



WORLD CLASS ISLAMIC CYBER UNIVERSITY
UNISSULA
SULTAN AGUNG ISLAMIC UNIVERSITY

Sept 5th 2019

THE 5 th INTERNATIONAL AND CALL PAPER

Legal Reconstruction in Indonesia Based on Human Rights

Imam As Syafei Building

Faculty of Law, Sultan Agung Islamic University

Jalan Raya Kaligawe, KM.4 Semarang, Indonesia

UNISSULA PRESS

The 5th PROCEEDING

“Legal Reconstruction in Indonesia Based on Human Right”

IMAM AS SYAFEI BUILDING

Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Diterbitkan oleh :
UNISSULA PRESS

ISBN. 978-623-7097-23-5

The 5th PROCEEDING

“Legal Reconstruction in Indonesia Based on Human Right”

Reviewer:

Prof. Dr. H. Gunarto, S.H., S.E., Akt., M.Hum

Dr. Hj. Anis Mashdurohatun, S.H., M.Hum

Prof. Henning Glaser

Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM

Prof. Shimada Yuzuru

Prof. Associate Dr. Dr. Ahmad Zaharudin Sani

Editor:

Dr. Amin Purnawan., S.H., CN., M.Hum

Dr. Hj. Widayati., S.H., M.H

Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum

Dr. H. Ahmad Khisni., S.H., M.H

M. Abdul Hadi., SE

Hak Cipta © 2019, pada penulis

Hak Publikasi pada penerbit PDIH UNISSULA

Dilarang memperbanyak, memperbanyak sebagian atau seluruh isi dari buku ini dalam bentuk

apapun, tanpa izin tertulis pada penerbit.

Hal I-X, 1-358

Cetakan Pertama Tahun 2019

Penerbit PDIH UNISSULA

Jl. Raya Kaligawe Km. 4 Semarang 50112

PO BOX 1054/SM,

Telp. (024) 6583584, Fax. (024) 6594366

ISBN. 978-623-7097-23-5

COMMITTEE OF THE 3rd INTERNATIONAL CONFERENCE
AND CALL FOR PAPER
“Legal Reconstruction in Indonesia Based on Human Right”

Responsible Person	: Prof. Dr. H. Gunarto.,S.H.,SE.,Akt.,M.Hum	(Dean)
Advisory	: Dr. Hj. Widayati.,S.H.,MH Arpangi.,S.H.,M.H	(Vice Dean I) (Vice Dean II)
	Dr. Hj. AnisMashdurohatun,S.H,M.Hum	(Head of PDIH)
	Dr. H. Ahmad Khisni.,S.H.,M.H	(Head of M.Kn)
	Dr.H. Umar Ma’ruf, SH.,Sp.N.,M.Hum	(Head of MIH)
	Kami Hartono.,S.H.,M.H	(Head of S1)
Chairwoman	: Dr. Hj. AnisMashdurohatun,S.H,M.Hum	(Head of PDIH)
Secretary	: Dr. Hj. Sri Endah Wahyuningsih,S.H,M.Hum	(Secretary of PDIH)
Treasurer	: Dr. Hj. Sri Kusriyah.,S.H.,M.Hum	(Secretary of MIH)
Drafting Team	: Dr. H. Amin Purnawan.,SH.,CN.,M.HumH Denny Suwondo.,S.H.,M Hj. AryaniWitasari.,S.H.,M.H	
Event Division	: Erna Sunarti.,S.S.,M.H	
Secretariat and Supplies Division		
Coordinator	: M. Abdul Hadi.,SE	
Member	: Slamet Ariyanto Dyan Teguh Aryanto, Amd M. Ngaziz.,S.H.,M.H Hendro Widodo.,S.H.,M.H NailulMokorobin.,S.Psi AgusPrayoga	
Publication and Documentation Division	: Ikrom.,S.H	
Member	Ahmad Mutohar.,S.H Achmad Arifullah.,S.H.,M.H	
Consumption Division	: Shinta Pratiwi	
Member	Latifah Rosdiyati.,S.E Siti Pardiyah Laili Rohmah.,S.E Laila Najihah.,S.H	
Receptionist	: Riftia Anggita W.S.,S.H M Auliana	
General Assistant	: Riswanto Nur Alamsyah Rofiq	
Security	: Rohmani Arif	
Driver	: Irwanto	

PREFACE

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegnau, Ph.D from Sorbone University, Prof. Topo Santoso From Indonesian University, and Dr. Sri Endah Wahyuningsih, S.H., M.H from Sultan Agung Islamic University.

This was our fourth International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner in the concerned field to be discussed as guidelines to exchange and talk about views on the most important recent on Legal Construction and Development focusing on The Role of Indigenous and Global Community in Constructing National Law happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

PROCEEDINGS

The 5th International Conference and Call for Paper Faculty of Law 2019 Legal Reconstruction in Indonesia Based on Human Right

Table of Contents

<i>FRONT PAGE</i>	<i>I</i>
<i>Information of The International Seminar</i>	<i>III</i>
<i>Committee Composition</i>	<i>IV</i>
<i>PREFACE</i>	<i>V</i>
Fulfillment Of Teacher Protection Rights	
<i>Yenny AS, Rini Setiawati</i>	<i>1</i>
Legal Reconstruction Of Laws Regarding Human Rights Through Judicial Review To The Constitutional Court	
<i>Umar Ma'ruf</i>	<i>13</i>
Legal Analysis Of Social Security Transformation And The Reality Of Its Implementation In The Community In Indonesia	
<i>Siti Ummu Adillah, I Gusti Ayu Ketut Rachmi Handayani ,Adi Sulistiyono</i>	<i>29</i>
Increasing Voluntary Compliance Of Tax Payments In Micro Small And Medium Enterprises (Msmes) Post-Issuance Of Government Regulation Number 23 Of 2018 (Case Study In Semarang City)	
<i>Amin Purnawan, Akhmad Khisni, Aryani Witasari</i>	<i>40</i>
Legal Analysis Of Racist Exams In Surabaya Papua Dormitory	
<i>Ma'aruf Akib</i>	<i>49</i>
Reconstruction Of Misdemeanor Settlement Based On Pancasila Value	
<i>S. Andi Sutrasno</i>	<i>56</i>
Urgency Of Legal Assistance For Poor People As A Request Of Human Rights	
<i>Adhi Budi Susilo, Indra Yuliawan</i>	<i>62</i>
Reconstruction Of Article 156 Paragraph (1) Of Law Number 13 Year 2003 Regarding Manpower As A Guideline For The Provision Of Workers' Rights Based On Justice	
<i>Rahmatsyah</i>	<i>66</i>
Problematic Presidential Electoral Threshold In The Operation Of Value-Based Simultaneous Justice	
<i>Widayati , Winanto</i>	<i>72</i>

Reconstruction Of Learning Methods In Criminal Law Subjects Using Inquiry Methodsbased On Human Rights And Islamic Values <i>Ira Alia Maerani, Eko Soponyono, Nuridin.....</i>	81
Reconstruction Of Criminal Sanction And Rehabilitation Combating On Narcotic's Victims Based On Religious Justice <i>Carto Nuryanto, Gunarto, Anis Mashdurohatun.....</i>	91
Study of the theory of Legal Protection Against Online High Yield Investment Program Contracts in Indonesia (HYIP) <i>muhamad Iqbal al Hakiem,aryani witasari.....</i>	96
Reconstruction Completion Of The Crime Of Light On Value Pancasila <i>Andi S. Sutrasno.....</i>	102
Law Reconstruction Of Registration On Fiduciary Obligation Based On Justice Value <i>Wieke Dewi Suryandari ; Gunarto; Amin Purnawan.....</i>	108
Reconstruction Of Transport Regulatory On Marine Toll To Support Sea Connectivity Based On Pancasila Justice <i>Hartanto, Gunarto, Anis Mashdurohatun.....</i>	114
Reconstruction Of Scientific Investigation In Indonesia Based On Justice <i>Teguh Prihmono; Gunarto, Sri Endah Wahyuningsih.....</i>	120
Legal Construction On Training Ship Management Belongs To Human Resources Development Of Transportation (Bpsdmp) Based On Dignity Justice Value <i>Wahyu Wibisono, Gunarto, Anis Mashdurohatun.....</i>	126
Protection Of Law Refugees/Asylum Seekers In Indonesia (As A Transit State) No Ratify 1951 Convention Of And The 1967 Protocol <i>Muhammad Djamir.....</i>	133
Reconstruction Of Legal Policy On Decency Crime In Indonesia Based On Pancasila Value (Lgbt Rehabilitation Institute For Children) <i>Cucuk Kristiono, Gunarto, Anis Mashdurohatun; Suparji.....</i>	144
Legal Protection Against Indonesian Workers (Tki) In Abroad <i>Yaya Kareng (Sripatum UniversityOng Argo Victoria ,Sri Yulianingsih.....</i>	149
Recontruction Of Auction Execution Of Mortgage Object In Determine The Auction Price Based On Justice <i>Moh Djarkasih**.....</i>	158

Reconstruction Policy Of Sanctions Against Destruction Of Evidence Illegal Fishing Based Small Fishing Welfare Values <i>R. Juli Moertiyono</i>	165
Reconstruction Of Legal Policy Interfaith Marriage In Indonesia <i>Moh. Zeinudin, Dian Novita</i>	179
Reform Of Couple Sexual Rights Protection In Case Of Diseases Hiv / Aids In Indonesia <i>Nana Ruhyana</i>	186
Legal Protection Against Disability In Getting Work <i>Oktavianto Setyo Nugroho</i>	193
Reconstruction Of Authority To Arrest In Doing Judge Accused Of Value-Based Justice <i>Agus Sugiarto</i>	203
Enforcement Of Criminal Law In False News (Hoax) Management According To Law No. 11 In 2008 That Has Been Amended To Be Law No.19 Of 2016 Concerning Electronic Information And Transactions In Islamic Law And Positive Laws <i>Yanto Irianto</i>	208
Reconstruction Validity Legal Deeds Are Dealing With Children In The Process Of Law Criminal Justice System Based Child Justice <i>Asep Hermawan</i>	220
Reconstruction Of Performance Assessment Of Drinking Water Companies (Pdam) Based On Consumer Protection <i>Bustaman</i>	225
Reconstruction Legal Rights Associated With A Warranty Not A Bank Debt <i>Euislistianti</i>	229
Reconstruction Of Operational System As A Community Economic System Based On Welfare <i>Abbas Ibrahim Idris</i>	234
Reconstruction Of Criminal Responsibility For Actors Prostitutorial Criminal Justice In The Criminal Justice Based On Value <i>Iwan Rasiwan</i>	242
Reconstruction Of Legal Drinking Water Management Company (Pdam) Based On Justice <i>Suharyadi</i>	248

Reconstruction Of Private Criminal System Implementation In The Commitment Values In Indonesia Justice

<i>Sumanto</i>	252
Reconstruction Of Justice Law Protection Law Protection	
<i>Wamyani</i>	260
Criminal Code Draft Law And Development In Indonesia	
<i>Nany Pujianti Suwigjo</i>	265
Deconstruction of the Principle of Legal Thinking	
<i>Sriyati</i>	270
Development Of The Law Of Complete Systematic Land Registration (Ptl) And Effect Of Conduct Values of Land Based On Dignify Justice In The District Of Kendal, Central Java	
<i>Desy Dwi Nurhayati Hartanti</i>	279
Interpretation Teaching Of Human Rights Laws Against Material In Corruption Provisions	
<i>Burham Pranawa, Hartiwiningsih, Hari Purwadi</i>	293
Reconstruction Of Article 156 Paragraph (1) Of Law Number 13 Year 2003 Regarding Manpower As A Guideline For The Provision Of Workers' Rights Based On Justice	
<i>Rahmatsyah</i>	301
Law Due To Delay The Registration Under Fiduciary Guarantee Pmk No 130 / Pmk.010 / 2012	
<i>Jaenudin Umar</i>	307
The Effectiveness Of The Handling Of The Criminal Acts Of Light Tend To Be Settled Judicial Custom	
<i>Supena Diansah</i>	313
Urgency Of Legal Assistance For Poor People As A Request Of Human Rights	
<i>Adhi Budi Susilo, Indra Yuliawan</i>	327
Independence Institute Of Justice And Judge In Perspective Judicial Reform Blueprint 2010 - 2035	
<i>Ahmad Agus Bahauddin</i>	331
Policies Against Crime Criminal Law Made By Children	
<i>Achmad Arifulloh</i>	340
Law Enforcement Of Law Number 23 Of 2004 In Preventing Efforts Human Rights Violations In Indonesia	
<i>Andri Winjaya Laksana , Lathifah Hanim</i>	350

Law Due To Delay The Registration Under Fiduciary Guarantee Pmk No 130 / Pmk.010 / 2012

Jaenudin Umar

Doctoral Program in Law, Faculty of Law

Sultan Agung Islamic University (Unissula) Semarang

jen_notaris@yahoo.co.id

ABSTRACT

The rapid economic growth in Indonesia is now coupled with the increasing needs of the community in particular vehicle motor vehicle facilities. Currently, Indonesia has become an easy target motor manufacturers to market their products, because Indonesia is one country that is consumptive and consumers of motor vehicles world .. Not surprisingly, the rapidly growing financial institutions in Indonesia. If in ancient times, people who want a motor vehicle must save first, then in this day and age, people can get motor vehicles, especially motorcycles only Rp. 500,000 - 1,000,000 as Down Payment (DP) or advance to get a motorcycle. The purpose of this study is conducted to determine the legal consequences for the late registration of fiduciary based PMK No. 130 / PMK. 010/2012. This study uses descriptive qualitative research. Recipients obligation for fiduciary, power or his representative to notify the elimination of Fiduciary. The removal notice was not charged. In the absence of the expected costs imposed fiduciary Receiver, power or his representative can perform the removal notice Fiduciary voluntarily and without load. This will make it easier for the Ministry of Justice and Human Rights to monitor the Fiduciary already expired or will expire term. In the absence of the expected costs imposed fiduciary Receiver, power or his representative can perform the removal notice Fiduciary voluntarily and without load. This will make it easier for the Ministry of Justice and Human Rights to monitor the Fiduciary already expired or will expire term. In the absence of the expected costs imposed fiduciary Receiver, power or his representative can perform the removal notice Fiduciary voluntarily and without load. This will make it easier for the Ministry of Justice and Human Rights to monitor the Fiduciary already expired or will expire term.

Keywords: Effects, Fiduciary.

Preliminary

1.1. Background

Today the emergence of financial institutions have triggered the dynamics of the economy of the community. But in fact the growth of financial institutions are not supported by a

legal infrastructure capable meregulasi all the activities of financial institutions. The government is expected to provide direction and guidance to the public about the economy, because it is the role of governments to afford the welfare of society.

The emergence of financial institutions capable of helping the economy of the

community with the form of providing funds or capital to the public. The emergence of the practice of financing the consumer finance systems caused by the following factors⁵³⁵ :

1. The difficulty of the public to get access to borrowing that is always tied with angunan.
2. The payment system is applied is not oriented to ease.
3. Have limited financial resources.
4. The number of moneylenders suffocating society.

The rapid economic growth in Indonesia is now coupled with the increasing needs of the community in particular vehicle motor vehicle facility⁵³⁶, Currently, Indonesia has become an easy target motor manufacturers to market their products, because Indonesia is one country that is consumptive and consumers of motor vehicles in the world. Not surprisingly, the rapidly growing financial institutions in Indonesia. If in ancient times, people who want a motor vehicle must save first, then in this day and age, people can get motor vehicles, especially motorcycles only Rp. 500,000 - 1,000,000 as Down Payment (DP) or advance to get a motorcycle.

The emergence of massive financial institutions that led to them getting hot competition in getting the consumer. Various ways in which to get consumers to do such as the provision of a low down payment, low interest rates and the services more practical and easy.

These financial institutions are not too concerned with the practices conducted because of the guarantee if customers do not pay the mortgage default or agreed upon.

The agreement between the consum-

⁵³⁵ Anita Theresia Tjoenat, 2014, the Debtor Against Legal Protection for Object Execution Without Fiduciary Fiduciary Certificates By Leasing Companies, Faculty of Law, University of Surabaya. Surabaya. Calypra: Surabaya University Student Scientific Journal Vol.3 1, 2014.

⁵³⁶ http://www.medianotaris.com/segera_revisi_uu_jaminan_fidusia_berita180.html, accessed on August 23, 2019 at 14:24

⁵³⁷ Munir Fuady. 2002 Law On Consumer Finance, Bandung, PT. Citra Aditya Bakti.

ers as debtors with financial institutions as lenders produce accounts payable relationship, which consumers can be regarded as a debtor has an obligation to pay the loans granted by the lender based on the terms agreed upon by the parties called a credit agreement⁵³⁷, Of agreements that have been implemented by the parties to produce an agreement accessor derivatives that are or can be called fiduciary agreement from creditors to debtors. This agreement was implemented to provide assurance to the lender that the loan agreements or credit will be paid if the debtor defaults that with the execution of the objects that become a fiduciary. Fiduciary guarantee is an assurance that its control over moving objects still controlled enumerated by the debtor despite the transfer of ownership.

In the implementation of this fiduciary agreement refers to Law No. 42 of 1999 on the Fiduciary or UUJF. This UUJF set of provisions to be agreed and fulfilled in performing the contract agreement with the fiduciary security, including the clause that requires collateral for creditors to register objects fiduciary in fiduciary registration office, in this case stipulated in Article 11 and 12 UUJF.

Understanding the fiduciary itself according to Law No. 42 of 1999 is the right collateral to the moving objects both tangible and intangible and immovable in particular building can not be burdened with security rights as stipulated in Law No. 4 of 1996 on Mortgage which remain in the control Giver Fiduciary, as collateral for the repayment of certain debt, which gives precedence to the Receiver position Fiduciary against other creditors.

With the regulations regarding fiduciary law enforcement because this ensures the object is the object of fiduciary involve a notary to make a fiduciary agreement and

registered with the Office of fiduciary registration. Fiduciary registration is carried out so that the creditor has the right of precedence (preferred) of other creditors in settlement of receivables taking objects difidusiakan execution results if the debtor defaults.

Implementation of fiduciary besides governed by UUJF also regulated in the Indonesian Minister of Finance under number 130 / PMK.010 / 2012 which is helpful for financial institutions to bring about justice and the rule of law with the exclusion of the regulation as follows:

1. instructed the obligation to register in the office pendaftara fiduciary fiduciary.
2. Emphasizing the registration time period.
3. Mengaskan acts contrary to the object the withdrawal of fiduciary law.
4. Set the sanction given to those who violate the agreement expressly.
5. Providing a sense of legal certainty because the registration implemented fiduciary object, then if the debtor defaults will be pursued in ways that correct execution in accordance with Law No. 42 of 1999.

In the execution of financing institutions have problems in implementing the PMK regulations, some of the obstacles faced by financial institutions are:

1. The Borrower will cover any costs nothing to register a fiduciary.
2. Debtor finance institutions located in remote villages would be difficult to do signer before a Notary because of its distance from the residence of the debtor.
3. There are many other fiduciary offices

_____that have not been touched settlement
538 *Sutan Remy Sjahdeini. 1993. Protection of freedom of contract and Balanced For Parties In Bank Credit Agreement In Indonesia, Jakarta, the Indonesian Bankers Institute.*

outposts.

4. Costs incurred by the creditor to the debtor affect the sales turnover of the financial institutions.

Doubts about whether or not such registration shall be strengthened with the constraints of lack limitation period fiduciary guarantee registration Fiduciary Registration Office so that it will reduce the confidence of financial institutions in particular lender because the nature of specialties and publicity as well as preferent rights (*droit de preference*)⁵³⁸ or the right to be prioritized against other creditors certainly have problems if the debtor in default and potentially re fiduciary.

Financial institutions that violate the obligations set by the Minister of Finance Regulation imposed an administrative sanction which refer to Article 5 of PMK No. 130? PMK.010 / 2012 include:

- a. Warning;
- b. Suspension of business; or
- c. Revocation of business licenses.

The sanctions provided in the PMK is administratively warning for 3 times in a row that have a validity period of 60 calendar days. If in the future financial institution warning PMK obeyed the warning sanction will be lifted. However, if the financial institution does not heed the warning, or meet in the allotted time then the Finance Minister will suspend the operations concerned.

The sanctions suspension of business activity given in writing to Corporate Finance, which is valid for a period of 30 (thirty) calendar days after the sanction letter issued suspension of business activity. Likewise, the sanction of freezing of business, if before the expiration of suspension of business activity Financing Company has complied with the Minister of Finance to revoke the sanctions suspension of business activity

and if until the expiration of the suspension of business activity referred Financing Company does not also meet the provisions of the Minister of Finance to revoke permit Financing the Company's business is concerned.

1.2. Research methodology

This type of research is qualitative research in the form of descriptive analysis⁵³⁹, The study produced data that is written or spoken of sources observed⁵⁴⁰, Stages descriptions were examined: the protection of financial institutions in the event of delay in registration of fiduciary

2. Results and Discussion

Currently implementation fiduciary registration is done online, but there are concerns in the online system which will cause new problems because the responsibility for power fiduciary is now carried out by a notary. The government as an executive no longer check or verify the security documents as they had done before, but only register data is only related to the fiduciary administration and a certificate will be in print by a notary.

Time fiduciary registration pursuant to Regulation No. 21 of 2015 effective within 30 days after the date the guarantee and the associated maximum fidusianya Notary honorarium that may be imposed on the fiduciary warranty deed. when viewed from the perspective of bail, fiduciary guarantee is a guarantee that could be considered unique, unique objects as a security is not in the control of the insured. The recipient of the guarantee trust the guarantee items remain at the mercy of the guarantor, which means that goods can be used by the owner. How this is done unuk guarantee accommodate the needs of the community. Frequent credible form related fiduciary guarantee is the purchase of motor vehicles / cars on credit. When the debtor has done a financing agreement motorcycle / car, the articles are used as collateral goods, but

the vehicle is still dominated by the debtor to use the concept of leasing. On the other hand, financial institutions holding papers and proof of vehicle ownership bail, including the form of fiduciary deed generated notaril and fiduciary certificates issued by the fiduciary registration office. Another uniqueness is owned by the fiduciary can be seen from the definition. "Fiduciary is the process of transferring ownership of goods or objects on the basis of trust that is based on the provision that transferred ownership rights objects that are still in the control of the owner of the object. The concept of fiduciary guarantee in the Law on Fiduciary security adopts a transfer of ownership.

The concept of transfer of ownership rights in this UUJF confusing. Padahal Act should have a fundamental principle. In it appears a legal matter jurisdiction whether a loan is a form of transitional wear fiduciary owner's rights or the transfer of goods. If dikomparasikan lending concept has been embraced by our Penal Code system, it is mentioned that the guarantee is only intended for debt repayment alone. For example, a transaction associated with the lien on Article 1154 of the Penal Code states that in the implementation of the pledge not to fulfill its obligations then the lender may not assign objects / items digadainya was hers. Any process that contrary to the agreement the provisions of the agreement will be void. Indeed, it is not a guarantee for the transfer of ownership rights,

Based on the above case an agreement can not be called as a transfer of ownership or property rights, although in the end the transfer of property rights has a purpose for the settlement, and surely there must be a process of completion of the agreement. Lately a lot of cases of deprivation of vehicles made by debt collectors, and more paranya the debt collector is not viewed directly deprived conditions where the vehicle is problematic. Is this the way as intended by the law? They (the debt collector) felt a strong position because it fits

539 Saifuddin Azwar. 1999, *Methods. Yogyakarta, Reader Learning.*

540 Lexy. J. Moleong. 2006. *Qualitative Research Methods. Bandung, Teen Rosda.*

the concept of property rights guarantees had been transferred to the creditor.

Definition of transfer according to KBBI is a process, method and / or deed, transfer, move. The definition of the word transition / transfer here is not related to the removal or change of ownership, but simply to delivery of goods / items in a general sense.

Implementation of collateral usually submitted of course is the goods / object is not a right of ownership, since the ownership rights exist on the owner, so the question is not really a fiduciary transfer of ownership, but the delivery of goods in trust to be used as collateral of the transaction.

The fiduciary guarantee will entitle the recipient to execute the object fiduciary fiduciary in case the debtor defaults. Therefore, in order to have a clear legal effect, guarantee that using fiduciary must take place with an authentic deed. Formal terms the authentic act that is the differentiator / unique. Without the certificate, it can be called a fiduciary,

Currently the registration of fiduciary already be registered to use online media within 30 days after the deed was signed. This provision, in principle, be done in order to create legal certainty. Numun a lot of cases in the field fiduciary often never registered by the notary resulting from the fiduciary interests of the recipient, a guarantee that has not been registered certainly do not give rise to the right to precedence. With the term of this registration, conflict with the fiduciary fiduciary who have not registered for various reasons. Do fiduciary (Fiduciary its certificate) could still be registered and how the solution? The new procedure also does not provide the right solution, while the notary must be able to provide legal certainty. PP Fiduciary also did not mention that if the date of registration is exceeded (expired), the Deed of Fiduciary it by law be invalidated. On the one hand, the fiduciary can not be registered, on the other hand fiduciary deed has been made and are still valid for the parties. Are the parties must

sign the deed of guarantee back, no explanation. In practice, then made a unilateral statement on the receiver as the authorized fiduciary fiduciary registration.

Imposition of fiduciary guarantee agreement was preceded by a promise that will contain the provided collateral as a means of repayment on certain debt obligations contained in the deed of fiduciary. Fiduciary warranty deed is made by notarial deed, this is in accordance with that specified in Article 5 (1) of the Act Fiduciary, that; loading objects with fiduciary created by notarial deed in Indonesian and is a fiduciary warranty deed. In the fiduciary warranty deed other than specified day and date, is also included regarding the time (hours) of the deed.

Under the terms of Article 13 of Law Fiduciary Fiduciary regarding registration, registration request made by the Recipient Fiduciary, power, or his representative, accompanied by a registration statement Fiduciary. In this case the recipient of fiduciary may authorize the notary to register Fiduciary in Fiduciary Registration Office. By giving such power, timbulah legal relationship between the creditor as the recipient of fiduciary with the notary as the party who is authorized by the Recipient Fiduciary Fiduciary for registration.

Actually there is no provision in the Act Fiduciary who said that the fiduciary who is not registered is not valid. It's just to enforce the provisions contained in Law Fiduciary, then the requirements must be fulfilled fiduciary object was registered.

Fiduciary not registered, can not enjoy the benefits of the provisions contained in Article 37 paragraph (3) of Law Fiduciary Warranty. Article 37 states if within sixty days since the establishment of the Registry Office fiduciary, fiduciary guarantee that is not registered is not entitled precedence (preferred) both within and outside of bankruptcy or liquidation.

3. Conclusion

The new arrangement contained in these Regulations, among others:

- a. Recipients obligation for fiduciary, power or his representative to notify the elimination of Fiduciary. The removal notice was not charged. In the absence of the expected costs imposed fiduciary Receiver, power or his representative can perform the removal notice Fiduciary voluntarily and without load. This will make it easier for the Ministry of Justice and Human Rights to monitor the Fiduciary already expired or will expire term.
- b. The cost of a deed Fiduciary determined based on the value of the guarantee which refer to the costs of making the deed stipulated in Article 36 paragraph (3) of Law Number 30 of 2004 concerning Notary, as amended by Act No. 2 of 2014 on the Amendment of Law No. 30 Tahun 2004 concerning Notary
- c. The rule that all data filled in the application Fiduciary, request repairs Fiduciary certificate, certificate change request Fiduciary, and a takedown notice Fiduciary certificates electronically and storing physical documents into Recipient fiduciary responsibility, authority or his deputy.
- d. Notary today not only who can access the registration Fiduciary.

REFERENCES

- Anita Theresia Tjoeinat, Legal Protection for the Debtor Against Execution Objects Without Fiduciary Fiduciary Certificates By Leasing Companies, Faculty of Law, University of Surabaya. Surabaya. Calyptra: *Surabaya University Student Scientific Journal Vol.3 1, 2014.*
- Saifuddin Azwar. 1999, *Methods*. Yogyakarta, Reader Learning.
- Lexy. J. Moleong. 2006. *Qualitative Research Methods*. Bandung, Teen Rosda.
- Munir Fuady. 2002 *Law On Consumer Finance*, Bandung, PT. Citra Aditya Bakti.
- Sutan Remy Sjahdeini. 1993. *Protection of freedom of contract and Balanced For Parties In Bank Credit Agreement In Indonesia*, Jakarta, the Indonesian Bankers Institute.
- http://www.medianotaris.com/segera_revisi_uu_jaminan_fidusia_berita180.html accessed on August 23, 2019 at 14:24