

## **Analysis of The Responsibility of a Notary as an Official Making a Land Deed Towards Collateral that Cannot be Bound by Mortgage Rights (Study of Credit Agreement Number Xx Dated March 27, 2020 Between Mr. M and Pt. Bank and Branch Bawan Agam Regency**

**Rizalul Fiqri**

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: [rizalulfiqri2749@gmail.com](mailto:rizalulfiqri2749@gmail.com)

**Abstract.** *This study discusses the analysis of the Notary/PPAT SH's responsibility for collateral that cannot be bound by mortgage rights, because the object of the mortgage right after the certificate is issued is designated as a protected forest area. The Notary/PPAT SH has issued a cover note for the collateral and has signed a deed of power of attorney to encumber the mortgage rights. The research method used in this thesis is the legal research method normative legal. This research approach uses case approach. The type of data used in this study is primary data which includes; Civil Code; Banking Law, Notary Law, Mortgage Law and secondary data containing books and other supporting documents. Data collection using interview techniques and document studies or library materials. Qualitative data analysis regarding the responsibility and legal consequences of the Notary's responsibility as PPAT towards collateral that cannot be bound by mortgage rights. The results of the study include the cover note issued by the Notary/PPAT SH is not an authentic deed, but only a statement letter, Therefore, the form of responsibility in the form of moral sanctions in the form of the bank's distrust of the notary because the notary cannot complete what is contained in the cover note as expected. If the credit agreement is not fulfilled by Mr. M, then the results of the takeover of collateral or assets owned by Mr. M cannot be auctioned to pay off the debt because the position of PT. Bank N Branch Office of Bawan, Agam Regency is only as a concurrent creditor.*

**Keywords:** *Certificate; Mortgage; Note.*

## 1. Introduction

Notary is one of the positions granted by the state based on law.<sup>1</sup>The definition of a Notary in Article 1 number 1 of the UUJN states that, "A Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this law."<sup>2</sup>

Notaries in carrying out their positions and professions can also serve as Land Deed Making Officials (hereinafter referred to as PPAT). Land Deed Making Officials hereinafter referred to as PPAT are public officials who are authorized to make authentic deeds regarding legal acts regarding land rights. Notaries and PPATs are 2 (two) positions that have different scopes of authority, but can be held by one person as one unit in carrying out their positions and professions. Thus, Notaries who hold concurrent positions as PPATs must comply with all laws and regulations and codes of ethics which are moral principles in carrying out their professions.

Notaries who hold concurrent positions as PPATs in practice often carry out cross-authority work that is related to each other, especially Notaries and PPATs who are partners of a bank. The role of Notaries and PPATs is needed in a series of credit processes in banking as well as the imposition and registration of mortgage guarantees. Mortgage rights are defined in Article 1 number 1 of the UUHT which states that "security rights imposed on land rights as referred to in Law Number 5 of 1960 concerning Basic Agrarian Principles, including or not including other objects that are an integral part of the land, for the settlement of certain debts, which give a priority position to certain creditors over other creditors.

The granting of Mortgage Rights is preceded by a promise to provide Mortgage Rights as a guarantee for the payment of a certain debt, which is stated in the deed and is an inseparable part of the relevant debt agreement or other agreement that gives rise to the debt. The practice of granting land rights with mortgage rights is common in fund distribution transactions through credit agreements in banking, but in practice there are other reasons that cause a land right not to be burdened with mortgage rights.

One example of the case is in the Credit Agreement number XX dated March 27, 2020 between Mr. M and PT. Bank N Bawan Branch Office, Agam Regency which was made privately by the parties. The collateral for the credit is in the form of 2 (two) plots of land rights with proof of ownership of Mr. M's parents, namely Certificate of Ownership 310/N Salareh registered in the name of the rights holders Mr. L and Mrs. J and Certificate of Ownership Number 311/N Salareh registered in the name of the rights holder Mrs. S (alias Mrs. J) cannot be bound by mortgage rights because it is a protected forest area.

---

<sup>1</sup>Hartanti Sulihandari and Nisya Rifiani, 2013, Basic Principles of the Notary Profession Based on the Latest Legislation, Smart World, Jakarta, p. 75.

<sup>2</sup>Law Number 30 of 2004 concerning the Position of Notary.

According to Article 1 number 8 of Law Number 41 of 1999 concerning Forestry, it states that "Protected forests are forest areas that have the main function of protecting life support systems to regulate water management, prevent flooding, control erosion, prevent sea water intrusion, and maintain soil fertility."<sup>3</sup>Based on these provisions, it is concluded that protected forests are forest areas that are managed, supervised and protected by the government, so that protected forests can be categorized as state forests. According to Article 1 number (4) of the Forestry Law, which states that state forests are forests located on land that is not burdened with land rights. In relation to the case as described above, the existence of these ownership certificates in protected forest areas as state forests cannot be burdened with land rights.

On the same day and date as the credit agreement, the land rights holders also signed a Power of Attorney to Encumber Mortgage Rights made by and in the presence of SH, a Law Graduate, Notary and PPAT in Agam Regency. Then a cover note was issued for each of the certificates of ownership mentioned above. With the issuance of the cover note, this is sufficient reason and has become the basis for PT. Bank N Bawan Sub-Branch to be able to disburse credit to Mr. M.

*Cover note* commonly used in the notary world as a letter containing information issued by a notary regarding the signing of deeds relating to a legal act.<sup>4</sup>Cover notes are also often issued by Notaries for banking purposes in cases where the formal requirements for credit disbursement purposes required by the creditor have not been fully met by the debtor. This is related to credit agreements that require land title certificates as collateral, but the certificates have not been obtained because they are still in process, for example, there is still a need to check the certificate, change the name, grant mortgage rights, register mortgage rights or other processes that are still ongoing.<sup>5</sup>

However, each cover note does not provide information about the results of the certificate check. This means that the Notary and PPAT in Agam Regency have not checked the certificate at the time of signing the credit agreement, SKMHT or at the time of credit disbursement.

The certificate of ownership that is the collateral in the credit agreement until now has no clear status and position. In addition, the position of the cover note that has been issued by the Notary and PPAT in Agam Regency also leaves a question mark, but on the other hand the credit agreement continues without

---

<sup>3</sup> Law Number 41 of 1999 concerning Forestry.

<sup>4</sup>Henny Pratiwi Pinatih, "Legal Power of Covernote Through Bank Credit Granting with Collateral in the Event of Bad Credit", Acta Comitatus Journal of Notary Law, Vol. 4, No. 3, p. 501, <https://jurnal.harianregional.com/actacomitas/full-55809> accessed on May 19, 2024 at 20.30 WIB.

<sup>5</sup>Cedric Sean, Novyta Uktolseja, and Nancy Silvana Haliwela, "Legal Power of Notary Covernote in Credit Agreement Takeover Process", Kanjoli Business Law Review, Vol. 1, No. 2, p. 118, <https://ojs3.unpatti.ac.id/index.php/kanjoli/article/download/12082/7267/>, accessed on May 19, 2024 at 21.00 WIB.

the burden of collateral as agreed in the credit agreement above. Based on the description above, the author is interested in discussing a study entitled Analysis of the Responsibility of a Notary as an Official Making Land Deeds for Collateral That Cannot Be Bound by Mortgage Rights (Study of Credit Agreement Number XX Dated March 27, 2020 between Mr. M and PT. Bank N Bawan Branch Office, Agam Regency).

## **2. Research Methods**

The method used by the author is normative legal research. Normative legal research is research conducted by examining library materials or secondary data.<sup>6</sup>The approach used in this research is a case approach. Data source comes from secondary data in the form of secondary legal materials, primary legal materials and tertiary legal materials. The data collection method used is document study and interview. Qualitative data analysis method regarding the responsibility and legal consequences of the Notary's responsibility as PPAT for collateral that cannot be bound by mortgage rights.

## **3. Results And Discussion**

### **3.1. Notary's Responsibility as PPAT for Collateral that Cannot be Bound by Mortgage Rights Contained in Credit Agreement Number XX Dated March 27, 2020 between Mr. M and PT. Bank N Branch Assistant to the Head of Agam Regency**

The Notary as PPAT is responsible for all actions on the implementation of his duties and positions in every process of making a deed. If in the case of the object of land rights, the responsibility of the PPAT or Notary as PPAT until the registration is complete and the certificate is submitted to the holder entitled to the land.

Related to the case in this study, Mr. M's collateral in the Credit Agreement number XX dated March 27, 2020 between Mr. M and PT. Bank N Bawan Branch Office, Agam Regency in the form of Certificate of Ownership Number 310/N Salareh and Certificate of Ownership Number 311/N Salareh. On the day and date, the Power of Attorney to Charge Mortgage Rights was also signed by the holders of the land rights made by and before SH, Bachelor of Law, Notary and PPAT in Agam Regency.

SKMHT is deliberately made specifically for the purpose of granting mortgage rights, then reflects the existence of legal certainty, certainty of the subject and object of the rights, certainty of the date of its creation so that it is difficult to dispute its validity.<sup>7</sup>The signing of the SKMHT by the land rights holders, namely Mr. L and Mrs. J (alias Mrs. S) for the granting of mortgage rights on the

---

<sup>6</sup>Soerjono Soekanto and Sri Mamudji, 2019, Normative Legal Research: A Brief Review, Rajawali Pers, Jakarta, p. 13.

<sup>7</sup>Moh.Rezah, "Legal Review of the Position of Power of Attorney According to Law Number 4 of 1996 Concerning Mortgage Rights," Journal of Legal Opinion, Vol.02, No.04, p. 2, <https://media.neliti.com/media/publications/146241-ID-none.pdf>, accessed on July 22, 2024 at 17.00 WIB.

Certificate of Ownership 310/N Salareh and Certificate of Ownership Number 311/N Salareh, means that there has been a legal act of granting power of attorney to encumber mortgage rights to the management of PT. Bank N Branch Office of Bawan, Agam Regency. Then for the legal act, 2 (two) cover notes have been issued, namely cover note number 471/III/Not.PPAT/2020 for the legal act against the Certificate of Ownership 310/N Salareh and cover note number 481/III/Not.PPAT/2020 for the legal act against the Certificate of Ownership Number 311/N Salareh.

The birth of the cover note comes from the results of an agreement between the Bank and the Notary/PPAT. The role, function and position of the cover note in the banking world is as a temporary legal umbrella until the process at the notary/PPAT office is completed and the collateral object is handed over to the creditor. This means *cover note* is just a letter explaining that there is a process still ongoing in the processing of deeds that have not been completed.<sup>8</sup>

However, each cover note does not provide information regarding the results of the certificate check, which means that SH, Bachelor of Law, Notary and PPAT in Agam Regency are indicated to have not checked the certificates when the credit agreement and SKMHT were signed.

As is known, one of the obligations of PPAT according to the provisions of Article 97 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Power of Attorney to Encumber Mortgage Rights 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, it is mandated that:

"Before carrying out the making of a deed regarding the transfer or encumbrance of land rights or Ownership Rights for Apartment Units, the PPAT is required to...

- a. ensure the conformity of physical data and legal data on the certificate with electronic data in the database through electronic land information services and;
- b. ensure and be sure that the physical object of the land area to be transferred and/or burdened with rights is not in dispute."

Based on these provisions, the notary as PPAT is required to conduct an examination or check at the local Land Office regarding the certificate of rights to be transferred or burdened with rights. According to the statement of Mr. C as a credit analyst at PT. Bank N Branch Office of Bawan, Agam Regency, stated that:

---

<sup>8</sup>Widya Indrayeni, 2012, "Legal Consequences of the Issuance of Covernotes by Notaries for Interested Parties in Banking Credit Transactions", Thesis, Faculty of Law, Master of Notary, University of Indonesia, Depok, p.3

“SH, Bachelor of Law, Notary and PPAT in Agam Regency has conducted a certificate check on the electronic land information service at the local land office, the results of which came out after the credit agreement and SKMHT were signed by the parties before the notary and PPAT in Agam Regency. From the results of the check, it was found that the Certificate of Ownership Number 310/N Salareh and Certificate of Ownership Number 311/N Salareh could not be burdened with mortgage rights because they were included in the protected forest area. So that the certificates were only stored in the bank without any legal binding.”

Based on the above information, it can be concluded that SH, a Bachelor of Law, Notary and PPAT in Agam Regency, cannot fulfill his promise as stated in the cover note to encumber and register mortgage rights on the certificates because they are included in protected forests. According to Article 1 number 8 of Law Number 41 of 1999 concerning Forestry (hereinafter referred to as the Forestry Law), it states that:

"Protected forests are forest areas that have the main function of protecting life support systems to regulate water systems, prevent flooding, control erosion, prevent sea water intrusion, and maintain soil fertility."

SH, Bachelor of Law, Notary and PPAT in Agam Regency, can be held accountable for the promise to complete the work as stated in the cover note. However, the Notary Law itself does not explain the authority and duties of a notary to make a cover note, so sanctions cannot be given based on the UUJN or the code of ethics. Therefore, the issuance of a cover note by a notary is an action outside the authority that has been determined and the document is not legally binding on the parties and only binds the notary personally. Thus, the forms of liability that may be enforced are general liability such as civil liability based on unlawful acts or breach of contract, administrative liability and moral liability.

According to the author, the responsibility borne by SH, Bachelor of Law, Notary and PPAT in Agam Regency in this case is moral responsibility because the cover note can be said to be morally binding and the needs of society arise. Associated with the position of notary/PPAT as a position of trust then the actions of SH, Bachelor of Law, Notary and PPAT in Agam Regency can reduce the level of public trust in the position of notary/PPAT. In other words, the actions taken by the notary in this case can damage the honor and dignity of the position. Thus sanctions given to SH, Bachelor of Law, Notary and PPAT in Agam Regency that is moral sanctions in the form of distrust. Bank N Bawan Branch Office to SH, Bachelor of Law, Notary and PPAT in Agam Regency because they could not complete the contents of the cover note as expected. This distrust can lead to the termination of the cooperation agreement between SH, Bachelor of Law, Notary and PPAT in Agam Regency as the bank's partner notary.

### **3.2. Legal Implications of the Implementation of Credit Agreement Number XX Dated March 27, 2020 between Mr. M and PT. Bank N Branch Assistant to the Head of Agam Regency Collateral that cannot be bound by mortgage rights**

A credit agreement is an agreement that regulates the rights and obligations of a debtor and a creditor that can be made with an authentic deed or a private deed. As is known, a credit agreement that has been agreed upon and signed by the debtor and creditor is binding as a law for them. This is an application of the principle of *pacta sunt servanda* as regulated in Article 1338 of the Civil Code which reads:

“All agreements made in accordance with the law apply as law for those who make them. The agreement cannot be withdrawn except by agreement of both parties, or for reasons determined by law. Agreements must be carried out in good faith.”

In this case, Credit Agreement number XX dated March 27, 2020 between Mr. M and PT. Bank N Branch Office of Bawan, Agam Regency, which was made privately by the parties. The collateral as stated in Article 6 of the credit agreement consists of:

1. Principal collateral in the form of:

All merchandise in the form of oil palm FFB, inventory and other existing and future work equipment are bound by a Letter of Collateral Delivery and Power of Attorney to Sell.

2. Additional collateral in the form of:

- 1) Certificate of Ownership 311/N Salareh is located in Jorong Tapian Kandis, Palembayan District, Agam Regency, West Sumatra Province, registered in the name of S alias J (the debtor's biological mother), bound by a mortgage;
- 2) Certificate of Ownership 310/N Salareh is located in Jorong Tapian Kandis, Palembayan District, Agam Regency, West Sumatra Province, registered in the names of L and J (the debtor's parents), bound by a mortgage; and
- 3) 1 (unit) 1 (one) unit of 4 (four) wheeled vehicle, Type of Goods Car, MITSUBISHI Brand, Pick Up Model. Type L300 PU FB R (4X2) M/T, Year of Manufacture 2014, Cylinder Capacity 2,477 CC, Color Black (Kanzai) registered in the name of Mr. M as debtor, bound by fiduciary.

Regarding the process of granting the mortgage rights of the certificate, 2 (two) cover notes have been issued, namely cover note number 471/III/Not.PPAT/2020 for legal actions against the Certificate of Ownership Rights 310/N Salareh and cover note number 481/III/Not.PPAT/2020 for legal actions against the Certificate of Ownership Rights Number 311/N Salareh. The cover note issued by SH, Bachelor of Law, Notary and PPAT in Agam Regency does not contain

information regarding the certificate check. The results of the certificate check are after the signing of the credit agreement and SKMHT with the result that the certificate cannot be burdened with mortgage rights because it is included in the protected forest area.

The protected forest in Agam Regency was last determined based on the Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK. 6599/MENLHK-PKTL/KUH/PLA.2/11/2021 concerning the Map of the Development of the Confirmation of Forest Areas in West Sumatra Province until 2020.<sup>9</sup> In relation to the inability to transfer and/or grant mortgage rights to land ownership certificates located in protected forest areas in Agam Regency, there are several reasons, namely:<sup>10</sup>

- a. Article 38 paragraph (2) of the Republic of Indonesia Law Number 41 of 1999 concerning Forestry states: "Use of forest areas may be carried out without changing the main function of the forest area."
- b. According to the provisions of Article 103 paragraph (1) of Government Regulation Number 23 of 2021 concerning Forestry Implementation (hereinafter referred to as Forestry PP) that: "The holder of the Forest Area Use Approval is prohibited from: a. transferring the Forest Area Use Approval to another party or changing the name of the holder of the Forest Area Use Approval without the approval of the Minister; b. pledging or pledging the Forest Area Use area to another party."
- c. Article 46 letter c of Agam Regency Regional Regulation Number 7 of 2021 concerning the Agam Regency Spatial and Regional Planning Plan for 2021-2041 states that:  
"activities that are not permitted include:
  - 1) activities that reduce the area of protected forest and vegetation cover, especially residential activities; and
  - 2) activities that disrupt and damage the ecosystem of protected forest areas."

Based on the provisions of the laws and regulations above, the certificate becomes invalid as additional collateral. This causes The SKMHT that has been signed by the parties cannot be followed up by signing the APHT. K The validity of the granting of power of attorney must fulfill the provisions of the valid conditions for a valid agreement because the substance of the SKMHT also contains an agreement agreed upon by the parties regarding the imposition of mortgage rights.

---

<sup>9</sup>Faizatul Khairani Isman, Kurnia Warman and Hengki Andora, "Legal Protection of Ownership Rights Holders in Protected Forest Areas in Agam Regency," *Journal of Swara Justisia*, Vol. 7, No. 2, p. 651, <https://swarajustisia.unespadang.ac.id/index.php/UJSJ/article/view/359/288>, accessed on July 23, 2024 at 20.00 WIB.

<sup>10</sup>Ibid., pp. 652-653.



As regulated in Article 1320 of the Civil Code, the valid requirements of an agreement consist of subjective requirements in the form of agreement and capacity and objective requirements in the form of certain things and lawful causes. In this case, the objective requirement in the form of lawful causes cannot be met. This is because the Certificate of Ownership Number 310/N Salareh and Certificate of Ownership Number 311/N Salareh are included in the protected forest area so that they cannot be burdened with mortgage rights. Thus, the agreement in the SKMHT is null and void by law.

Currently, the SKMHT can also be declared null and void by law because its validity period has expired. In the provisions of Article 15 paragraph (3) UUHT mentioned that "SKMHT regarding registered land rights must be followed by the creation of APHT no later than 1 (one) month after being given". Thus the position of SKMHT as legal instruments in mortgage agreements which are in accordance with credit agreements are void by law because they fulfill the provisions stated above.

Material agreements that regulate the transfer of rights to an object are basically divided into 2 (two) types. The main agreement is an agreement to obtain credit facilities from banking institutions or non-bank financial institutions. Both accessory agreements are additional agreements and are linked to the main agreement.<sup>11</sup> The main agreement is invalid if the legal conditions of the agreement are not fulfilled.

The Credit Agreement in this case has met the requirements for a valid agreement. First, agreement, in the credit agreement there has been a conformity of will so that the parties agree to sign the agreement voluntarily without any coercion. Second, regarding the capacity to act, the parties in the credit agreement are based on a comparison which has apparently met the provisions of legal capacity. Third, a certain thing, in the agreement it has been clearly and in detail stated regarding the object, rights and obligations along with other provisions agreed upon by the debtor and creditor. Fourth, the lawful reason, the contents and objectives of the credit agreement do not conflict with laws and regulations, morality and public order as mandated in Article 1337 of the Civil Code.

Related to the invalidity of Certificate of Ownership Number 310/N Salareh and Certificate of Ownership Number 311/N Salareh as collateral, it does not cause the credit agreement to also be invalid. This is because the main thing agreed upon is not about collateral but about the provision of credit facilities in terms of amount, term, interest, installments and so on. The certificate is only as additional collateral in addition to the principal collateral and other additional collateral so that it is not the main thing in the credit agreement.

---

<sup>11</sup>Salim HS, 2008, Development of Guarantee Law in Indonesia, PT. Raja Grafindo Persada, Jakarta, pp. 29-30.

As a result of not being able to be charged with a mortgage, the position of PT. Bank N Cabang Pembantu Bawan Kabupaten Agam is only a concurrent creditor who has the same position as other creditors. As explained in Article 1132 of the Civil Code which reads:

"The goods become joint collateral for all creditors, and the proceeds from the sale of the goods are divided according to the ratio of each creditor's debts, unless there are legitimate reasons among the creditors for priority."

It means with the concurrent creditor position cannot execute collateral if the debtor defaults. If there is collateral sold to pay off debt then it does not have the right to pay off first than other creditors. If there are several creditors, the division among creditors is very dependent on whether there is a special collateral binding between the creditors.<sup>12</sup>

The position of PT. Bank N Branch Office of Bawan, Agam Regency, only as a concurrent creditor causes its position to be weak. This is because cannot enjoy the benefits of implementing the executorial title as mandated in Article 20 paragraph (1) of the UUHT. If Mr. M defaults on his promise, the proceeds from the takeover and sale of the assets owned by Mr. M will not provide P with the right to pay off the property first. T. Bank N Bawan Branch Office, Agam Regency than other creditors.

The actions that can be taken by concurrent creditors if the debtor defaults on their promise are, firstly, to take a non-litigation process in the form of issuing a warning letter. contains the amount of arrears, namely principal, interest and late payment fees and carries out negotiations by means of rescheduling (*rescheduling*), return requirements (*reconditioning*) and rearrangement (*restructuring*) where the negotiation results are accommodated with an addendum to the credit agreement. Both go through the process litigation by filing a lawsuit in court and placing a security encumbrance on the collateral in order to obtain a judge's decision that has permanent legal force, the ruling of which states that the debtor has breached his promise and the collateral can be executed through an auction process.<sup>13</sup> Based on the explanation, the actions that can be taken by PT. Bank N Branch Office of Bawan, Agam Regency in its position as a concurrent creditor if Mr. M as a defaulting debtor can take non-litigation and litigation routes, but still be guided by the provisions for dispute resolution as stipulated in Article 10 of the Credit Agreement number XX dated March 27, 2020 between Mr. M and PT. Bank N Branch Office of Bawan, Agam Regency.

---

<sup>12</sup>Arus Akbar and Wirawan B. Ilyas, (2012), Principles of Business Law, Jakarta: Salemba Empat, p. 79.

<sup>13</sup>Anisa Kartika Sari, "Legal Protection for Creditors of Mortgage Rights Holders Who Are Not Registered at the Land Office", Jurnal Repertorium, Vol.03, No.02, pp. 171-172, <https://media.neliti.com/media/publications/213063-perlindungan-Hukum-terhadap-kreditur-pem.pdf>, accessed on July 23, 2024 at 20.00 WIB.

#### 4. Conclusion

Responsibilities that can be charged to SH, Bachelor of Law, Notary and PPAT in Agam Regency on the cover note number 471/III/Not.PPAT/2020 and number 481/III/Not.PPAT/2020 that he has issued in this case, namely moral responsibility, because the cover note can be said to be morally binding and arises from the needs of the community. With moral sanctions in the form of distrust PT. Bank N Bawan Branch Office to SH, Bachelor of Law, Notary and PPAT in Agam Regency because he could not complete the contents of the cover note as expected. Legal implications of the implementation Credit Agreement number XX dated March 27, 2020 between Mr. M and PT. Bank N Bawan Branch Office, Agam Regency caused the Power of Attorney to Charge Mortgage Rights (SKMHT) signed by the parties to be null and void because the object of the mortgage rights authorized and agreed upon therein in the form of Certificate of Ownership 310/N Salareh and Certificate of Ownership Number 311/N Salareh cannot be burdened with mortgage rights based on the legislation related to the determination of protected forest areas. Then it has implications for the position of PT. Bank N Bawan Branch Office, Agam Regency as a concurrent creditor who initially has the potential to be a preferred creditor who has the right to be prioritized after the birth of the mortgage right on the certificate. Thus, PT. Bank N Bawan Branch Office cannot be executed directly if Mr. M as the debtor is in default.

#### 5. References

- Anisa Kartika Sari, "Legal Protection for Creditors Holding Mortgage Rights Not Registered at the Land Office," *Jurnal Repertorium*, Volume 03, Number 02 (2015)
- Arus Akbar and Wirawan B. Ilyas, (2012), *Principles of Business Law*, Jakarta: Salemba Empat.
- Cedric Sean, Novyta Uktolseja, and Nancy Silvana Haliwela, "Legal Power of Notary Covernote in Credit Agreement Takeover Process", *Kanjoli Business Law Review*, Volume 1, Number 2 (2023).
- Civil Code [Burgerlijk Wetboek]*. DTranslated by R. Subekti and R. Tjitrosudibio. 47th ed., (2017), Jakarta: Pradnya Paramita.
- Faizatul Khairani Isman, Kurnia Warman and Hengki Andora, "Legal Protection for Ownership Rights Holders in Protected Forest Areas in Agam Regency," *Journal of Swara Justisia*, Volume 7, Number 2 (2023)
- Hartanti Sulihandari and Nisya Rifiani, (2013), *Basic Principles of the Notary Profession Based on the Latest Legislation*, Jakarta: Smart World.
- Henny Pratiwi Pinatih, "Legal Power of Covernote Through Bank Credit Granting with Collateral in the Event of Bad Credit", *Acta Comitatus Journal of Notary Law*, Volume 4, Number 3 (2019).

- Indonesia. Amendment Act to Law of the Republic of Indonesia Number 7 of 1992 Concerning Banking, Law No. 10 of 1998, LN of 1998, No. 182, TLN No. 3790.
- Indonesia. Forestry Law, Law No. 41 of 1999, LN No. 167 of 1999, TLN No. 3888.
- Indonesia. Law on Amendment to Law Number 30 of 2004 Concerning Notary Position, Law No. 2 of 2014, LN No. 3 of 2014, TLN No. 5491.
- Indonesia. Law on Mortgage Rights on Land and Objects Related to Land, Law no. 4 of 1996, LN No. 42 of 1996, TLN No. 3632.
- Ministry of Agrarian Affairs or National Land Agency. Regulation of the Minister of State for Agrarian Affairs or Head of the National Land Agency concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementing Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, PMNA/Head of BPN No. 16 of 2021, BN No. 953 of 2021.
- Moh.Rezah, "Legal Review of the Position of Power of Attorney According to Law Number 4 of 1996 Concerning Mortgage Rights", Legal Opinion Journal of Law, Volume 02, Number 04 (2014)
- Salim HS, (2008), Development of Guarantee Law in Indonesia, Jakarta: PT. Raja Grafindo Persada.
- Soerjono Soekanto and Sri Mamudji, (2019), Normative Legal Research: A Brief Review, Jakarta: Rajawali Pers.
- Widya Indrayeni, 2012 "Legal Consequences of the Issuance of Covernote by a Notary for Interested Parties in Banking Credit Transactions", Thesis, Faculty of Law, Master of Notary, University of Indonesia, Depok.