

## The Juridical Analysis of the Term of Banking Liability Loan Ownership of FLPP Prosperity

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**Abstract.** *Procedures for granting Subsidized Housing Loan facilities by Bank Mandiri Semarang Pahlawan Area, namely Submission of files; Loan file investigation; Interview 1; On the spot; Interview 2; Credit decisions; Signing of credit contracts/other agreements; Credit realization; and Distribution/auction house. The regulation of the time period regarding the SKMHT Deed in the Mortgage Law clearly states that the SKMHT cannot be withdrawn or cannot be terminated for any reason, except because the power of attorney has been exercised or because the term has expired. The period of use of SKMHT in the provision of Subsidized Housing Loan facilities by Bank Mandiri Semarang Pahlawan Area in its implementation is followed by the Deed of Granting Mortgage Rights (APHT). This type of research is normative or juridical normative, namely by researching library materials and secondary materials, while the nature of this research is analytical descriptive. Sources of data in this study is secondary data. The data collection used in writing this thesis is through literature research techniques. The method of data analysis carried out by the author is a qualitative approach. It is expected that the Bank Mandiri Area Semarang Pahlawan should be objective in selecting prospective debtors so that the benefits of the Subsidized Housing Credit program can be felt, it is hoped that the government regarding the provisions of Article 15 paragraph (3) and (4) UUHT to be reviewed because the SKMHT period is fairly short and not commensurate with the length of the process of issuing the certificate of land rights and it is hoped that the Bank Mandiri Area Semarang Pahlawan in the use of SKMHT in the provision of Subsidized Housing Credit facilities should be followed by APHT in its implementation.*

**Keywords:** Bank; Deed; Loan; Mortgage.

### 1. Introduction

The house is a basic or primary need for humans. The house is a building that functions as a place to live and stay for family development. This is what causes a

house to be a dream to own and getting a house is not easy, because to meet these needs requires a relatively large cost.<sup>1</sup>

Indonesia as a developing country where the income per capita of the population is relatively low so that people find it difficult to get a house. According to Vice President Ma'ruf Amin, the government still has a lot of homework to do in providing housing for the community. Because, there are still many people who still do not have a home. Based on data from the Central Statistics Agency in 2019, the number of families in Indonesia who own a house is 80.07%. While the rest, or approximately 20%, still live by renting a house, staying at a relative's house, or maybe even living a nomadic life. Therefore, the government pays special attention to the property sector. In the 2021 State Revenue and Expenditure Budget (APBN), the government allocates a budget of IDR 30 trillion for housing finance.<sup>2</sup>

Based on the above phenomenon, the government must work hard to be able to prosper its low-income community, namely by providing facilities and assistance for housing and residential areas for the community through the implementation of area-based housing and residential areas as well as community self-reliance so that it is a functional unit in the form of physical spatial planning, living economy, and socio-culture that is able to guarantee environmental sustainability in line with the spirit of democracy, regional autonomy and openness in the life of society, nation and state.

In providing assistance or facilities to obtain housing for low-income people, changes are made to the requirements for subsidized housing loans whose funding comes from the State revenue and expenditure budget, regional income and expenditure budgets, and/or other sources of funds spent on housing and settlements in accordance with legislation.

One alternative to owning a house is by way of credit through a bank or in the community known as a Home Ownership Credit (KPR). A subsidized mortgage is a home ownership loan that targets people with lower middle income. Home ownership through credit is in great demand by many people. This is due to the financial income ability of the majority of Indonesian people who cannot afford to buy a house through cash purchases. This helps and encourages the Government to provide subsidized funds for housing loan facilities through the banking sector.<sup>3</sup>

The Home Ownership Credit Agreement is given to the Debtor to buy a house built by the developer, with facilities provided by the Bank. The bank in providing credit must have confidence in the repayment of the released credit, with collateral in the form of land and houses to be built by the developer.<sup>4</sup>

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<sup>1</sup>Act No. 1 of 2011 concerning Housing and Settlement Areas.

<sup>2</sup> <https://economy.okezone.com/read/2020/12/03/470/2320854/duh-20-masyarakat-indonesia-belum-punya-rumah> accessed on March 3, 2022.

<sup>3</sup>Blaang. (2016). *Perumahan dan Pemukiman sebagai Kebutuhan Pokok*. Jakarta: Yayasan Obor Indonesia. p.61.

<sup>4</sup>Sutedi, Adrian. (2015). *Hukum Hak Tanggungan*. Jakarta: Sinar Grafika.p. 102.

Credit agreements are always related to the binding of collateral. This is done by the Bank so that the Bank gets certainty that the credit given to its customers can be used according to their needs and can be returned safely. The existence of a guarantee that is bound in the form of a certain guarantee agreement will be able to reduce the risk that may occur if the debtor or customer or credit recipient defaults or is unable to repay the credit or loan.

Based on Law Number 10 of 1998 concerning Banking, it is stated that in providing credit, commercial banks are required to have confidence based on in-depth analysis of the good faith and ability and ability of the customer or debtor to pay off their debts. This means that banks must pay attention to and provide an assessment based on in-depth analysis of the good faith of prospective credit recipients. The assessment concerns the character, ability, capital, and guarantees of the prospective credit recipients and their business prospects.

However, credit guarantee rights cannot stand alone, but are related to other rights which are their main rights. Therefore, the nature of collateral rights is *accessoir*, namely following the main agreement, namely the credit agreement. This means that if the credit agreement has ended, the guarantee also ends. This trait is inherent in all credit agreements.

Thus, this credit guarantee agreement is made or exists because of an agreement that precedes it, namely a credit agreement. In accordance with its purpose, the credit guarantee agreement is indeed made to guarantee the obligations of the debtor in the credit agreement, namely paying off the credit. So without a credit agreement, there will be no credit guarantee agreement. In law, the position of the credit agreement is the principal agreement, while the position of the credit guarantee agreement is a follow-up or additional agreement (*accessoir*).

SKMHT is a letter containing the power of attorney made or given by the collateral provider or land owner, in this case the debtor or buyer as the authorizing party to the creditor as the power of attorney to represent the power of attorney to grant the mortgage rights to the creditor on the land of the power of attorney.<sup>5</sup>

Mortgage Rights are Guarantee Rights that are imposed on Land Rights as referred to in Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles, including or not including other objects which are an integral part of the land, for the settlement of certain debts, which gives priority to certain creditors over other creditors.

At the time of signing the deed of credit agreement, the debtor also signs the deed of SKMHT. SKMHT is an authorization from the Debtor to the Creditor to burden the certificate with Mortgage if the Certificate has been completed. Transfer of name to the name of the Debtor. The SKMHT is required to guarantee the subsidized housing credit facility until the end of the credit agreement or until the credit agreement is paid off.

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<sup>5</sup>Badruzaman, Darius. (2014). *Surat Kuasa Membebaskan Hak Tanggungan*. Bandung: Alumni. p.44.

As for the installation of Mortgage, it costs a lot of money, so for subsidized mortgages, the validity period of the SKMHT is until the end of the credit agreement or until the credit agreement is paid off. The validity period of the SKMHT in Article 3 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 22 of 2017 is no later than 3 (three) months after it is granted.

Another thing is that a phenomenon that often occurs in Power of Attorney for Imposing Mortgage is that SKMHT which has been signed by the Bank/Creditor with the debtor is often null and void by law, so that the Power of Attorney for Imposing Mortgage cannot be used to make a Deed of Granting Mortgage (encumbered by Mortgage) this is because the land title certificate has not been completed, under the appropriate name or on behalf of the debtor. If this happens, the creditor will certainly be very disadvantaged, because the creditor's position is not guaranteed by the Mortgage Rights.

The reason the author chose PT. Bank Mandiri (Persero), Tbk. The Semarang Pahlawan area as the object of research is due to PT. Bank Mandiri (Persero), Tbk. The Semarang Pahlawan area is a channeling bank for home financing from the FLPP KPR program which is a million houses program from the President of Indonesia.

PT. Bank Mandiri (Persero), Tbk. The Semarang Pahlawan area has succeeded in distributing the FLPP KPR housing unit. These results are obtained from the collaboration with several developers. To provide choices to customers and the public PT. Bank Mandiri (Persero), Tbk. The Semarang Pahlawan area provides a wide selection of financing products and one of them is KPR FLPP. This is also to make it easier for people with low incomes to realize their desire to have decent and comfortable housing.

## 2. Research Methods

The approach used in this study is a normative juridical approach. Taking Ronald Dworkin's term, this kind of research is also known as doctrinal research<sup>6</sup>, namely research that analyze the law, both written in the book (law as it is written in the book) and the law decided by the judge through the court process (law as it decided by the judge through the judicial process). In this study, literature and document studies were used as the main material, while field data were obtained through interviews with employees of Bank Mandiri Semarang at Pahlawan Area.

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<sup>6</sup>This kind of research is also called doctrinal legal research, namely legal research that uses secondary data. Hanitijo, Ronny. (1988). *Metode Penelitian Hukum dan Jurimetri*. Jakarta: Ghalia Indonesia. p.10

### 3. Results and Discussion

#### 3.1. Procedure for Providing FLPP Prosperous Housing Loan Facility at Bank Mandiri Semarang Pahlawan Area

The procedures for granting subsidized housing loans are as follows:<sup>7</sup>

- Submission of files

In this case, the applicant or prospective debtor submits a credit application which is included in the proposal. The submission of a credit proposal should include, among others: (a) the background of the company/business group; (b) intent and purpose; (c) the amount of credit and the time period; (d) how to return the credit; and (e) credit guarantees.

- Loan file investigation

Loan file investigation is examining or checking the files that have been submitted by the applicant which aims to find out whether the file submitted is complete in accordance with the requirements and is correct. If it is not complete or sufficient, then the customer is asked to complete it immediately and if until a certain time limit the customer is unable to complete the deficiency, then the credit application can be cancelled.

- Interview 1

This is an investigation of prospective customers with the bank by asking directly, to ensure that the files are appropriate and complete as required by the bank.

- *On the spot*

It is a field inspection activity by reviewing various objects that will be used as business or collateral. Then the results were matched with the results of interview I.

- Interview 2

Is a file repair activity, if there may be a shortage at the time after it was done on the spot in the field.

- Credit decision

The credit decision in this case is to determine whether the credit will be given or rejected, if it is accepted then the administration is prepared.

- Signing credit contracts/other agreements

This activity is a continuation of the credit decision, so before the credit is disbursed, the prospective customer must first sign a credit agreement, considering that collateral with a mortgage and a letter of agreement is deemed necessary. In addition to mortgages and letters of agreement, customers must also make SKMHT in front of the PPAT/Notary. Making SKMHT is required if the house certificate is still in the name of the seller or developer, so it is necessary

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<sup>7</sup>Sastra M., et al, (2016), *Perencanaan dan Pengembangan Perumahan*. Jakarta: Rajawali Press, p. 43.

to change the name first based on the AJB to the debtor/buyer of the house. The rules regarding SKMHT are clearly regulated in Article 15 of the Mortgage Law.

- Credit realization

The realization of this credit is given after signing the required documents by opening a checking or savings account at the bank concerned.

- House distribution/auction

Is the disbursement or withdrawal of money from the account as a realization of the provision of credit and can be taken according to the terms and purposes of the credit.

### 3.2. Procedure for Making SKMHT on Subsidized Housing Loan Facility

The procedures for making SKMHT on subsidized housing credit facilities are as follows:<sup>8</sup>

Before making a credit agreement, the repayment of which is guaranteed by SKMHT, the parties first make an agreement about what will be formulated in the credit agreement.

As it is known that according to any legal system in the world, an agreement of will is one of the conditions for the validity of a contract, as for example specified in Article 1320 of the Civil Code.<sup>9</sup>

The principle of consensualism contained in Article 1320 of the Civil Code implies the "will" of the parties to achieve each other, there is a willingness to bind themselves together. This will evokes confidence (*vertrouwen*) that the agreement is fulfilled.

The principle of consensualism has a close relationship with the principle of freedom of contract and the principle of binding force contained in Article 1338 paragraph (1) of the Civil Code, which reads "All agreements made legally apply as laws for those who make them".

Furthermore, the principle of freedom of contract relates to the contents of the agreement, namely the freedom to determine "what" and with "who" the agreement is made. Agreements made in accordance with Article 1320 of this Civil Code have binding force.

Although the law guarantees freedom of contract for the parties, in practice, according to the Notary/PPAT respondents in making credit agreements, the position of the parties is generally not balanced where the position of the debtor is weaker than the position of the creditor as the owner of the funds.

### 3.3. Juridical analysis of the validity period of the power of attorney granting mortgage rights to the FLPP welfare home ownership loan

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<sup>8</sup>Ibid. p.43

<sup>9</sup>Fuady, Munir. (2016). *Hukum Kontrak (Dari Sudut Pandang Hukum Bisnis)*. Bandung: Citra Aditya Bakti. p. 35.

The setting the Term Regarding the Deed of Power of Attorney Imposing Mortgage in the Prevailing Laws. Setting the time period regarding the Deed of Power of Attorney to impose Mortgage is regulated in Article 15 paragraph (3) and paragraph (4) of Law Number 4 of 1996, namely "if the object of the Mortgage is the registered land right, within no later than one month after it is given, must be followed by the use of the relevant APHT. Meanwhile, if the land rights are used as collateral which have not been registered, the period of use is limited to three months. The three-month time limit also applies if the land rights in question have been certified, but have not been registered in the name of the Mortgage Giver as the new right holder.

In addition, in order to prevent the protracted power of attorney and the occurrence of abuse and to achieve legal certainty, the validity period of the SKMHT is limited. For land rights that have been registered, must be followed by making APHT no later than 1 (one) month after being granted. Meanwhile, land rights that have not been registered must be fulfilled within 3 (three) months. What is meant by unregistered land is land whose ownership rights already exist according to law. Yes, but the administrative process for the conversion has not yet been completed. So, it is a land right that comes from the conversion of old rights that have met the requirements to be registered, but the registration has not been carried out.<sup>10</sup>

In the period before the enactment of the UUHT, this was done by making a Power of Attorney to Install Mortgages (SKMH), in practice, after the SKMH was signed it was not directly used to install mortgages, only to be installed if the debtor was seen to be in default.

Subjective reasons from the creditor why he asked for SKMH from the mortgage giver (then just kept it) for several things, namely as follows:<sup>11</sup>

- Mortgage loading affairs are quite long;
- Mortgage charges are quite high;
- Short term loans;
- Credit granted is small; and
- The debtor is very trusted (*bona fide*).
- While the objective reason of the mortgage giver why he made the SKMH (related to the object of the mortgage) is for several reasons, namely as follows:
  - Certificate has not been issued;
  - Transfer of name to the name of the mortgage giver has not been carried out;
  - The splitting or merging has not been completed;

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<sup>10</sup>Paripurno, Yudo. (2016), Pengaturan dan pelaksanaan Surat Kuasa memasang Hipotik (SKMH) dalam kaitannya dengan UU Hak Tanggungan. Jakarta: Makalah UI Depok. p. 6

<sup>11</sup>Judo Paripurno, (2016), Menyongsong Berlakunya Undang-Undang Hak Tanggungan Atas Tanah dan Benda-Benda Yang Berkaitan Dengan Tanah, Makalah Seminar Nasional, Fakultas Hukum Universitas Gadjah Mada, Program Pendidikan Spesialis Notariat FH-UGM, Pusat Pengkajian Hukum Tanah FH-UGM, Yogyakarta, p.3.

- Roya (deletion of mortgage burden) has not been carried out.

Things like that, in the SKMHT are eliminated by providing clear boundaries and legal certainty in their use and manufacture. So that the parties involved in it are equally protected.

On the other hand, there are several advantages that creditors get by owning and making the SKMH, which are as follows:<sup>12</sup>

- The power to issue a mortgage can be made in a relatively short time compared to making a mortgage deed;
- The power to issue a mortgage can be made anywhere within the territory of Indonesia, while making a mortgage deed may only be made at the PPAT office whose working area includes the sub-district or district in which the land to be mortgaged is located;
- With the power to charge the mortgage, the creditor can without the help of the land title holder put up a mortgage;
- The fee for making a power of attorney to charge a mortgage is at least a quarter of a percent of the rupiah amount of the mortgage.

The term of the Power of Attorney to impose Mortgage as regulated in the Mortgage Law in Article 15 paragraphs (3) and (4) is 1 (one) month for registered land and 3 (three) months for unregistered land if not followed by the making of a deed of granting mortgage will be null and void by law.<sup>13</sup>

If the term of the main agreement of the credit facility has ended, then the SKMHT will also end and if the credit has not been paid off, the bank should follow up the SKMHT referred to as the Deed of Assignment of Mortgage Rights (APHT) and then register it with the local BPN. After the APHT is registered, a Mortgage Certificate (SHT) is issued and the bank can execute the Mortgage Rights.

Determining a period that is too short can endanger the interests of creditors, because it is not impossible, namely, as several cases show such circumstances, that credit has become bad even though the credit has only been given in 3 (three) months. This congestion can occur not because the bank's analysis of the feasibility of the business to be given credit is not good, but the congestion can occur as a result of changes in economic conditions or changes in regulations that occur, both abroad and within the country.

However, following up SKMHT with APHT for registration of Mortgage Rights to the local National Land Agency was constrained due to the length of the process at the National Land Agency. So that the Creditor will re-sign the II (new) SKMHT to continue the I (First) SKMHT which has ended.

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<sup>12</sup>Perangin-angin, Effendi. (2015). *Praktik Penggunaan Tanah Sebagai Jaminan Kredit*. Jakarta: Rajawali. p.84.

<sup>13</sup>Sutan Remy Sjahdeini. (2016), Beberapa Permasalahan UUHT Bagi Perbankan, Makalah pada Seminar Nasional Sehati tentang "Periapan Pelaksanaan Hak Tanggungan di Lingkungan Perbankan", Fakultas Hukum Universitas Sumatera Utara. Medan. p.45.



The determination of the time period as contained in the legislation is sufficient for PT. Bank Mandiri (Persero), Tbk. Semarang Pahlawan area to be followed up by making APHT. The making of APHT is carried out to prevent protracted authorization and abuse and to achieve legal certainty, the validity period of SKMHT is limited. For land rights that have been registered, must be followed by making APHT no later than 1 (one) month after being granted.

Based on Article 3 of the Ministerial Regulation Number 22 of 2017 states that the Power of Attorney to impose Mortgage which is valid for up to 3 (three) months, for land rights whose certificates are in the process of being processed, with the following criteria:

- Productive Credit/Financing/Loan for Micro Business/Small Business with a credit limit of IDR 50,000,000.00 (fifty million rupiah) up to IDR 250,000,000.00 (two hundred and fifty million rupiah).
- Credit/Financing/Loans intended for the procurement of shop houses by Micro/Small Enterprises with a maximum area of 200 m<sup>2</sup> (two hundred square meters) and a building area of at most 70 m<sup>2</sup> (seventy square meters) with a credit/financing/loan ceiling does not exceed IDR 250,000,000.00 (two hundred and fifty million rupiahs) which is guaranteed by land rights which are financed for its procurement with the said credit/financing/loan.

Article 4 Power of attorney to impose Mortgage which has been issued prior to the enactment of this Ministerial Regulation, is declared to remain valid and remains valid until its term expires.

Article 5 At the time this Ministerial Regulation comes into force, the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 4 of 1996 concerning the Stipulation of the Deadline for the Use of Power of Attorney for Imposing Mortgage to Guarantee the Repayment of Certain Loans is revoked and declared invalid.

Installation of the Deed of Granting Mortgage (APHT) or Power of Attorney for Imposing Mortgage (SKMHT), if the credit is bad or defaults, the debtor has authorized the Bank as the creditor to confiscate the object of the guarantee. In the case of a Power of Attorney to impose Mortgage Rights (SKMHT) for land that has been registered, it must be followed by making a Deed of Granting Mortgage Rights (APHT) no later than 1 (one) month after being granted while for land and building rights that have not been registered, the making of APHT is carried out no later than - no later than 3 (three) months after being given. On the other hand, the Power of Attorney for Encumbering Mortgage (SKMHT) results in null and void if it is not followed by the making of a Deed of Encumbrance of Mortgage (APHT).

In the letter of Credit Agreement between PT. Bank Mandiri (Persero), Tbk. Semarang Pahlawan area with the debtor, the parties agree to waive Article 1266 and Article 1267 of the Indonesian Civil Code, the bank has the right to terminate

the Credit Agreement or other agreements related to the credit agreement at any time if:

- The debtor is negligent or does not fulfill his obligations to the Bank at the time and in the manner specified in the Credit Agreement or other documents related to the Credit Agreement;
- The debtor asks for a delay in paying debts, is declared bankrupt and puts it under guardianship or custody
- The debtor leaves his residence and goes to an unknown place for a long and indefinite time, is involved in an act or event that the bank thinks endangers the repayment of the debt, is arrested by the authorities and sentenced to prison;
- The debtor provides false information regarding his identity and assets; and
- The debtor is included in the Bad Credit List and/or the Blacklist issued by Bank Indonesia.

Related to the use of SKMHT in the provision of Subsidized Housing Loans by PT. Bank Mandiri (Persero), Tbk. Semarang Hero area as a provider of facilities, the authors conducted interviews with PT. Bank Mandiri (Persero), Tbk. Semarang Hero area represented by its Officers. It was explained that PT. Bank Mandiri (Persero), Tbk. In the Semarang Pahlawan area, in the Subsidized Housing Loan Agreement, which is specifically for the type of subsidized mortgage, in practice, a Power of Attorney to impose Mortgage (SKMHT) is installed and followed by the Deed of Granting Mortgage Rights (APHT). So that the Power of Attorney to impose Mortgage Rights (SKMHT) for the type of subsidized housing loan is valid for as long as the credit period lasts.<sup>14</sup>

Thus, the use of the Deed of Power of Attorney to impose Mortgage Rights (SKMHT) in the provision of Subsidized Housing Credit facilities by PT. Bank Mandiri (Persero), Tbk. The Semarang Pahlawan area in its implementation is followed by the Deed of Granting Mortgage Rights (APHT), so that the use of SKMHT is valid for a period of time until the expiration of the main agreement, namely the credit agreement. With reference to the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 4 of 1996 concerning the stipulation of the time limit for the use of the Power of Attorney to impose Mortgage Rights (SKMHT) to guarantee the repayment of certain loans and the Regulation of the State Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia. Indonesia Number 22 of 2017 concerning Stipulation of Deadline for Use of Power of Attorney to impose Mortgage Rights to Guarantee the Repayment of Certain Loans, in this case Subsidized Housing Loans by PT. Bank Mandiri (Persero), Tbk. Semarang Hero area as a facility provider.

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<sup>14</sup>Interview with Mr. Riyan Nagara as Relationship Manager at Bank Mandiri Semarang Pahlawan office regarding the enactment of SKMHT in the Provision of Subsidized Housing Credit Facilities on July 1, 2022

The purpose of using SKMHT by PT. Bank Mandiri (Persero), Tbk. The Semarang Hero area for subsidized housing loans is to save costs. And the debtor no longer needs to sign the SKMHT if the SKMHT dies for a while, the name transfer has not been completed. Because the process carried out by PT. Bank Mandiri (Persero), Tbk. Semarang Hero area is giving roya. It is closely related to the abolition of collateral rights because the debt imposed on an owner's land rights to a bank has been paid off.

With the issuance of the roya letter, all files, including the original certificate and mortgage certificate, are returned to the owner and the owner can apply for deletion of the existing records in the certificate regarding the imposition of the mortgage or the imposition of the debt to the land office.<sup>15</sup>

In practice, the credit agreement which is accompanied by the making of SKMHT either by PT. Bank Mandiri (Persero), Tbk. Semarang Pahlawan area or by a notary in terms of the period of making SKMHT in accordance with the provisions in UUHT in Article 15 paragraph (3), which reads:

"A Power of Attorney for Imposing Mortgage regarding registered land rights must be followed by making a Deed of Granting Mortgage no later than 1 (one) month after it is granted". In addition, according to Article 15 paragraph (4) UUHT, the Power of Attorney

Mortgage rights regarding land rights that have not been registered must be followed by making a Deed of Granting Mortgage no later than 3 (three) months after being granted. According to the bank, delays regarding the follow-up of SKMHT are due to the length of time required in the practice of making SKMHT sometimes exceeding 1 (one) month.

In connection with the SKMHT which has expired, it is a delay in the PPAT party in making the APHT. This condition occurred because the data was not detected at the time of making SKMHT, so that the time period was the negligence of the PPAT and the making of APHT was too late. The result of this delay is that the SKMHT cannot be used, and is null and void by law.<sup>16</sup>

In practice, the making of SKMHT was made to be a bridge to realize the making of APHT in the future because at that time APHT could not be made so that SKMHT had to be made first, for example when making a credit agreement deed it should be continued with making APHT but because the certificate was in the process of transferring rights or was in the process of celebrating, so APHT could not be made at that time. If the creditor agrees, then only the credit agreement deed and SKMHT will be made, while the APHT will be made in the future, namely after the transition process or the relocation process is complete. SKMHT gives a strong position to creditors because SKMHT cannot be withdrawn and is not used or because the time period has expired. Therefore, creditors do not need to worry about the strength of the SKMHT, what needs to be considered is

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<sup>15</sup>Ibid

<sup>16</sup>Muktiaji, Agus. (2015). *Bagian Umum Perusahaan Daerah Kendali Artha Kabupaten Kendal*. Kendal: Kantor Pusat BPR Kendal.

the validity period of the SKMHT because the SKMHT will be null and void by law when the validity period ends. It is recommended that PPAT have a list or special record of all SKMHT made so that it is easy to control to find out when the validity period of the SKMHT it makes. SKMHT whose validity period has expired can no longer be used as a basis for the right to make APHT if this happens it can cause weakness/potential losses to creditors. It must be reminded that the SKMHT that has expired causes the SKMHT to be null and void by law. It is recommended that PPAT have a list or special record of all SKMHT made so that it is easy to control to find out when the validity period of the SKMHT it makes. SKMHT whose validity period has expired can no longer be used as a basis for the right to make APHT if this happens it can cause weakness/potential losses to creditors. It must be reminded that the SKMHT that has expired causes the SKMHT to be null and void by law. It is recommended that PPAT have a list or special record of all SKMHT made so that it is easy to control to find out when the validity period of the SKMHT it makes. SKMHT whose validity period has expired can no longer be used as a basis for the right to make APHT if this happens it can cause weakness/potential losses to creditors. It must be reminded that the SKMHT that has expired causes the SKMHT to be null and void by law. Thus, it can be concluded that the validity period of SKMHT cannot be extended, therefore PPAT must really pay attention to and take into account the validity period of SKMHT so as to avoid being unable to make APHT due to the expiration of the SKMHT period.

#### **4. Conclusion**

The procedure for granting SKMHT to subsidized housing credit facilities is as follows: 1) Stages before and at the time of making a credit agreement: Before making a credit agreement, the repayment of which is guaranteed by SKMHT, the parties first make an agreement about what will be formulated in the credit agreement. Agreement is one of the conditions for the validity of a contract, as for example specified in Article 1320 of the Civil Code. 2) Stage of Installation of Power of Attorney for Imposing Mortgage After the main agreement is held, the granting of Mortgage is carried out by making the Deed of Granting Mortgage (APHT) which made by PPAT in accordance with regulation which apply.

#### **5. References**

##### **Journals:**

- [1] Judo Paripurno, (2016), *Menyongsong Berlakunya Undang-Undang Hak Tanggungan Atas Tanah dan Benda-Benda Yang Berkaitan Dengan Tanah*, Makalah Seminar Nasional, Fakultas Hukum Universitas Gadjah Mada, Program Pendidikan Spesialis Notariat FH-UGM, Pusat Pengkajian Hukum Tanah FH-UGM, Yogyakarta,

- [2] Paripurno, Yudo. (2016), Pengaturan dan pelaksanaan Surat Kuasa memasang Hipotik (SKMH) dalam kaitannya dengan UU Hak Tanggungan. Jakarta: Makalah UI Depok.
- [3] Sutan Remy Sjahdeini. (2016), Beberapa Permasalahan UUHT Bagi Perbankan, Makalah pada Seminar Nasional Sehati tentang “Periapan Pelaksanaan Hak Tanggungan di Lingkungan Perbankan”, Fakultas Hukum Universitas Sumatera Utara. Medan.

**Books:**

- [1] Badruzaman, Darus. (2014). *Surat Kuasa Membebaskan Hak Tanggungan*. Bandung: Alumni.
- [2] Blaang. (2016). *Perumahan dan Pemukiman sebagai Kebutuhan Pokok*. Jakarta: Yayasan Obor Indonesia
- [3] Fuady, Munir. (2016). *Hukum Kontrak (Dari Sudut Pandang Hukum Bisnis)*. Bandung: Citra Aditya Bakti.
- [4] Hanitijo, Ronny. (1988). *Metode Penelitian Hukum dan Jurimetri*. Jakarta: Ghalia Indonesia.
- [5] Muktiaji, Agus. (2015). *Bagian Umum Perusahaan Daerah Kendali Artha Kabupaten Kendal*. Kendal: Kantor Pusat BPR Kendal.
- [6] Perangin-angin, Effendi. (2015). *Praktik Penggunaan Tanah Sebagai Jaminan Kredit*. Jakarta: Rajawali.
- [7] Sastra M., et al, (2016), *Perencanaan dan Pengembangan Perumahan*. Jakarta: Rajawali Press.
- [8] Sunggono, Bambang. (2016). *Metodologi Penelitian Hukum*. Jakarta: PT. Raja Grafindo.
- [9] Sutedi, Adrian. (2015). *Hukum Hak Tanggungan*. Jakarta: Sinar Grafika.

**Regulation:**

Act No. 1 of 2011 concerning Housing and Settlement Areas.

**Internet:**

<https://economy.okezone.com/read/2020/12/03/470/2320854/duh-20-masyarakat-indonesia-belum-punya-rumah> accessed on March 3, 2022