

Legal Protection for Creditors with Fiduciary Guarantees in Credit Agreements

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Abstract. *The purpose of this study is to examine Legal Protection for Creditors with Fiduciary Guarantees in Agreements and to examine what legal remedies are available to creditors after the debtor defaults. This type of research is empirical legal. The data sources in this study are based on primary data and secondary data. This study uses a sociological legal approach. The data collected from library research is then analyzed qualitatively. The research data after being analyzed using qualitative methods, obtained the results that: Legal Protection for Creditors with Fiduciary Guarantees in Credit Agreements (Case Study at PT. Bintang Mandiri Finance, Kudus Regency) if the debtor defaults, with the UUJF is the granting of preferential rights over his receivables and then according to the provisions of Article 21 paragraph (4) of the Fiduciary Law, the results of the transfer and/or bills that arise, by law become objects of fiduciary guarantees replacing the objects of fiduciary guarantees that are transferred. With the inclusion of the value of goods or objects that are used as objects of fiduciary guarantee, if the object used as the object of fiduciary guarantee does not exist or is not available according to what is listed in the attachment, then the recipient of the fiduciary in this case the creditor can sue the party providing the fiduciary to fulfill its obligations, namely the amount of the guaranteed value as regulated in Article 6 of the UUJF and the legal remedies owned by the creditor after the debtor defaults, which is carried out at PT. Bintang Mandiri Finance Kudus Regency is the settlement of its dispute. First of all, it is done by giving a warning in the form of a reprimand, then continued by giving a warning letter to the debtor, but if the debtor still does not fulfill it, the creditor can take further action, namely through non-litigation and litigation.*

Keywords: Creditors; Fiduciary; Guarantee; Protection.

1. Introduction

The Notary profession has a main basis, namely trust and as a public official, a Notary bears a heavy responsibility for the trust given to him. The added value of a profession is the extent to which a professional is able to resist the temptation

of the trust given to them even though the temptation to abuse trust is so great.¹In practice, financing institutions do not immediately appoint a Notary to write a credit agreement into an authentic deed. A Notary appointed by a financing institution is a Notary who has collaborated with a financing institution. A Notary who collaborates with a financing institution means that the Notary is given the trust and authority by the financing institution to write a credit agreement (or other agreements issued by the financing institution) into an Authentic Deed. In addition to the credit agreement, a Notary who collaborates with a financing institution also legalizes the credit agreement, makes a Deed of Power of Attorney to Institutionalize Mortgage Financing Rights, a deed of debt recognition and other necessary deeds, registers fiduciary and installs mortgage rights (if the Notary is also a Land Deed Making Officer), so that other Notaries who do not collaborate with the financing institution will not be given authority by the financing institution.²

Collateral has a very important function in economic activities in general because in providing capital loans from financial institutions (both financing institutions and non-financing institutions) requires a guarantee, which must be fulfilled by capital seekers if they want to get a loan/additional capital (in the form of credit) for both long and short terms. For debtors, a good form of collateral is a form of collateral that will not paralyze their daily business activities, while for creditors, a good guarantee is a guarantee that can provide a sense of security and legal certainty that the credit given can be returned on time.³

Fiduciary Regulations based on the Jurisprudence and decisions of the Supreme Court of the Republic of Indonesia are considered no longer in accordance with current legal developments, especially in supporting the economy and business world. Therefore, on September 30, 1999, the President of the Republic of Indonesia at that time, BJ. Habibie, has ratified the UUJF. The law is regulated completely and comprehensively, summarizing all guarantee institutions covered by the Jurisprudence and previous decisions of the Supreme Court of the Republic of Indonesia.⁴ However, the position of fiduciary creditors is questionable. Because when the fiduciary collateral is in a loan status (in the hands of the debtor) and is used as business capital, its value will definitely decrease or shrink. In addition, for fiduciary debtors there are a number of conveniences, both in terms of requirements, procedures and the reality of using collateral. Meanwhile, for fiduciary creditors there are difficulties in demanding their rights if the debtor is in default or commits *actio pauliana* (debtor's actions

¹Abdul Ghofur Anshori, 2010, *Indonesian Notary Institution: Legal and Ethical Perspective*, UII Press, Yogyakarta, p. 1.

²Ibnu Adi Prasety, Bambang Tri Bawono, 2022, "The Role and Responsibilities of Notaries in Making Certificates of Inheritance Rights for the Disbursement of Time Deposit Savings Funds by Heirs", *Sultan Agung Notary Law Review (SANLaR)*, Volume 4 No. 3, p. 896.

³J. Satrio, 1991, *Law of Guarantee, Property Rights*, Citra Aditya Bakti, Bandung, p. 97.

⁴Munir Fuady, 2000, *Fiduciary Guarantee*, PT. Citra Aditya, Bandung, p. 57.

that are detrimental to the creditor, for example: selling or transferring property rights that are fiduciary collateral to others).⁵

Fiduciary guarantees will of course also be used by members of the public to guarantee small loans, with collateral objects of small value. If such collateral objects are registered, then compared to the value of the collateral, the registration fee will be felt to be heavy. In addition, the hassle must also be taken into account, considering that at least for the time being, registration places only exist or will even only exist in big cities. It is very wise for lawmakers to leave it to the interested parties themselves to determine whether it is deemed necessary to register or not.⁶The purpose and objectives of registering Fiduciary Guarantee include providing legal certainty for the parties, creating a fiduciary guarantee bond for creditors, providing priority rights and to fulfill the principle of publicity. There are several legal consequences if the object burdened with a fiduciary guarantee is not registered and of course it has a detrimental impact on the parties.⁷

Fiduciary agreements are made in writing with the aim that the creditor holding the fiduciary for his interests can sue in the easiest way to prove the transfer of his guarantee to the debtor. Another important thing is that a written fiduciary agreement is made to anticipate things beyond human control such as the debtor's death, before the creditor obtains his rights. Without a valid fiduciary guarantee deed, it will be difficult for creditors to prove their rights to the debtor's heirs.⁸

After going through the procedure of granting credit with fiduciary guarantee at PT. Bintang Mandiri Finance Kudus Regency, the next procedure is to make a Fiduciary Guarantee Deed. The Fiduciary Guarantee Deed is made by a Notary. Before being submitted to the notary to make a Fiduciary Guarantee Deed, PT. Bintang Mandiri Finance Kudus Regency must submit the fiduciary deed making file to the Notary, which contains the application file for making a Fiduciary Deed, including: identity of the fiduciary guarantee provider; identity of the fiduciary guarantee recipient; and identification of the collateral object. After that, the notary can make a Fiduciary Guarantee Deed. Based on the description above, the author is interested in conducting further research which will be written under the title "LEGAL PROTECTION FOR CREDITORS WITH FIDUCIAN GUARANTEES IN CREDIT AGREEMENTS".

⁵Munir Fuady, 2000, *Fiduciary Guarantee*, PT. Citra Aditya, Bandung, p. 57.

⁶Ni Wayan Tirtawati, *Acta Comitas 2016*, Implementation of Article 11 Paragraph (1) of the Law on Fiduciary Guarantees, Perspective of Credit Agreements with Fiduciary Guarantees at the Pawnshop Company, *Scientific Journal of the Notary Masters Study Program*, ISSN: 2502-8960 | e-ISSN: 2502-7573, p. 295

⁷Oey Hoey Tiong, 1983, *Fiduciary as a Guarantee of the Elements of an Agreement*, Ghalia Indonesia, Jakarta, p. 5

⁸*Ibid.*, p. 47.

2. Research Methods

The research method used in this study is empirical legal research, which uses a cultural research approach, the data used is primary data, data collection comes from observation and interviews, and the data analysis used is descriptive analysis.⁹

3. Results and Discussion

3.1. Legal Protection for Creditors with Fiduciary Guarantees in Credit Agreements

The rights and obligations of debtors with creditors are not widely explained in the Fiduciary Guarantee Law, only that the Fiduciary Guarantee Law narrowly guarantees the rights of creditors in the debtor's debt repayment efforts in the execution rights over objects that are used as fiduciary guarantee objects if the debtor commits an act of default and the right to prioritize debt repayment based on the execution of the fiduciary guarantee object. The rights and obligations of creditors can be explained broadly, namely the right to debt repayment by the debtor and the obligation, among others, to provide clear information regarding the amount of interest or principal that is the basis of the contents agreed upon with the debtor. The debtor's right is to obtain clear information from the creditor regarding the agreement made and the obligation to pay off the debt to the debtor. Legal protection in the event of an act of default and resulting in losses, the legal basis refers to Article 1238 of the Civil Code which states that: "The debtor is declared negligent by a letter of order or by a similar deed or based on the power of the obligation itself, namely if this obligation results in the debtor being considered negligent by the passage of the specified time".

However, until the specified date has passed, the debtor has not paid off his debt or it can be said that the debtor is negligent because he did not fulfill the performance on time. The definition of performance is explained in Article 1234 of the Civil Code which explains that: "Every obligation is to give something, to do something or not to do something". The performance referred to in this case is the debtor's obligation in making a credit agreement with PT. Bank Bintang Mandiri Finance Kudus as a creditor did not fully carry out his obligations, namely paying off his debt to the creditor, resulting in losses for the creditor. Compensation for default by the debtor is regulated in Article 1243 of the Civil Code, which states that:

"Reimbursement of costs, losses and interest due to failure to fulfill an obligation, only begins to be required if the debtor, after being declared negligent in fulfilling

⁹Irwansyah, 2021, Legal Research, 4th edition revised ed., Mirra Buana Media, Yogyakarta. p. 174.

his obligation, continues to neglect it, or if something that must be given or made can only be given or made within a time limit that has elapsed."

The compensation referred to in the Article concerns costs, interest and interest. PT. Bank Bintang Mandiri Finance Kudus experiences losses in the form of costs, namely costs that have been incurred to enter into an agreement with the debtor, for example in terms of administrative management, while the definition of loss in question is the failure to pay or not to settle the debt by the debtor, then PT. Bank Bintang Mandiri Finance Kudus experiences material losses, namely money that has been loaned but not paid off by the debtor, and regarding interest, namely the profit that should have been obtained if the debtor had not been negligent in fulfilling the agreed agreement. The amount of compensation that can be claimed by PT. Bank Bintang Mandiri Finance Kudus against the debtor cannot be limited by law, as explained in Article 1248 of the Civil Code, namely:

"If the failure to fulfill the obligation is due to the creditor's deceit, compensation for costs, losses and interest only for the losses suffered by the creditor and the profits lost by him, only consists of what is a direct result of the failure to fulfill the obligation."

Based on the explanation of the article, the benefits that can be claimed by PT. Bank Bintang Mandiri Finance Kudus against the debtor refer back to the agreement that has been made, namely first, the debtor must first pay off the remaining debt that has not been paid and pay the loan interest for each month/day of delay that has been agreed upon. In the cases above, the object pledged by the debtor has been registered by the creditor and obtained a fiduciary deed. This means that the fiduciary guarantee has been registered at the Fiduciary Registration Office at the Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia at the domicile of the fiduciary giver. This is based on Article 11 paragraph (1) of the Fiduciary Guarantee Law which requires that objects that are the object of fiduciary guarantees must be registered, this is in accordance with the explanation which states that: "Objects burdened with Fiduciary Guarantees must be registered". Thus, creditors obtain legal protection which can be seen in the explanation of Article 20 of the Fiduciary Guarantee Law which states that: "Fiduciary Guarantees continue to follow the objects that are the object of Fiduciary Guarantees in the hands of anyone who is in the hands of the object, except for the transfer of inventory objects that are the object of Fiduciary Guarantees".

Based on the description above, in line with the principle of providing legal certainty, the Fiduciary Guarantee Law adopts the principle of fiduciary guarantee registration. The registration is expected to provide legal certainty to the giver and recipient of the fiduciary as well as to third parties. In a guarantee agreement, usually certain promises are agreed between the creditor and debtor,

which are generally intended to provide a strong position for the creditor and later after being registered are intended to also bind third parties. Therefore, it can be interpreted here that registration includes both registration of objects and their guarantee bonds, so all promises contained in the fiduciary guarantee deed (which in Article 13 paragraph (2) b is recorded in the register book of the Fiduciary Registration Office) and bind third parties.

Based on the description above, it can be seen that the parties in a fiduciary guarantee agreement, both the fiduciary recipient and the fiduciary provider according to the fiduciary guarantee law are both given legal protection, for the provider the protection is in the form of the right to use the collateral, and the default of the guarantee provider for the fiduciary recipient, with the Fiduciary Guarantee Law is the granting of preferential rights over his receivables, and the application of the principle of *droit de suite* over the collateral, for third parties the principle of publicity in the fiduciary guarantee agreement will provide information on the fiduciary objects.

Fiduciary Guarantee must be registered, as regulated in Article 11 of the Fiduciary Guarantee Law. With this registration, the Fiduciary Guarantee Law fulfills the principle of publicity which is one of the main principles of property guarantee law. This provision is made with the aim that the object that is used as an object is truly the property of the debtor or fiduciary giver so that if another party wants to claim the object, he can find out through the announcement.

Registration of fiduciary guarantees is carried out at the Fiduciary Registration Office within the scope of the duties of the Ministry of Justice and Human Rights of the Republic of Indonesia, where for the first time, the office was established with a working area covering the entire territory of the Republic of Indonesia. Legal protection and creditor interests in the UUJF can be seen in Article 20 of the Fiduciary Guarantee Law: "Fiduciary continues to follow the Object that is the object of Fiduciary Guarantee in the hands of anyone who has the Object, except for the transfer of the object, except for the transfer of inventory objects that are the object of Fiduciary Guarantee".

The provisions emphasize that fiduciary guarantees have a material nature and the principle of *droit de suite* applies to them, except for the transfer of inventory items that are the object of fiduciary guarantees. The same protection can also be seen in Article 23 paragraph (2): "The Fiduciary Provider is prohibited from transferring, pawning, or renting to another party Items that are the object of Fiduciary guarantees that are not inventory items, except with prior written approval and the Fiduciary Recipient."

The sanctions for the above provisions are criminal as referred to in Article 36 of the Fiduciary Guarantee Law:

"Any person who intentionally falsifies, changes, removes or in any way provides misleading information, which if known by one of the parties would not give rise to a fiduciary guarantee agreement, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least Rp. 10,000,000 (ten million rupiah) and a maximum of Rp. 100,000,000 (one hundred million rupiah)."

For all actions and negligence of the fiduciary provider, the fiduciary recipient based on such negligence is not responsible, as referred to in Article 24 of the Fiduciary Guarantee Law: "The Fiduciary Recipient does not bear any liability for the consequences of the actions or negligence of the Fiduciary Provider, whether arising from a contractual relationship or arising from an unlawful act in connection with the use and transfer of Objects that are the object of the Fiduciary Guarantee."

Next, talking about legal protection, it is necessary to know first what legal protection actually is. Legal protection comes from two syllables, namely protection and law. Protection is the act or act of protecting,¹⁰ while law is a rule to protect the interests of all parties. According to Wirjono Prodjodikoro, legal protection is an effort of protection given to legal subjects, regarding what they can do to maintain or protect the interests and rights of the legal subjects.¹¹

Based on the understanding of legal protection, then if it is related to the interests of the creditor receiving the fiduciary if the object of the fiduciary guarantee is in the form of unregistered goods, in this case in the form of inventory, then the protection that will be received is in accordance with what is agreed and guaranteed as explained in the fiduciary guarantee certificate held by the creditor. This is also in accordance with the nature of the registration of the fiduciary guarantee, namely that what is actually registered is the guarantee bond. Regarding the registration of this guarantee bond, it adheres to the principle that in the guarantee bond all matters relating to the guarantee will be recorded including the objects related to the guarantee. So for creditors or fiduciary recipients with fiduciary collateral objects in the form of unregistered objects, there is no need to worry, because with this collateral bond registration system, all stocks of merchandise (inventory) that are used as fiduciary objects will be recorded in the fiduciary collateral certificate, so that if there is a default from the fiduciary giver or debtor, the creditor only needs to execute all merchandise as recorded, or if there is none according to what is recorded, the creditor can execute the existing stock of merchandise that is equal to the collateral, because what is guaranteed is the collateral bond, not the object.

¹⁰Ministry of Education and Culture-Balai Pustaka, 2001, Big Indonesian Dictionary, Third Edition, Balai Pustaka, Jakarta, p. 674.

¹¹Wirjono Prodjodikoro, 1986, Principles of Contract Law, Bale Bandung, Jakarta: p. 20

In addition, for the object of fiduciary guarantee in the form of stock of merchandise (inventory) that has been transferred by the fiduciary giver if there is a default by the fiduciary giver or debtor, then according to the provisions of Article 21 paragraph (4) of the Fiduciary Law, the results of the transfer and/or bills that arise, by law become the object of fiduciary guarantee replacing the object of fiduciary guarantee that was transferred. As in the procedure for registering fiduciary guarantees, according to the requirements for registering Fiduciary Guarantees with the Fiduciary Registration Office as regulated in Article 13 paragraph (2) of Law Number 42 of 1999 concerning Fiduciary Guarantees, which reads: the registration statement as referred to in paragraph (1) contains:

- a. Identity of the Fiduciary Provider and Recipient;
- b. Date, number of the Fiduciary Guarantee Deed, name and domicile of the Notary who made the Fiduciary Guarantee Deed;
- b. Data on the principal agreement guaranteed by fiduciary;
- c. Description of the Object that is the Object of Fiduciary Guarantee;
- d. Guarantee value; and
- e. Value of the Object that is the Object of Fiduciary Guarantee

From these requirements it can be seen that in the registered Fiduciary Guarantee there is an attachment regarding the Description of the Objects that are the Objects of the Fiduciary Guarantee as regulated in Article 13 paragraph (1) letter d of the Fiduciary Law, thus it is clear which objects are being guaranteed. In the case that the guaranteed object is in the form of stock of merchandise (inventory), then the stock of merchandise will be detailed in accordance with the list of stock of merchandise made by the fiduciary giver, which is contained in the Fiduciary Guarantee Registration Statement.

In addition, the protection that is also provided to creditors receiving fiduciary whose fiduciary collateral object is in the form of stock of merchandise by the Fiduciary Law is regulated in the requirements for registering fiduciary collateral in the form of a requirement to include the value of the goods or objects that are used as the object of fiduciary collateral. The protection provided by including the value of the goods or objects that are used as the object of fiduciary collateral is if the object used as the object of fiduciary collateral does not exist or is not available according to that listed in the attachment, then the fiduciary recipient in this case the creditor can sue the fiduciary provider to fulfill his obligations, namely the amount of the collateral.

This situation is very likely to occur because as is known, the stock of merchandise is not always there according to what is recorded because as merchandise, it is possible that the goods have been traded according to their intended use. So that by including the value of the guarantee, it will greatly

protect the interests of the creditor, because even though the goods listed in the attachment or details about the object used as the object of the fiduciary guarantee do not match those detailed, the creditor can still execute his guarantee at the value of the goods pledged. Or in other words, changes that occur to the object of the fiduciary guarantee in this case the stock of merchandise do not need to be registered every time there is an increase or decrease, because the creditor will refer to the value of the guarantee of the object pledged.

In addition, legal protection for Fiduciary recipients (creditors) can be explained that one way to protect the interests of Creditors (as Fiduciaries) is to provide definite provisions for Creditors. The regulation of complete data that must be contained in the Fiduciary guarantee (Article 6 of the Fiduciary Guarantee Law), indirectly provides a strong grip for Creditors as Fiduciary Recipients, especially which bills are guaranteed and the amount of the guarantee, which determines how much the preferred creditor's bill is. Legal protection and the interests of creditors in the Fiduciary Guarantee Law can be seen in Article 20 of the Fiduciary Guarantee Law:

"Fiducia continues to follow the object that is the object of Fiducia Guarantee in the hands of whoever the object is in, except for the transfer of the object, except for the transfer of inventory objects that are the object of Fiducia Guarantee."

By registering the fiduciary agreement deed, the Fiduciary Registration Office will record the fiduciary guarantee deed in the Fiduciary Registration Book and the creditor will be given a Fiduciary Guarantee Certificate. When registering the fiduciary encumbrance deed, it creates a fiduciary guarantee for the fiduciary giver, provides certainty to other creditors regarding the object that has been burdened with fiduciary guarantee and provides priority rights to creditors and to fulfill the principle of publicity because the Fiduciary Registration Office is open to the public.¹²

If there is a change to the data listed in the Fiduciary Guarantee Certificate, then the fiduciary recipient is required to submit an application for registration of the change to the Fiduciary Registration Office. After the administrative requirements are met, the Fiduciary Guarantee Registration Office will issue a Fiduciary Guarantee Certificate for the applicant (Fiduciary Recipient) and a Fiduciary Register Book to be stored at the Fiduciary Registration Office. Something that is very beneficial for the creditor receiving the fiduciary guarantee is that the Fiduciary Guarantee Certificate contains words that are usually called irah-irah, "IN THE SAKE OF GOD ALMIGHTY", as stipulated in Article 15 paragraph (1) of the Fiduciary Guarantee Law.

¹²Purwahid Patrik and Kashadi, Op. Cit, p. 41.

3.2. Legal Remedies Available to Creditors After Debtor Defaults

Dispute resolution through Mediation has no element of coercion between the parties and the mediator, because the parties voluntarily ask the mediator to help resolve the conflict they are facing. Therefore, the mediator is positioned as an assistant, although there is an element of intervention towards the conflicting parties. In such conditions, the mediator must be neutral until a decision is obtained that is only determined by the parties, only in the process of resolving the conflict the mediator actively participates in helping the parties find various differences in perception or views.

Mediation is a dispute resolution process involving a mediator to assist the disputing parties to reach a settlement in the form of a voluntary agreement on some or all of the disputed issues. A mediator is defined as an impartial party in assisting in the implementation of mediation. As long as an independent banking mediation institution has not been formed, the banking function is carried out by BI. The banking mediation function carried out by BI is limited to providing a place, assisting customers and banks to express the main issues in dispute, providing resource persons, and trying to reach an agreement to resolve the dispute between the debtor and the bank (creditor). Furthermore, considering that the independence and credibility of the implementation of banking mediation are the main factors that must be upheld, the legal process in banking mediation is determined and implemented in accordance with international best practices and applicable laws and regulations so that dispute resolution through banking mediation does not harm both parties.

Mediation, in this case, is an effort to resolve a dispute by involving a third party without siding with one party, who does not have the authority to make decisions but helps the disputing parties reach a settlement or solution that is acceptable to both disputing parties in this case PT. BPR Arta Agung as a creditor with a debtor.

a. Arbitration is a method of resolving disputes outside of litigation or court institutions, held by the disputing parties on the basis of an agreement or contract that they have entered into before or after the dispute occurs.¹³

Arbitration is a method of resolving disputes outside the courts, based on an arbitration agreement made by the parties, and carried out by an arbitrator who is selected and given the authority to make decisions. Disputes that can be resolved through arbitration are only disputes in the field of trade and rights that according to law and regulations are fully controlled by the disputing parties.

¹³Ibid., p. 161.

b. Conciliation is a method of dispute resolution in which the parties voluntarily seek a solution through negotiation to resolve a problem with the assistance of an impartial third party.

Alternative Dispute Resolution (APS) or non-litigation is one of the processes to resolve a dispute outside the court that can be done by the parties to be able to resolve their dispute. Settlement of Bad Credit in Banks can be done outside the court by using Alternative Dispute Resolution (APS) or Alternative Dispute Resolution (ADR). The settlement of the dispute has had a strong legal basis since the issuance of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

This out-of-court dispute resolution results in a win-win solution or mutually beneficial agreement that guarantees the confidentiality of the parties' disputes, avoids delays caused by procedural and administrative matters, resolves problems comprehensively together and maintains good relations. This out-of-court dispute resolution is more widely chosen because the judicial process in Indonesia is considered inefficient and ineffective.

If the dispute resolution method in the case of default experienced by n by non-litigation or dispute resolution outside the court, whether by negotiation, mediation or arbitration, is unsuccessful, then the party as a creditor can take steps to resolve the dispute through litigation or through the courts by filing a lawsuit against the debtor through a court in the general court environment for the default action carried out with the aim of obtaining his rights to compensation in the form of a refund or capital that has been given by PT. BPR Arta Agung and the interest that should be paid by the debtor.

3.3. Dispute Resolution by Litigation

Litigation is a dispute resolution system through a judicial institution. Disputes that occur and are examined through litigation will be examined and decided by a judge, which through this system it is impossible to achieve a win-win solution or a solution that takes into account both parties because the judge must make a decision where one party will be the winning party and the other party will be the losing party. The dispute resolution process through litigation can be carried out by filing a lawsuit against the debtor through a court in the general court environment if no dispute resolution agreement is found between PT. Bank Bintang Mandiri Finance Kudus as a creditor with debtors who are in default by non-litigation or outside the court.

Fiduciary Guarantee Execution is the seizure and sale of objects that are the object of fiduciary guarantee. The cause of the execution is because the debtor is in default or does not fulfill his performance on time to the fiduciary recipient, even though the debtor has been given a warning, as regulated in Article 15 paragraph (3) "if the debtor is in default, the fiduciary recipient has the right to

sell the object that is the object of fiduciary guarantee at his own authority" what is meant by this article is that if the debtor is in default or in default, the creditor can execute the fiduciary guarantee directly. Because in the fiduciary guarantee certificate, it has the same executorial power as a court decision.

4. Conclusion

Legal protection for creditors with fiduciary guarantees at PT. Bank Bintang Mandiri Finance Kudus if the debtor defaults, with the Fiduciary Guarantee Law, is the granting of preferential rights to his receivables, Legal efforts owned by creditors after the debtor defaults, which are carried out at PT. BPR Arta Agung are dispute resolution. First of all, it is done by giving a warning in the form of a reprimand, then continued by giving a warning letter to the debtor, but if the debtor still does not fulfill it, the creditor can take further action, namely through non-litigation and litigation methods

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