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Implementation Of Mortgage Rights That Are Not Registered At The Land Office

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Abstract. *One of the collaterals that banks are interested in as credit collateral is mortgage rights. The existence of this mortgage right as regulated in Law No. 4 of 1996 concerning Mortgage Rights has characteristics that provide legal protection for creditors (banks). The objectives of this research are: 1). to know and analyze how the execution of mortgage rights that are not registered at the land office is carried out; 2). to know and analyze what are the obstacles and solutions to the execution of mortgage rights that are not registered at the land office; 3). to know and analyze what are the legal consequences that arise in the execution of mortgage rights that are not registered at the land office. This research uses a sociological-juridical approach, using a descriptive analytical research method. The data used are primary and secondary data, which will be analyzed qualitatively. The research problem is analyzed using the theory of legal objectives, the theory of legal certainty, and Lawrence Friedman's theory. The results of the study concluded that: 1) The execution of mortgage rights that are not registered at the land office can still be carried out with the condition that there is a guarantee from a Notary in the form of a Covernote; 2). Obstacles to the execution of unregistered land rights guarantees are: the obstacles that occur mostly come from legal obstacles which include obstacles regarding the validity period of the SKMHT and obstacles regarding the completeness of the files by the applicant which causes the emergence of non-legal obstacles such as obstacles in paying taxes, obstacles in the case of the debtor dying when the mortgage encumbrance process has not been completed and obstacles in the lack of creditor knowledge about land rights registration. The solution is that it is better to make the SKMHT after the announcement process from the ATR-BPN Office in connection with the completion of the process indicating that the third party has no objections so that it can minimize problems so that the creation of land books and the issuance of certificates can be ensured that there are no obstacles; 3). The legal* *consequences of executing a mortgage right that is not registered cause the mortgage creditor to not have the position of a preferred creditor as a mortgage creditor but rather the same as the position of a concurrent creditor.*

Keywords: *Execution; Land Office; Mortgage Rights.*

1. Introduction

Banking is a financial institution that is the main pillar for the acceleration of national economic development, namely to support the implementation of national development in order to increase equality, economic growth and national stability towards improving the welfare of the people. Banking Financial Institutions as one of the providers of Home Construction Credit facilities and play a very important role in the equal distribution of housing ownership. In providing home ownership loans to the public, banks must implement procedures that have been determined by the government so that the implementation of home ownership loans is in accordance with applicable laws and regulations and the provision of housing ownership loans still pays attention to the interests of the people, not solely oriented towards the profits of the Bank. Construction credit is a credit facility provided.

Mortgage Rights are not a stand-alone agreement but rather Mortgage Rights are an accessory agreement based on the principal agreement, namely a debt agreement and its existence is determined by the existence of debt/credit between the debtor and the creditor whose repayment is guaranteed. Therefore, if the debt is forgiven due to repayment, the Mortgage Rights are automatically forgiven. Since the enactment of Law Number 4 of 1996 concerning Mortgage Rights (UUHT), the dualism in the encumbrance of land rights is no longer known, because formally and materially the provisions contained in Law Number 4 of 1996, which consists of 11 chapters and 31 articles, apply. Because of this, Law Number 4 of 1996 concerning Mortgage Rights has helped realize the unification of national land law and existing guarantee institutions, because this Law has been adjusted to developments and regulates new matters relating to the institution of mortgage rights, the scope of which includes:

1. Object of Mortgage Rights;

2. Grantors and holders of mortgage rights;

3. Procedures for Granting, Registering, Transferring and Deleting Mortgage Rights;

4. Execution of Mortgage Rights;

5. Deletion (Roya) of Mortgage Rights;

6. Administrative Sanctions.

The granting of Mortgage Rights by the Mortgage Right grantor to the Mortgage Right holder must be registered at the Land Office. This is stipulated in Article 13 of the UUHT paragraph (1) which states that: "The granting of Mortgage Rights must be registered at the Land Office". One of the principles of Mortgage Rights is the principle of publicity. Therefore, the registration of the granting of Mortgage Rights is an absolute requirement for the birth of the Mortgage Right and binding the Mortgage Right to a third party, namely as explained in the explanation of Article 13 of the UUHT. For the Mortgage Right grantor who has paid off his obligations to the Mortgage Right holder, the object of the Mortgage Right that is charged is deleted. Article 22 paragraph (1) of the UUHT states that: "After the Mortgage Right is deleted as referred to in Article 18. The Land Office deletes the record of the Mortgage Right in the land title book and its certificate."

Agreements or contracts are human efforts to fulfill various interests in their social interactions, both large and small. It's not uncommon to see agreements or contracts entered into by everyone in everyday life, whether verbally or in writing. Agreements between parties, particularly in the economic sphere, are inextricably linked to the role of law. Law regulates and provides a framework for every human activity.[1]

2. Research Methods

The approach method in this research is to use a normative juridical approach, namely a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced.[2]In this type of legal research, law is conceptualized as what is written in statutory regulations or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate.[3]

3. Results and Discussion

3.1. Implementation of Mortgage Rights That Are Not Registered at the Land Office

Registration of Mortgage Rights must be registered as stated in Article 13 Paragraph (1) of the Land Deed Making Act. Furthermore, a Mortgage Rights registration activity must be carried out by a Land Deed Making Officer (PPAT) and check the completeness of the administration and physical data, to ensure the validity of land ownership. Article 13 Paragraph (2) states that the Granting of Mortgage Rights must be registered no later than 7 (seven) working days after the

1Johannes Ibrahim Kosasih, Agung's Child, Agung's Child, Sagung Laksmi Dewi, 2021, Fiduciary Execution Parate Polemic on Legal Certainty and Business, CV Mandar Maju, Bandung, p. 23.

2Peter Mahmud Marzuki, 2010, Legal Research, Jakarta: Kencana Prenada, p. 35.

3Amiruddin and H. Zainal Asikin, 2006, Introduction to Legal Research Methods, PT. Raja Grafindo Persada, Jakarta, p. 118

signing of the Deed of Granting of Mortgage Rights (APHT), and the PPAT is required to send the relevant APHT and other necessary administrative files to the Land Office. However, in reality, there are still mortgage rights that are not registered in accordance with the provisions of the Mortgage Rights Act.

This is different if the APHT is prepared and registered with the Land Office. If the mortgage has been registered, then if the mortgagee is declared bankrupt, the mortgagee retains the authority to exercise all rights acquired under the provisions of this Law (Article 21 of the Mortgage Law).

Regarding the settlement, both concurrent creditors and separatist creditors (creditors who have collateral/creditors who are prioritized), both must submit demands to obtain fulfillment of the obligations as stated in Article 27 of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations:

"During the bankruptcy process, demands to obtain fulfillment of obligations from the bankrupt assets directed against the Bankrupt Debtor can only be submitted by registering them for verification."

Therefore, the problem with the absence of an APHT is that the creditor is not given priority in fulfilling their receivables. For reference, regarding creditors holding collateral in bankruptcy, please read the article "The Status of Collateral in the Event of Bankruptcy."

According to Law Number 4 of 1996 concerning Mortgage Rights, the purpose of a mortgage right is to guarantee the debt granted by the mortgage holder to the debtor. Meanwhile, the purpose of a material mortgage right is to grant the creditor the right of repayment (the right to request the fulfillment of his debt) against the proceeds from the sale of certain objects from the debtor to fulfill his debt.[4]

The granting of Mortgage Rights is a property agreement consisting of a series of legal acts from the Deed of Granting of Mortgage Rights (APHT) to registration by obtaining a Mortgage Rights Certificate from the Land Office. The granting of Mortgage Rights begins with the creation of a credit agreement or debt agreement between the debtor and the creditor, which is stated in the form of a private agreement or a notarial deed, which is then followed by the creation of an APHT by the PPAT.

Justice can be prioritized, sacrificing the benefit of the wider community. Gustav Radbruch stated that there is a scale of priorities that must be implemented, with

4Sutan Remi Sjahdeini, 1999, Mortgage Rights, Principles, Basic Provisions and Problems Faced by Banking, Alumni, Bandung, p. 5

justice always being the first priority, followed by benefit, and finally, legal certainty. Law functions as a means of preserving human interests in society. The purpose of law is to achieve goals that divide rights and obligations among each individual in society. Law also authorizes and regulates how to resolve legal issues and maintain legal certainty.[5]

When linked to the function of law as the protection of human interests, law has goals and objectives to be achieved. The basic goal of law is to create an orderly and balanced social order. Achieving order in society is expected to protect human interests. To achieve this goal, law serves to divide rights and obligations among individuals in society, allocate authority, and regulate how to resolve legal problems.[6]

Executing mortgage rights through the district court is essentially a legal remedy taken by creditors to obtain repayment of their debts from defaulting debtors. Its effectiveness is reflected in the speed of the process, legal certainty, and success in resolving problem loans. However, in practice, executing mortgage rights in the district court often encounters obstacles that actually reduce its effectiveness.

Based on the results of research in several district courts, it is known that the procedure for executing mortgage rights through an execution application based on the executorial title (Article 6 of the HT Law) or through an execution auction often requires quite a long time, even reaching more than six months to one year.[7]This is due to the several administrative and judicial stages that must be completed, including a determination by the chief justice, an auction announcement, resistance from the debtor, and supervision by the court clerk. Some of the main factors hindering the effective execution of mortgage rights in district courts include:[8]

1. Resistance from debtors or third parties who object to the execution. In practice, debtors often file a counterclaim (verzet) or even request a stay of execution, which delays the auction process.

2. The lack of legal understanding from implementing officials, both from the courts and auction officials, regarding the mechanism and urgency of

5Randy Ferdiansyah, The Purpose of Law According to Gustav Radbruch, http://hukumindo.com/2011/11/artikel-politik-hukum-tujuan-hukum.html, accessed on September 17, 2023.

6Sudikno Mertokusumo, 2003, Understanding Law: An Introduction, Liberty, Yogyakarta, p. 77.

7Results of an interview with Reynaldi Resta Yuda, Head of the PAPBB Section of the Pasuruan Regency Prosecutor's Office, on February 2, 2026.

8Results of an interview with Reynaldi Resta Yuda, Head of the PAPBB Section of the Pasuruan Regency Prosecutor's Office, on February 2, 2026.

executing mortgage rights, has resulted in slow responses and determination of execution.

3. Overlapping regulations between the Mortgage Rights Law, HIR/RBg, and technical regulations for auction implementation from the Ministry of Finance, which creates uncertainty regarding the legal procedures that must be followed by creditors.

Execution of Mortgage Rights in District Courts Based on data obtained from District Courts, the mechanism for executing mortgage rights is generally initiated by the creditor after the debtor is declared in default. The procedures include:[9]

1. Submission of an execution application by the creditor to the Head of the District Court by attaching a mortgage certificate, credit agreement, evidence of default, and other supporting documents.

2. Determination by the Head of the District Court to carry out execution of the mortgage object. Implementation of the execution seizure by the court bailiff.

3. Coordination with the State Assets and Auction Services Office (KPKNL) for the auction of collateral objects.

4. Settlement of creditors' receivables from the proceeds of auction sales of collateral objects.

In practice, although execution procedures have been regulated normatively, their implementation often encounters obstacles, both technical, administrative, and social. Mortgage rights are regulated in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT). A problematic loan is a condition where the debtor is unable to fulfill its obligations as stated in the credit agreement, resulting in arrears or default. Execution of mortgage objects is an important instrument to protect creditor rights and reduce losses resulting from debtor default.

Effectiveness of Execution The effectiveness of mortgage execution in the District Court can be seen from the indicators of speed, legal certainty, cost efficiency, and the final outcome of the process. Based on the results of interviews with judges, clerks, and creditors, it was found that the execution process often takes between 6 months to more than 1 year. This occurs due to several factors, such as objections from debtors, lengthy document verification processes, and technical obstacles in the auction process. Although legally mortgage certificates have

9Results of an interview with Ramanda Bayu Sulistya, Head of Sub-Section I of the Pasuruan Regency Prosecutor's Office, on February 3, 2026.

executorial power, in practice, District Courts remain cautious in issuing execution orders, especially if there is a counterclaim from the debtor or a third party. This creates uncertainty for creditors who want to immediately realize their rights to the collateral. Furthermore, in terms of costs, the execution process through the court is considered quite burdensome because it involves court down payments, seizure costs, security costs, and auction costs. When compared to auction results, which are sometimes lower than market value, the effectiveness of all...

Even though the UUHT provides executorial powers over mortgage certificates, in practice the District Court still has an important role in:[10]

1. Providing a determination of the implementation of execution on the creditor's application;

2. Assigning a bailiff to carry out the confiscation and vacating of the collateral object;

3. Provide legal protection to the parties involved;

4. Assess whether a breach of contract has occurred legally and convincingly. In some cases, the District Court also acts as a dispute resolution forum if the debtor files an objection or resistance to the execution process.

Execution in Dutch is called Executie or Uitvoering, and in legal dictionaries it is defined as the implementation of a court decision. Execution means the forced implementation of a court decision with the aid of general force, in order to enforce a court decision that has obtained permanent legal force.[11]According to R. Subekti, execution is an effort by the party that wins the decision to obtain what is their right with the help of legal force, forcing the losing party to carry out the terms of the decision.[12]With the above understanding, execution is essentially the fulfillment of an obligation imposed by a judge's decision, to fulfill the obligations outlined in the judge's decision. In other words, execution is the final stage in a court proceeding, including for disputes in the banking business.

The court's actions in examining, trying, deciding and executing a case must of course be based on the provisions of the law which are the legal source for carrying

10Results of an interview with Wakhidatus Saidah, SH, MH, Legal Advisor to Peradi SAI, on February 4, 2026.
11Wildan Suyuthi, 2005, Regarding Religious Civil Procedure and Law, Supreme Court of the Republic of Indonesia Employee Training Center, Jakarta, p. 64
12R. Subekti, 1989, Civil Procedure Law, Bina Cipta, Bandung, p. 128.

out the execution and which are used as the basis for realizing law enforcement in implementing court decisions on civil disputes, there are several types, including:[13]

a) HIR (Herziene Inlandsch Reglemen) / RBg (Rechtsreglemen Voor de Buitengewesten).

b) Law Number 4 of 2004 concerning Mortgage Rights.

Execution, as a legal action taken by the court against the losing party in a case, is a follow-up rule and procedure in the case examination process. Execution of Mortgage Rights is generally carried out in the following manner:

1) Parate Execution of Mortgage Rights

In the Mortgage Law, the provision of parate execution refers to the provisions of Article 20 that if the Debtor is in default, the holder of the first mortgage right has the right to sell the object of the mortgage right through a public auction and take the receivables from the proceeds of the sale. According to J. Satrio, the right to sell the object of the mortgage right under his own authority if the debtor is in default is a simplified implementation of the right of execution, which is now granted by the law itself to the creditor holding the first mortgage right. In the sense that the implementation of such a right does not need to go through the courts and does not need to use legal procedures because its implementation is only dependent on the condition of "Debtor in Default" even though the creditor himself only needs it if the debtor is in default. Such authority appears as an Execution Right that is always ready to be handled when needed. That is why such execution is called parate Execution.[14]

2) Executorial Title of Mortgage Rights

Executorial Title, is the power to be exercised by force with the assistance and by State instruments, while those which can have Executorial power are the Grosse of the Judge's Decree, the Grosse of the Mortgage Deed and the Grosse of the Debt Acknowledgment Deed made by a Notary. So in principle, what can be executed are court decisions and certain authentic deeds.[15]In relation to the security right over land with a Mortgage Right, the encumbrance of this Mortgage Right is carried out with a Deed of Granting of Mortgage Right (APHT) and a Mortgage Right certificate. This Mortgage Right Certificate contains the following provisions: "For the Sake of Justice Based on the One Almighty God." Thus, the

13Results of an interview with Wakhidatus Saidah, SH, MH, Legal Advisor to Peradi SAI, on February 4, 2026.
14J. Satrio, 1993, Parate Exekusi as a Means of Overcoming Bad Credit, PT. Citra Aditya Bakti, Bandung, p. 12.
15Ibid, p. 43.

Mortgage Right certificate has the same executorial power as a court decision that has permanent legal force and is valid as a substitute for the Grosse Mortgage Deed as far as it concerns land rights.

3) Underhand Execution

In accordance with the provisions of Article 20 paragraph (2) of the UUHT, it is regulated that there is a possibility of underhand sales. This is done if it is estimated that a public sale (auction) will not produce the highest price. With underhand sales, the aim is to expedite the sale of the Mortgage Right object with the highest sale that benefits all parties. Underhand sales can only be carried out after one month has passed since the written notification by the grantor and holder of the Mortgage Right to the interested parties and announced in at least two newspapers circulating in the relevant area or local mass media, and there are no objections from other parties.

3.2. Obstacles and Solutions in the Implementation of Mortgage Rights That Are Not Registered at the Land Office

One of the principles of mortgage rights is the principle of publicity, which requires that mortgage rights be registered and recorded at the local Land Office so that they can be accessed by other parties, so that no party is disadvantaged due to ignorance of the existence of such mortgage rights. From a legal perspective, ensuring legal protection and creating legal certainty are the main objectives of mortgage registration. In reality, the public is still unaware of the validity of mortgage registration. This shows that in practice, the mortgage registration system in this country is still considered to have no legal status because simply having an agreement without complete documents does not fully guarantee that the mortgage has been created. Failure to register mortgage rights on property can be caused by many things, the most common of which include negligence or deliberate decisions. Here are some possible causes:

1. Negligence of Land Owner

The main factor is that landowners may not realize the importance of registering mortgages or they ignore it for some reason.

2. Lack of understanding of the law

One reason may be unfamiliarity with the legal processes or regulations related to mortgage registration. Landowners may be unaware of the importance of registering mortgages to protect the interests of related parties.

3. Administrative Constraints:

Certain landowners may face administrative issues such as not having the time or resources necessary to follow the registration process which may seem arduous.

4. Financial Difficulties

Financial difficulties can also be a contributing factor. Landowners may be reluctant or unable to pay the costs associated with registering a mortgage.

1. Intention to

Avoiding Encumbrances In some cases, landowners may intentionally not register a mortgage to avoid encumbrances. They may want to keep the property without the additional financial burden that registering a mortgage might incur.

6. Complicated Legal Process:

Some mortgage registration systems may have complex processes or difficult requirements to meet. This can discourage or hinder landowners from completing the registration process.

2. Related Party Disagreement:

There are situations where related parties, such as banks or financial institutions, refuse to register mortgages. This can occur due to business considerations or specific internal policies.

3. Change of Ownership or Legal Structure

Changes in ownership or the legal structure of the property can be contributing factors. The new owner may be unaware of or fail to prioritize mortgage registration after acquiring the property.

4. Late Payment

Registration Fees Mortgage registration fees must be paid on time in accordance with applicable regulations. Late payment of the registration fee may result in the mortgage being unregistered.

5. Non-Compliance with Law

The mortgage registration process must comply with applicable laws. If the registration process fails to meet legal requirements, such as incomplete documents or improper procedures, the mortgage may be invalid.

As we all know, a non-performing loan agreement with an unregistered mortgage can be fatal. Failure to register the mortgage can impact all parties involved, including the creditor, the debtor, and other related parties. Therefore, it is crucial to ensure that the mortgage registration process is carried out carefully and in accordance with applicable law.

There are various obstacles that cause the process of executing mortgage rights through the District Court to be ineffective:[16]

1. Existence of Legal Resistance from Debtors or Third Parties Debtors often file lawsuits against execution (derden verzet), which delays the process until there is a court decision that has permanent legal force.

2. Slow Administrative Procedures in Court The bureaucratic process in submitting an execution request takes quite a long time, starting from document verification, the judge's determination, to the implementation of the execution.

3. Lack of Executorial Resources The limited number of bailiffs and other supporting facilities often delays the execution process.

4. Unpreparedness of Execution Objects Many collateral objects are physically controlled by the debtor and are not empty, so that the implementation of the emptied objects must be preceded by a request for police assistance.

5. Uncooperative Debtors Debtors who are unwilling to voluntarily hand over the collateral object often carry out acts of resistance, intimidation, or even remove the object.

6. Inconsistency of Court Decisions In some cases, the court actually rejects the execution application even though the debtor has clearly defaulted, on the grounds of protecting the debtor's rights, thus creating legal uncertainty for creditors.

To assess the effectiveness of the implementation of mortgage execution in the District Court, it can be analyzed from the following aspects:

a. Legal Aspects

16Results of an interview with Ramanda Bayu Sulistya, Head of Sub-Section I of the Pasuruan Regency Prosecutor's Office, on February 3, 2026.

Normatively, the law provides a strong basis for creditors to enforce collateral. However, in practice, differing interpretations among law enforcement officials often present obstacles.

b. Legal Certainty Aspect

Although mortgage certificates have executorial powers, the enforcement process still relies on the court's discretion and subjective judgment. This reduces legal certainty.

c. Speed and Efficiency Aspects

The primary goal of enforcement is to obtain swift and efficient settlement of debts. However, the court process tends to be slow and complicated, causing economic losses for creditors.

The execution of mortgage rights is an important mechanism in the civil law system in Indonesia, especially in efforts to resolve the problem of problematic credit or non-performing loans (NPL). Mortgage rights as material collateral provide a special position to creditors to obtain priority repayment of their receivables from the proceeds of the sale of collateral objects in the form of land or objects attached to it. When the debtor defaults, the creditor has the right to execute the collateral object through legal process. One of the routes taken in practice is to submit an execution application to the District Court. However, although the legal basis has been clearly regulated in Law Number 4 of 1996 concerning Mortgage Rights, its implementation in the field still often faces various obstacles. In the execution of mortgage rights in the District Court, there are two main routes that can be taken, namely parate execution based on Article 6 of the UUHT and execution based on the executorial title as regulated in Article 14 paragraph (2) of the UUHT.

Parate executor allows a creditor to sell the mortgaged property through a public auction without a court decision, provided there is no opposition or lawsuit from the debtor. Meanwhile, the executorial title authorizes the District Court to order the execution, as the mortgage certificate is considered to have the same force as a final and binding court decision. However, in practice, the execution process involving the court often takes a long time and is fraught with complex administrative procedures.

The main problem that makes the execution of mortgage rights less effective in the District Court is resistance from the debtor or third parties. Uncooperative debtors often file objections or counter-execution lawsuits (derden verzet), which results in delays in the auction or the vacating of the collateral.[17]Furthermore, a lack of human resources, such as bailiffs and limited facilities for execution, also slows down the process. Courts often exercise excessive caution by delaying executions even when there is sufficient evidence of default. As a result, what should be a quick and simple execution process becomes lengthy and complicated. From a legal certainty perspective, this has caused concern among business and banking stakeholders.

Creditors feel less legally protected because their privileges cannot be effectively exercised. In fact, the existence of mortgage rights is intended to provide a sense of security in credit transactions and strengthen trust in the national financing system. If execution is difficult to realize, the role of mortgage rights as a collateral institution is not optimal. This also impacts the high number of non-performing loans because creditors have difficulty collecting their receivables. To improve the effectiveness of mortgage execution in District Courts, reforms are necessary both in terms of regulations and technical implementation. Execution procedures must be simplified and expedited, without neglecting the principle of justice. Courts must be provided with strict guidelines to avoid hesitation in processing execution requests. Furthermore, digital systems such as e-seizure and e-auction need to be expanded to expedite administrative processes and increase transparency. Coordination between the courts, the National Security Agency (KPKNL), and security forces must also be improved so that execution can be carried out effectively and unimpeded by non-juridical issues. Thus, the function of mortgage rights as a collateral tool that provides legal certainty and protection to creditors can be truly realized in practice.

The execution of mortgage rights through the District Court has not been effective as a quick solution to problem loans. This is due to administrative and technical factors in the field, as well as suboptimal synergy between related institutions. The execution of mortgage rights through the District Court in resolving problem loans has not been effective due to various procedural, legal, and technical obstacles. Despite being provided with a strong legal basis through the UUHT, its implementation in the field still faces significant challenges in terms of legal certainty, speed of processing, and protection of creditors' rights. Comprehensive legal and institutional reforms are needed to ensure that the security execution system in Indonesia can be more effective, efficient, and fair.

• Unification of Execution Procedure Guidelines

Law No. 4 of 1996 concerning Mortgage Rights (UUHT) provides an adequate legal basis, but various technical regulations at the Supreme Court,

17Interview results Interview results with Reynaldi Resta Yuda, Head of the PAPBB Section of the Pasuruan Regency Prosecutor's Office, on February 2, 2026.

Ministry of Finance, and Minister of ATR/BPN levels remain scattered and sometimes contradictory. Therefore, it is necessary to issue National Guidelines for the Implementation of Mortgage Rights, which outline the entire process from application to auction, along with standard document formats that must be used in all District Courts. With a single guideline, procedural disparities between regions can be minimized.

• Strengthening of the Executorial Clause

Articles 6 and 14 of the Mortgage Law (UUHT) stipulate the executorial power of mortgage certificates, but in practice, creditors still require a judge to determine the period before the auction. To expedite matters, it is necessary to stipulate that certificates that meet administrative requirements—for example, those that have been issued and are not subject to a certificate dispute—can be submitted directly to the KPKNL without delay through the District Court, as long as written notification has been provided. This streamlines the parate executie procedure.

• Review of the Damping Mechanism (Debtor's Response)

At the auction announcement stage, debtors are still given the opportunity to file objections (damping), which regularly delay the auction process until a court decision is issued. A short time limit, such as seven working days from the date of the announcement, should be set to highlight documents that raise genuine legal doubts. If supporting documents (certificates, deeds, inheritance certificates, etc.) have been initially verified by the court clerk before the application is submitted, the likelihood of administrative objections can be reduced.

Factors contributing to the ineffectiveness of execution include lengthy administrative procedures, a lack of enforcement resources, such as bailiffs, and a high number of legal challenges from debtors, which often hinder auctions or the clearing of collateral. Furthermore, the lack of established standard procedures and excessive caution on the part of the courts also pose obstacles. Consequently, creditors, as the primary holders of collateral rights, cannot promptly obtain repayment of their receivables, negatively impacting business confidence and the stability of the national financial sector. The effectiveness of collateral execution is a key indicator in assessing the reliability of Indonesia's collateral system.

4. Conclusion

The execution of mortgage rights that are not registered at the land office can still be carried out with the condition that there is a guarantee from the Notary in the form of a Covernote. The Creditor refers to the Power of Attorney to Encumber the Mortgage Right (SKMHT) which has been made with the Deed of Granting of

Mortgage Rights (APHT) before the Notary or PPAT, and asks the PPAT to register the Mortgage Right at the Land Office, with a time limit of a maximum of 3 (three) months. Obstacles to the implementation of the execution of land rights guarantees that are not registered are: the obstacles that occur mostly originate from legal obstacles which include obstacles regarding the validity period of the SKMHT and obstacles regarding the completeness of the documents by the applicant which causes the emergence of non-legal obstacles such as obstacles to tax payments, obstacles where the debtor dies when the mortgage process has not been completed and obstacles due to the creditor's lack of knowledge regarding land rights registration. The solution is for the debtor to provide information to creditors about registering land mortgages. It's best to prepare a SKMHT after the ATR-BPN Office announces that the process has been completed, indicating that third parties have no objections. This can minimize problems, ensuring that land registration and certificate issuance are free of obstacles. The legal consequences of executing a mortgage right that is not registered cause the creditor of the mortgage right to not have the status of a preferred creditor like the mortgage creditor but rather the same as a concurrent creditor. The reduced status of the creditor is due to not fulfilling the principles and requirements that require the mortgage right to be registered. Another legal consequence, if the mortgage right is not registered, there is no mortgage certificate that grants the right of parate executie that can be used as evidence in court. Then the mortgage right is considered null and void because it did not follow the registration procedure as stipulated in Article 13 of the UUHT. In addition, there will be no Mortgage Certificate, meaning the mortgage right is not registered in the mortgage land book at the local land office. Furthermore, if the mortgage right is not registered at the land office, the mortgage right will not apply to third parties who acquire rights to the land. In this case, the third party who acquires rights to the land is not bound by the mortgage right that should have existed. The failure to register the mortgage right at the land office also means that the creditor does not have legal collateral for the collateralized assets. In this case, the Debtor may face difficulties in exercising his right to take back the assets that have been used as collateral.

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