactions or business practices, they will also be affected if a monetary crisis occurs. The basis of the Fiduciary Guarantee is trust, not a transfer of property or a pledge for a mortgage or encumbrance (Sofwan, 1980).

"The basic thing that happens in this Fiduciary Guarantee is indeed related to the relationship between creditors and debtors in resolving the main problem of debts and receivables where monetary turmoil often occurs in Indonesia which affects national economic life and creates difficulties in the business world in continuing its business, including fulfilling obligations to creditors (Asikin, 2001).

If an execution occurs on the object of the Fiduciary Guarantee, the Fiduciary Giver is obliged to hand over the object that is the object of the Fiduciary Guarantee, if the object that is the object of the Fiduciary Guarantee consists of trading objects or securities that can be sold on the market or stock exchange, the sale can be carried out in these places by the regulations applicable legislation.

Apart from that, Fiduciary Guarantees can be removed due to matters as stipulated in Article 25 of Law Number 42 of 1999 concerning Fiduciary Guarantees, namely:

1. Elimination of debt guaranteed by fiduciary;
2. Release of rights to Fiduciary Guarantee by the Fiduciary Recipient; or
3. The destruction of objects that are the object of the Fiduciary Guarantee does not eliminate the insurance claim as intended in Article 10 letter (b) of Law Number 42 of 1999 concerning the Fiduciary Guarantee.

If the Fiduciary Guarantee is abolished, Article 25 paragraph (3) of Law Number 42 of 1999 concerning Fiduciary Guarantee requires that the Fiduciary Recipient notify the Fiduciary Registration Office regarding the deletion of the Fiduciary Guarantee by attaching a statement regarding the cancellation of the debt, the release of rights, or the destruction of the object that became the object of the Fiduciary Guarantee, and then the Fiduciary Registration Office crosses out the recording of the Findusia Guarantee from the Fiduciary Register Book and then the Fiduciary Registration Office issues a Certificate stating that the Fiduciary Guarantee Certificate in question is no longer valid.

Payment in full or repayment of debts guaranteed by Fiduciary Guarantee objects, by the provisions of Article 25 paragraph (1) of Law Number 42 of 1999 concerning Fiduciary Guarantees is one of the reasons for the abolition of fiduciaries, however, based on the provisions of Article 25 paragraph (3) of the Law Number 42 of 1999 concerning Fiduciary Guarantees. When a Fiduciary Guarantee is deleted, the Fiduciary Recipient is required to notify the Fiduciary Guarantee of the deletion of the Fiduciary Registration Office so that the Fiduciary Guarantee can be removed from the Fiduciary Register Book. Under the nature of the Fiduciary Guarantee, the Fiduciary Guarantee depends on the existence of receivables whose repayment is guaranteed, so that if the receivables are written off due to the write-off of the debt or due to disposal, the relevant Fiduciary Guarantee will automatically be written off.

In the explanation of Article 25 paragraph (1) of Law Number 42 of 1999 concerning Fiduciary Guarantees, what is meant by debt write-off is, among other things, due to repayment and proof of write-off in the form of statements made by creditors. The abolition of Fiduciary Guarantees based on Article 25 paragraph (1) of Law Number 42 of 1999 concerning Fiduciary Guarantees occurs by law at the same time as the cancellation of debts guaranteed by fiduciaries.

However, the deletion of the Fiduciary Guarantee in the Fiduciary Registration Book requires an administrative process that must be carried out by the Fiduciary Recipient or his/her legal representative by notifying the Fiduciary Registration Office in writing regarding the deletion of the Fiduciary Guarantee. With the Fiduciary Guarantee not having been deleted from the Fiduciary Register Book at the Fiduciary Registration Office, the owner of the Fiduciary Security object cannot delete the Fiduciary Guarantee from the Fiduciary Register Book, because the deletion of Fiduciary Guarantee from the Fiduciary Register Book is based on Article 25 paragraph (3) of Law Number 42 of 1999 concerning Fiduciary Guarantees can only be carried out by the Fiduciary Recipient or their legal representative.

The provision of Fiduciary Guarantee must be made by a Notarial deed and registered at the Fiduciary Registration Office where the application for registration is submitted by the

Fiduciary Recipient taking into account the terms and conditions stipulated in Article 13 of Law Number 42 of 1999 concerning Fiduciary Guarantee.

In providing Fiduciary Guarantee, Fiduciary Guarantee objects that have been encumbered with Fiduciary Guarantee cannot be re-collateralized as Fiduciary Guarantee objects against other debts and receivables, as stated in Article 17 of Law Number 42 of 1999 concerning Fiduciary Guarantee.

The object of the Fiduciary Guarantee is a material right attached to the object of the Fiduciary Guarantee and will remain with the object in the hands of whoever the object is in (droit de suite) as long as the Fiduciary Guarantee has not been removed or crossed out. The obligation to register Fiduciary Guarantees at the Fiduciary Guarantee Registration Office guarantees legal certainty and fulfills the principle of publicity, so that everything related to Fiduciary Guarantees is registered in the Fiduciary Guarantee Registration book and for this reason, the general public, by the principle of publicity, can know and obtain information regarding the imposition of Fiduciary Guarantee on an object (Satrio, 2002).

Fiduciary Guarantee as an accessory agreement follows the main agreement guaranteed by the Fiduciary Guarantee agreement. If the main agreement ends, the Fiduciary Guarantee agreement also ends, however, the recording of the imposition and provision of Fiduciary Guarantee contained in the Fiduciary Guarantee Register Book at the Fiduciary Registration Office can be crossed out or deleted or roya if requested by the Fiduciary Recipient (Article 25 paragraph (3) Law Number 42 of 1999 concerning Fiduciary Guarantees). The removal of Fiduciary Guarantees is carried out by the Fiduciary Registration Office at the Directorate General of General Legal Administration, Ministry of Law and Human Rights by doing the following:

1. Cross out the recording of Fiduciary Guarantees from the Fiduciary Register Book (Article 26 paragraph (1) Law Number 42 of 1999 concerning Fiduciary Guarantees)
2. The Fiduciary Registration Office issues a statement stating that the Fiduciary Guarantee Certificate is no longer valid.

Article 25 paragraph (3) Law Number 42 of 1999 concerning Guarantees of the fiduciary gives the authority to the Fiduciary Recipient to be able to write off remove or pay off the Fiduciary Guarantee.

If the Debtor is the owner of the Fiduciary Security object as the Fiduciary Giver and has paid off his debt to the Creditor, or if the Debtor has paid off his debt to the Creditor or Fiduciary Recipient, while the guarantor as the owner of the Fiduciary Security object has known this, then the Debtor is the owner of the Fiduciary Security object or guarantor as the owner of a Fiduciary Security object, you cannot submit a request for deletion or write-off or roya of the Fiduciary Security at the Fiduciary Registration Office, while the Debtor's debt to the Creditor has been paid in full. This gives rise to discrimination and does not provide legal protection to the owner of the Fiduciary Security object if the Debtor's debt has been paid in full to the Creditor.

Weaknesses contained in Law Number 42 of 1999 concerning Fiduciary Guarantees in terms of omission or write-off or roya of Fiduciary Guarantees will be detrimental to the owner of the Fiduciary Guarantee object, he cannot guarantee his object to another Creditor

when the Debtor has paid the debt in full to the Creditor while recording Registration of Fiduciary Guarantee objects cannot be deleted or crossed out or destroyed by the owner of the Fiduciary Guarantee object.

With what is described above, the author in this thesis wants to carry out scientific research and writing with the title; "Legal Protection Of Debtors For Security Objects That Are Moneyed By A Fiduciary Guarantee Due To Debt Which Has Been Paid In Full In Article 13 Of Law Number 42 Of 1999 Concerning Fiduciary Guarantees And Government Regulation Number 21 Of 2015 Concerning Procedures For Registration Of Fiducian Guarantees Age And Cost Of Making A Fiduciary Guarantee Deed"

Research Method

This research employs both qualitative and quantitative approaches using literature review, document analysis, semi-structured interviews, and surveys to understand the online ride-hailing industry in Indonesia. Literature review and document analysis are conducted to evaluate existing regulations and policies, while interviews with platform representatives, drivers, consumers, and government officials provide in-depth insights into business processes and issues faced. Surveys are used to collect quantitative data on experiences, satisfaction, and views on government policies. Data obtained from interviews and surveys are analyzed using thematic analysis and descriptive statistics to ensure the validity and reliability of the findings. This method enables the research to provide a comprehensive overview and evidence-based policy recommendations.

Result and Discussion

Legal Protection for Debtors Due to Debt Repayment

Debt is an obligation that is expressed or can be expressed in amounts of money, either in Indonesian currency or other currencies, either directly or continentally. Creditors are parties who have receivables due to agreements or laws. A debtor is a party who has a debt due to an agreement or law. Everyone is an individual or corporation. From the definition given, it is clear to us that fiduciary is differentiated from Fiduciary Guarantee, where fiduciary is a process of transferring ownership rights and Fiduciary Guarantee is a guarantee given in the form of a fiduciary. It means that the Fiduciary Guarantee institution regulated in Law Number 42 of 1999 concerning Fiduciary Guarantee is a Fiduciary Guarantee institution (Yurizal, 2015).

What is meant by the abolition of the Fiduciary Guarantee is that the Fiduciary Guarantee is no longer valid. There are three reasons for the elimination of Fiduciary Guarantee, namely:

1. Elimination of debt guaranteed by fiduciary. What is meant by debt write-off is, among other things, repayment, and proof of debt write-off in the form of statements made by creditors.
2. Release of rights to Fiduciary Security by the Fiduciary Recipient or
3. Destruction of objects that are the object of Fiduciary Guarantee.

The destruction of Fiduciary Guarantee objects does not eliminate insurance claims as intended in Article 10 letter b. (Article 25 of Law Number 42 of 1999 concerning

Fiduciary Guarantees). (Salim, 2016) If the debt of the Fiduciary Giver has been repaid by him, it is the obligation of the Fiduciary Recipient, his attorney, or representative to notify in writing the Fiduciary Registration Office regarding the cancellation of the Fiduciary Guarantee due to the write-off of the principal debt. Notification of the deletion of the Fiduciary Guarantee in question is accompanied by supporting documents regarding the deletion of the Fiduciary Guarantee.

Upon receipt of the notification letter, there are 2 things that the Fiduciary Registration Office will do, namely:

1. At the same time, cross out the recording of Fiduciary Guarantee from the Fiduciary Register Book
2. On the same date as the date the Fiduciary Guarantee was removed from the Fiduciary Register Book, the Fiduciary Registration Office issued a statement stating "The Fiduciary Guarantee Certificate in question is no longer valid" (Yurizal, 2015).

The abolition of fiduciaries due to the destruction of debts guaranteed by fiduciaries is a consequence of the nature of the Fiduciary Guarantee Agreement as a subsidiary/assessor agreement to the main agreement, namely the debt/credit agreement. So, if the credit agreement disappears for any reason, the Fiduciary Guarantee also disappears. The removal of the Fiduciary Guarantee due to the release of rights by the Fiduciary Recipient is reasonable considering that the Fiduciary Recipient is free to maintain his or her rights or relinquish his rights. With the destruction of the object of the Fiduciary Guarantee, the Fiduciary Guarantee is also extinguished because there is no benefit in maintaining the fiduciary if the object is destroyed. However, if the object that is the object of the Fiduciary Guarantee is insured and then the object is destroyed for some reason, then the insurance claim right can be used as a replacement for the object that is the object of the Fiduciary Guarantee and is accepted by the Fiduciary Recipient because according to Article 10 letter (b) and Article 25 of the Law Number 42 of 1999 concerning Fiduciary Guarantees states that Fiduciary Guarantees include insurance claims, if the object that is the object of the Fiduciary Guarantee is insured, and the destruction of the object that is the object of the Fiduciary Guarantee does not eliminate the insurance claim. Based on Article 25 paragraph (3) of Law Number 42 of 1999 concerning Fiduciary Guarantee, the cancellation of Fiduciary Guarantee must be notified by the Fiduciary Recipient's creditor to the Fiduciary Recipient's Office by attaching a statement regarding the write-off of the debt, release of rights to fiduciary collateral or the destruction of the object that is the object of the Fiduciary Guarantee. This provision is a logical consequence of the provisions of Article 16 paragraph (1) which regulates if there is a change regarding the matters stated in the Fiduciary Guarantee Certificate. Fiduciary recipients are required to apply for registration of these changes to the Fiduciary Registration Office. With this notification, the Fiduciary Registration Office deletes the Fiduciary Guarantee registration from the Fiduciary Register Book and issues a statement stating that the relevant Fiduciary Guarantee Certificate is no longer valid. This procedure aims to provide legal certainty to the public or third parties that the object is no longer burdened with a Fiduciary Guarantee.

If the Fiduciary Guarantee is extinguished due to the write-off of the debt guaranteed by the fiduciary, the release of the right to the Fiduciary Guarantee by the Fiduciary Recipient; or the destruction of the object that is the object of the Fiduciary Guarantee, then the Fiduciary Recipient, his or her proxy or representative, is obliged to notify the Minister within a period of no more than 14 (fourteen) days from the date of deletion of the Fiduciary Guarantee, Article 16 paragraph (2) Government Regulation Number 21 of the Year 2015 concerning Procedures for Registration of Fiduciary Guarantees and Costs for Making a Fiduciary Guarantee Deed.

Based on the notification of deletion, the Fiduciary Guarantee is removed from the list of Fiduciary Guarantees and a deletion statement is issued stating that the relevant Fiduciary Guarantee certificate is no longer valid. If the Fiduciary Recipient, his or her attorney, or representative does not notify you of the deletion of the Fiduciary Guarantee, the Fiduciary Guarantee in question cannot be re-registered.

Legal protection is provided if there is a full payment or repayment of a debt guaranteed by a Fiduciary Guarantee object based on Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Costs for Making a Fiduciary Guarantee Deed if the Fiduciary Giver carries out a Guarantee Certificate Fiduciary online. On the other hand, there is no legal protection for the Fiduciary Giver if the Fiduciary Recipient does not complete the Fiduciary Guarantee Certificate online because in Law Number 42 of 1999 concerning Fiduciary Guarantees and its implementing regulations, namely Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees. The making of a Fiduciary Guarantee Deed does not include sanctions for the Fiduciary Recipient, their proxy, or representative, so it will not have any consequences for the Fiduciary Recipient, their proxy, or representative if the Fiduciary Guarantee Certificate is not executed. Furthermore, there is no legal certainty about the object of the Fiduciary Guarantee if the Fiduciary Recipient does not undertake it if it will be used as the object of the Fiduciary Guarantee in the future because the Fiduciary Guarantee attached to the object used as collateral is still registered with the Ministry of Law and Human Rights and the Fiduciary Guarantee Certificate is still considered valid and cannot be re-registered according to Article 17 paragraph (2) of Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds.

Legal Protection for Debtors in Fiduciary Agreements

According to Satjipto Raharjo, "The law protects a person's interests by allocating power to him to act in the context of his interests. This allocation of power is carried out measurably, meaning its breadth and depth are determined. Such power is called a right. Not every power in society can be called a right, but only certain powers are the reason for attaching that right to someone." (Rahardjo, 2006).

According to Setiono, "legal protection is an action or effort to protect society from arbitrary actions by authorities that are not following the rule of law, to create order and tranquility to enable humans to enjoy their dignity as human beings." (Setiono, 2004).

Based on this understanding of legal protection, before knowing the legal protection of Debtors, you need to first know the meaning of Fiduciary Guarantee. The meaning of Fiduciary Guarantee is that the word comes from "fides" which means trust. By the meaning of this word, the legal relationship between the Debtor (Fiduciary Giver) and the Creditor (Fiduciary Recipient) is a legal relationship based on trust. The Fiduciary Giver believes that the Fiduciary Recipient will return the ownership of the goods that have been handed over after the debt has been paid. On the other hand, the Fiduciary Recipient believes that the Fiduciary Giver will not misuse the collateral under his or her control (Widjaja & Yani, 2001). The Fiduciary Guarantee institution was already known and enforced in Roman legal society. There are two forms of Fiduciary Guarantee, namely:

1. *fiducia cum creditore*,
2. *fiducia cum amico*.

Both arise from an agreement called *pactum fiduciae* which is then followed by a transfer of rights or *in iure cessio*. In the first or complete form of *fiducia cum creditore contracta*, which means a promise of trust made with the Creditor, it is said that the Debtor will transfer ownership of an object to the Creditor as collateral for his debt with an agreement that the Creditor will transfer ownership back to the Debtor when the debt has been paid. paid off (Widjaja & Yani, 2001).

This definition is related to legal protection for the Debtor, so if the Debtor's debt has been paid in full, the ownership of the collateral for the debt will be transferred back to the Debtor. If the transfer of ownership is not carried out then the Creditor can be said to have broken his promise or is in default, then the Debtor can take legal action by filing litigation or non-litigation legal action against the Creditor because the Creditor has not fulfilled the agreed fiduciary agreement.

Achievement is the content of the engagement. If the Creditor does not fulfill the performance as specified in the agreement, then he is said to be in default (negligence). Default by taking into account the provisions of Article 1243 of the Civil Code can occur because of the following: (Setiono, 2004)

1. not doing what he said he would do,
2. carry out what he promised but did not do it properly,
3. carrying out what was promised but being late in carrying it out, or
4. do something that according to the agreement you are not allowed to do.

So it can be said that a creditor's default can be,

1. does not meet achievements at all,
2. not cash to meet achievements.
3. late in fulfilling achievements,
4. Misrepresentation of achievements.

Every agreement has legal consequences, that is, it is binding between both parties and cannot be withdrawn unless agreed by both parties and is based on good faith, including agreements made by Creditors with Debtors. The legal consequences of an agreement will be seen when one party commits an act of default and harms the other party. The aggrieved party generally asks the party who committed the default to compensate for the losses suffered. Claims for compensation made by creditors include, among other things, reimbursement of costs, losses, and interest.

Dispute resolution using litigation means that the Debtor files a lawsuit against the Creditor through a court in the general court environment, whereas dispute resolution by non-litigation means that resolving problems that occur between Creditors and Debtors is carried out using negotiation, mediation, and arbitration.

Dispute resolution using litigation is a dispute resolution system through judicial institutions. Disputes that occur and are examined through litigation will be examined and decided by a judge, where through this system it is impossible to achieve a win-win solution or a solution that takes into account both parties because the judge must make a decision where one party will be the winning party and the other party others are the losers. The dispute resolution process through litigation can be carried out by filing a lawsuit against the Creditor through a court in the general court environment if no agreement is found to resolve the dispute between the Creditor and the Debtor by non-litigation or outside the court.

The claim for default by the Creditor is based on an agreement between the Creditor and the Debtor which contains the principle of freedom of contract as in Article 1338 of the Civil Code, which reads: "All agreements that are legally made are valid as law for those who make them."

Dispute resolution by non-litigation means dispute resolution outside of court. Dispute resolution through an out-of-court process results in an agreement that is a win-win solution or mutually beneficial to each other which guarantees the confidentiality of the dispute between the parties, avoids delays caused by procedural and administrative matters, resolves problems comprehensively together, and maintains good relations. The only advantage of this non litigation process is its confidentiality because the trial process and even the results of the decisions are not made public (Wiryawan et al., 2010).

The legal basis for resolving disputes using non-litigation methods is: (Sutiyo, 2008)

1. Article 1338 of the Civil Code states that; All agreements made legally are valid as law for those who make them.

This provision contains the principle of an open agreement, meaning that, in resolving a problem, each person is free to formulate it in the form of an agreement with any content that can be carried out to resolve the problem. Article 1340 of the Civil Code states that the agreement is only valid between the parties who make it. Settlement of disputes by non-litigation means that this provision becomes important in terms of reminding the parties to the dispute that they are given the freedom by law to choose a way to resolve the problem which can be stated in the agreement, as long as the agreement is made legally

and fulfills the conditions for the validity of the agreement. as specified in Article 1320 of the Civil Code.

Based on this explanation, the agreement entered into by the Creditor with the Debtor has fulfilled the requirements referred to in Article 1320 and Article 1338 of the Civil Code, so that after an act of default is carried out by the Creditor, both parties can choose the dispute resolution that will be used.

2. Article 1266 of the Civil Code states that the condition of cancellation is deemed to always be included in a reciprocal agreement if one party does not fulfill its obligations.

The provisions of this article are very important to remind the parties, in this case creditors and debtors who agree to resolve the problem, that the agreement must be implemented consistently by both parties.

3. Articles 1851 to Article 1864 of the Civil Code concerning Peace, which state that peace is an agreement, therefore a peace agreement is valid if it is made according to the requirements for the validity of the agreement and is made in writing.

Peace can be made inside Court or outside Court. Settlement of disputes using non-litigation means, peace is made outside the Court. What is more emphasized is how legal disputes can be resolved by peace outside the Court and this peace has the power to be carried out by both parties to the dispute, in this case, the Creditor and the Debtor.

4. Settlement of disputes by arbitration, namely a method of resolving civil disputes outside the General Court which is based on an arbitration agreement made in writing before or after the dispute by appointing one or more arbitrators to dispute decision.

Furthermore, what is meant by alternative dispute resolution is the resolution of disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside of Court using consultation, negotiation, mediation, conciliation, or expert assessment.

Obstacles Faced by Debtors Who Hold Fiduciary Collateral in Carrying Out Fiduciary Collateral

The Fiduciary Guarantee registration administration system is in the form of a Fiduciary Guarantee registration procedure and the issuance of a Fiduciary Guarantee Certificate which can be done online by the applicant for Fiduciary Guarantee registration via an electronic system belonging to the Directorate General of General Legal Administration (Ditjen AHU) which is registered through a Notary, the legal source which is the basis for its formation. and the implementation of this system is the Circular Letter of the Directorate General of AHU No. AHU-06.OT.03.01 of 2013 concerning the Implementation of an Electronic Fiduciary Security Registration Administration System (Online System).

As evidence for Creditors who are holders of Fiduciary Guarantee, there is a Fiduciary Guarantee Certificate issued by the Directorate General of General Legal Administration which is registered through the Notary's office and submitted on the same date as the date of receipt of the application for registration of Fiduciary Guarantee. This Fiduciary Guarantee Certificate is a copy of the one at the Directorate General of General Legal Administration which contains notes regarding matters regarding the object of the Fiduciary Guarantee and

the amount of receivables between Creditors and Debtors with the data and information available at the time of the Fiduciary Guarantee registration statement. The provisions regarding the obligation to register Fiduciary Guarantee Online can be said to be an important breakthrough considering that in general the objects of Fiduciary Guarantee are movable objects that are not registered so it is difficult to know who the owner is. This breakthrough will be more meaningful if we relate it to the provisions of Article 1977 of the Civil Code which states that whoever controls a movable object will be considered the owner (bezit geldt als volcomen titel).

By Article 25 of Law Number 42 of 1999 concerning Fiduciary Guarantees, it is known with certainty the things that can eliminate a fiduciary, namely by writing off debts, relinquishing rights, destroying objects, and also transferring insurance claims and receivables. The transfer of receivable rights guaranteed by the Fiduciary Guarantee will result in the transfer of the Fiduciary Guarantee to a new Creditor. This is the nature of the accessor of Fiduciary Guarantee which arises, transfers, and deletes following the main agreement, Article 19 of Law Number 42 of 1999 concerning Fiduciary Guarantee, as follows also with objects guaranteed by Fiduciary Guarantee, even if the object is transferred or changed in any way, the fiduciary guarantee remains attached to the object.

What is meant by re-fiduciary is that objects that have been registered as Fiduciary Guarantee cannot be encumbered and registered as Fiduciary Guarantee again before the Fiduciary Guarantee is removed. This is not possible and not permitted by Law Number 42 of 1999 concerning Fiduciary Guarantees because the ownership rights to the object have been transferred to the Fiduciary Recipient temporarily, so it cannot be handed over again to other Creditors, considering that the proof of ownership of the object of the Fiduciary Guarantee has been transferred. into the hands of the Fiduciary Recipient. The elimination of Fiduciary Guarantees is a form of facility supporting legal certainty in Fiduciary Guarantee law. Elimination of the Fiduciary Guarantee is an obligation so that there are no repeat fiduciaries which will be detrimental to Creditors and Debtors alike. So, through the Fiduciary Guarantee elimination facility provided by the government, it is hoped that legal certainty in Law Number 42 of 1999 concerning Fiduciary Guarantees can be fulfilled by the objectives of the establishment of Law Number 42 of 1999 concerning Fiduciary Guarantees which, among other things, is to fulfill the legal needs of the community for guarantee legal certainty and to provide protection to interested parties, namely Creditors and Debtors.

Legal Consequences of Roya's Failure to Implement Fiduciary Guarantees on the Status and Legal Position of Fiduciary Security Objects

In every agreement there must be an expiration date, this is also the case with Fiduciary Guarantees, because the provision of Fiduciary Guarantees is an accessory or subsidiary agreement to the main agreement, in this case, a credit agreement. If the credit and obligations related to the credit have been paid off, the credit agreement is also terminated. With the deletion of the agreement, the Fiduciary Guarantee is also deleted.

The provisions for eliminating Fiduciary Guarantees are based on Article 16 paragraph (1) of Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds are;

1. Elimination of debt guaranteed by fiduciary.
2. Relinquishment of rights to fiduciary guarantees by the fiduciary, or
3. Destruction of the object that is the object of the fiduciary guarantee.

Furthermore, Article 16 paragraphs (2) and (3) of Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Deeds regulates the provisions regarding the period and requirements for eliminating fiduciary guarantees, stating:

"If a fiduciary guarantee is erased as intended in paragraph (1), the fiduciary recipient, their proxy or representative, is obliged to notify the Minister within a maximum period of 14 days from the date the fiduciary guarantee is erased."

In this case, the debtor is entitled to the Fiduciary Guarantee because he has repaid the debt. Once repayment occurs, the Fiduciary Guarantee will be erased, the Debtor is legally entitled to return the guarantee, so that no one has the right to prevent the Debtor from replacing the goods or objects of the Fiduciary Guarantee.

This statement is inaccurate if the Fiduciary Giver is accused of re-performing fiduciary because the goods or objects of the Fiduciary Guarantee have not been removed by the Creditor, even though the elements according to Article 35 of Law Number 42 of 1999 concerning Fiduciary Guarantee have been fulfilled but in this case the Debtor does not deserve the consequences. The law is in the form of imposing a criminal penalty on him because the legal consequences arising from this re-fiduciary act should be imposed on the creditor. This is very reasonable because the Creditor returns the Fiduciary Collateral object while it is still registered as Fiduciary Collateral so it is natural for the Debtor to re-pledge the Fiduciary Collateral object to be registered as Fiduciary Collateral again.

Conclusion

From the explanation above, conclusions can be drawn regarding the main problems studied, namely as follows:

1. Legal protection provided in the event of payment in full or repayment of debt guaranteed by Fiduciary Guarantee Objects, by the provisions of Article 25 paragraph (1) of Law Number 42 of 1999 concerning Fiduciary Guarantees is one of the reasons for the elimination of Fiduciary Guarantees. Furthermore, the Fiduciary Recipient is required to notify the Fiduciary Guarantee of the deletion to the Fiduciary Registration Office so that the Fiduciary Guarantee can be removed from the Fiduciary Registration Book. By the nature of the Fiduciary Guarantee, the Fiduciary Guarantee depends on the existence of receivables whose repayment is guaranteed, so that if the receivables are written off due to the write-off of the debt or due to disposal, the relevant Fiduciary Guarantee will automatically be written off. However, if the Creditor does not do this, the Debtor can take legal action, both litigation and non-litigation.

2. Obstacles in legal protection for Fiduciary Givers if the Fiduciary Recipient does not complete the Fiduciary Guarantee Certificate online because of Law Number 42 of 1999 concerning Fiduciary Guarantees and its implemented regulations, namely Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and The cost of making a Fiduciary Guarantee Deed does not include sanctions for the Fiduciary Recipient, their proxies or representatives, so it will not have any consequences for the Fiduciary Recipient, their proxies or representatives if the Fiduciary Guarantee Certificate is not carried out. Furthermore, there is no legal certainty about the object of the Fiduciary Guarantee if the Fiduciary Recipient does not undertake it if it will be used as the object of Fiduciary Guarantee in the future because the Fiduciary Guarantee attached to the object used as collateral is still registered with the Ministry of Law and Human Rights and the Fiduciary Guarantee Certificate is still considered valid and cannot be re-registered," Article 17 paragraph (2) Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds.

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