

Execution of Debt Guarantee in Subsidized Housing Credit Agreements Not Based on Deed of Grant of Mortgage Rights (APHT)

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Abstract. *This study aims to analyze: 1) The legal position of debt collateral in subsidized housing credit agreements that are not based on the Deed of Granting Mortgage Rights (APHT). 2) The procedure for executing debt collateral in subsidized housing credit agreements without APHT according to applicable laws and regulations. This type of research is included in the scope of normative legal research. The approach method in this study is the statute approach. The type of data in this study is secondary data, consisting of primary, secondary and tertiary legal materials. The data collection method was obtained through literature study. The analysis in this study is prescriptive. The results of the study concluded: 1) The legal position of debt collateral in subsidized Home Ownership Credit (KPR) agreements that are not based on the Deed of Granting Mortgage Rights (APHT) is very weak in terms of juridical. Although the Regulation of the Minister of ATR/BPN Number 22 of 2017 provides leniency by allowing the use of a Power of Attorney to Charge Mortgage Rights (SKMHT) until the end of the credit agreement period, this does not change the fact that mortgage rights can only be legally recognized if they are made through an APHT and registered at the Land Office in accordance with the provisions of Law Number 4 of 1996 concerning Mortgage Rights. Without an APHT, the collateral provided by the debtor does not have legal execution power and does not provide perfect property rights for the creditor. 2) The procedure for executing debt collateral in a subsidized mortgage agreement that is not based on a Deed of Granting Mortgage Rights (APHT) cannot be carried out through a direct parate execution mechanism, as regulated in Law Number 4 of 1996 concerning Mortgage Rights. Without an APHT and registration of mortgage rights, the collateral does not have legal standing, so that the creditor does not have preferential rights or execution power over the collateral object. In this condition, the only legal route available to*

creditors is to seek settlement through a civil lawsuit on the basis of default, which tends to be longer, more complex and riskier.

Keywords: *Debt Guarantee Execution; Subsidized Housing Credit; KPR.*

1. Introduction

Every citizen has the same right to obtain a decent place to live as regulated in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, namely that everyone has the right to live in prosperity physically and mentally, to have a place to live and have a good and healthy living environment and has the right to obtain health services. In order to fulfill this basic right, especially for lower class people, the government created a subsidized housing program as stated in the Letter of the Minister of Finance of the Republic of Indonesia No. B-49/MK/I/1974. This policy is the starting point for the home ownership system which is now known as Home Ownership Credit (KPR).¹

Home ownership credit is also done with an agreement. An agreement is an event where someone promises to another party to do something. The thing in question is an achievement, namely doing something, doing something and not doing something. Article 1313 of the Civil Code (KUH Perdata) formulates an agreement as an act by which one or more people bind themselves to one or more other people. With this agreement, the parties can anticipate an undesirable situation that can harm one party, such as default.

Agreements begin with differences or dissimilarities of interest between the parties. The formulation of contractual relationships generally always begins with a negotiation process between the parties. Through negotiation, the parties attempt to create forms of agreement to bring together something desired. Through agreements, these differences are accommodated and then framed with legal instruments so that they bind the parties.² Banking practice shows that debt guarantees in agreementsCreditSubsidized Home Ownership (KPR) is generally bound by Mortgage Rights which function to provide legal certainty for creditors.Mortgage is a security right imposed on land rightsasreferred to in Law Number 5 of 1960 concerning Basic Agrarian Principles, including or not including other objects which are an integral part of the land, for the settlement of certain debts, which gives a priority position to certain creditors over other creditors.³Mortgage rights are control over Mortgage rights which are the authority for creditors to do something to the Mortgage Rights that have been

¹Agustina, 2023, Protection of Sharia Bank Mortgage Consumers for Houses That Do Not Meet Specifications and Fail to Build, Proceedings of the International Seminar on Islamic Studies Medan, Volume 4 Number 1, p. 141

²Lathifah Hanim, MS.Noorman, 2016, Settlement of Bank Credit Agreements as a Result of Force Majeure Due to the Earthquake in Yogyakarta, Journal of Legal Reform, Faculty of Law, Unissula, Volume III Number 2, p.161

³Purwadi Patrik and Kashadi, 2001, Law of Guarantee, Faculty of Law, Diponegoro University, Semarang, p. 14

used as collateral. These rights are not to physically control and use them, but to sell them if the debtor fails to fulfill his promise and the right to take from the proceeds of all sales or part of the proceeds of sales as payment of the debtor's debt to him.⁴

Mortgage rights provide a preferred position (*droit de preference*) to the creditor in the event of a debtor's default, so that the creditor can execute the collateral object without going through a lengthy court process.⁵ However, there are cases where the credit agreement is only bound by a Power of Attorney to Encumber Mortgage Rights (SKMHT) without being followed up with a Deed of Granting Mortgage Rights (APHT).

This raises legal issues related to the execution of the guarantee. According to research, several banks accept land rights collateral that is only bound by SKMHT without being followed up with APHT.⁶ One of the banks implementing subsidized KPR is PT. Bank Tabungan Negara (BTN) Persero Tbk. The implementation of KPR at BTN bank is that the debtor only makes and signs the Principal Agreement of subsidized KPR which is made privately, followed by the creation of Debt Acknowledgement and the creation of SKMHT without being followed by the creation of APHT for the installation of Mortgage Rights. This is because subsidized KPR is included in the Government Program aimed at the procurement of public housing, where in order to complete the subsidized KPR, the installation of Mortgage Rights is not required and is sufficient with the creation of SKMHT.

Subsidized mortgage refers to the selling value limit of the object/price of the subsidized house, as stated in the Attachment to the Regulation of the Minister of Finance of the Republic of Indonesia Number 81/PMK.010/2019 concerning the Limitation of Public Houses, Pondok Boro, Student and Pupil Dormitories, and Other Housing, the Transfer of which is Exempt from Value Added Tax in conjunction with the Regulation of the Minister of Public Works and Public Housing of the Republic of Indonesia Number 20/PRT/M/2019 concerning Ease and Assistance in Home Ownership for Low-Income Communities in conjunction with the Decree of the Minister of Public Works and Public Housing Number 535/KPTS/M/2019 concerning the Selling Price Limit of Landed Welfare Houses Obtained Through Subsidized Home Credit/Ownership in conjunction with Article 2 letter b number 1 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 22 of 2017 concerning the Determination of the Time Limit for the Use

⁴Sutan Remy Sjahdeini, 2012, *Mortgage Rights, Principles, Basic Provisions and Problems Faced by Comparison*, Airlangga University Press, p. 3

⁵Salim HS, 2016, *Development of Guarantee Law in Indonesia*, Rajawali Pers, Jakarta, p. 112

⁶Andi Tenriawaru, 2020, *Legal Protection for Creditors in Credit Agreements with SKMHT Collateral*, *Journal of Economic Law*, Vol. 5 No. 2, p. 35.

of Power of Attorney to Encumber Mortgage Rights to Guarantee the Repayment of Certain Credits.⁷

SKMHT should be immediately followed by the creation of APHT to provide legal certainty and ease of execution for creditors.⁸ Without APHT, creditors do not have strong execution rights over collateral objects. This can hinder the execution process if the debtor defaults, because creditors must take the time-consuming and costly litigation path.⁹ In addition, without APHT, the Mortgage Right certificate which has an executorial title cannot be issued, so that creditors lose the ease of executing the collateral object through public auction.¹⁰ It is important for banks and other financial institutions to ensure that any credit agreement involving land or building collateral must be bound by APHT. This is to ensure legal certainty and protect the creditor's rights in executing collateral in the event of default by the debtor.

2. Research Methods

This type of research is included in the scope of normative legal research. The approach method in this research is the statute approach. The type of data in this research is secondary data, consisting of primary, secondary and tertiary legal materials. The data collection method is obtained through literature study. The analysis in this research is prescriptive.

3. Results and Discussion

3.1. Legal Position of Debt Collateral in Subsidized Housing Credit Agreements Not Based on a Deed of Granting of Mortgage Rights (APHT)

The need for a habitable place to live, which in this case is referred to as a house, is a basic human need that continues to increase along with population growth and the socio-economic dynamics of society. Article 1 number 7 of Law Number 1 of 2011 concerning Housing and Residential Areas, explains that a house is a building that functions as a habitable place to live, a means of family development, a reflection of the dignity and dignity of its occupants, and an asset for its owner. Fulfillment of housing needs can be done in various ways, such as providing land, development housing by developers, as well as the provision of ready-to-build land per plot. The need for housing is not only an individual problem, but also a national problem that requires special attention from various parties.

The level of fulfillment of housing needs is one indicator of community welfare. Credit is one of the important instruments in banking activities and the economy

⁷Devi Setiawan, 2021, Legal Analysis of Home Ownership Credit Agreements (Subsidized at PT. Bank Tabungan Negara (Persero), TBK., Notary Law Research, Volume 03 Number 01, p. 54

⁸Sudikno Mertokusumo, 2019, Indonesian Civil Procedure Law, Kencana, Jakarta, p. 112.

⁹Maria SW Sumardjono, 2021, Land Policy: Between Regulation and Implementation, Kompas, Jakarta, p. 67.

¹⁰Ridwan Khairandy, 2022, Law of Guarantee and Execution in Indonesian Banking, Rajawali Pers, Jakarta, p. 89.

in general. In the legal sense of banking, credit is the provision of money or bills that can be equated with it, based on an agreement or loan agreement between the bank and another party, which requires the borrower to repay his debt after a certain period of time with the provision of interest as compensation.¹¹

Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, normatively provides a definition of credit in Article 1 paragraph (11), namely the provision of money or bills that can be equated with it, based on an agreement or loan agreement between a bank and another party that requires the borrower to pay off his debt after a certain period of time with the provision of interest. Credit is based on the principle of trust, where the creditor (bank) provides funding facilities to the debtor with the belief that the debtor will return the loan according to the agreement. This makes the element of trust an essential element in credit transactions.¹²

The function of the guarantee in legal terms is for the legal certainty of debt repayment in a credit agreement or debt receivables or the certainty of the realization of an achievement in an agreement. This legal certainty is by increasing the guarantee through guarantee institutions known in Indonesian law. Material guarantee institutions can be in the form of mortgage rights, verban credit, fiduciary, and pawn.¹³

Collateral can be interpreted as assets that can be tied as collateral to ensure certainty of debt repayment if in the future the debtor does not pay off his debt by selling the collateral and taking repayment from the sale of the assets that are the collateral. Credit collateral is anything that has a value that is easy to cash which is tied with a promise as collateral for payment of the debtor's debt based on a credit agreement made by the creditor and debtor. Credit collateral is divided into 4 (four) types, namely collateral born due to law, namely Article 1131 of the Civil Code, collateral born due to agreement, collateral for property, and collateral for debt.¹⁴

Law Number 4 of 1996 concerning Mortgage Rights (UUHT) regulates the procedures and conditions for imposing mortgage rights on land. One of the important documents used to impose mortgage rights is the Power of Attorney to Impose Mortgage Rights (SKMHT). SKMHT functions as a power of attorney given by the owner of land rights (debtor) to the creditor to impose mortgage rights on land owned by the debtor as collateral for a loan. However, SKMHT is not a final or valid document for the imposition of mortgage rights. Instead, a Deed of Grant of Mortgage Rights (APHT) is required, which is an authentic deed that is valid for imposing mortgage rights.

¹¹Kasmir, 2010, Banking Management, RajaGrafindo Persada, Jakarta, p. 88.

¹²Munir Fuady, 2002, Contemporary Credit Law, Bandung, Citra Aditya Bakti, p. 16.

¹³Mariam Darus Badruzaman, 1998, Legal Framework of Indonesian Guarantees in Indonesian Guarantee Law Basic Economic Law Series, Citra Aditya Bakti, Bandung, p. 68.

¹⁴Sutarno, 2005, Legal Aspects of Credit in Banks, Alfabeta, Jakarta, p.144.

Collateral in subsidized mortgage financing is generally in the form of land and house buildings purchased, which are burdened with Mortgage Rights as a form of material guarantee that provides a preferential position to the creditor. However, in practice it is often found that the process of imposing mortgage rights only goes as far as the issuance of a Power of Attorney to Charge Mortgage Rights (SKMHT), and is not continued with the making of a Deed of Granting Mortgage Rights (APHT) as regulated in Article 15 of Law No. 4 of 1996 concerning Mortgage Rights (UUHT).

The implementation of KPR at BTN bank is that the debtor only makes and signs the Principal Agreement of subsidized KPR which is made under hand, followed by the making of Debt Acknowledgement and the making of SKMHT without being followed by the making of APHT for the installation of Mortgage Rights. This is because subsidized KPR is included in the Government Program aimed at the procurement of public housing, where in order to complete the subsidized KPR, the installation of Mortgage Rights is not required and is sufficient with the making of SKMHT.

Article 15 Paragraph (3) of the UUHT stipulates that:

"The Power of Attorney to Encumber Mortgage Rights regarding registered land rights must be followed by the preparation of a Deed of Grant of Mortgage Rights no later than 1 (one) month after being granted."

This provision aims to ensure that the mortgage encumbrance process is completed within a reasonable time, especially for land that has been registered at the Land Office. This APHT will confirm the legal and registered mortgage status. Meanwhile, Article 15 Paragraph (4) explains that:

"A Power of Attorney to Encumber Mortgage Rights regarding unregistered land rights must be followed by the preparation of a Deed of Grant of Mortgage Rights no later than 3 (three) months after it is granted."

This provision provides more flexibility in time, considering that for land that has not been registered, the administrative process at the Land Office is usually more complicated, such as processing certificates and land registration.

Article 15 Paragraph (6) provides confirmation regarding the legal consequences if the time provisions stipulated in Paragraph (3) and Paragraph (4) are not fulfilled. It states that:

"A Power of Attorney to Encumber Mortgage Rights which is not followed by the making of a Deed of Granting Mortgage Rights within the time specified as referred to in paragraph (3) or paragraph (4), or the time specified according to the provisions as referred to in paragraph (5) is void by law."

This means that if within the specified period of time an APHT is not made, then the SKMHT is null and void by law. In other words, the imposition of mortgage rights that is only carried out based on the SKMHT without being followed by the making of an APHT within the specified time will not have valid legal force. This has the potential to harm the creditor because they lose the guarantee for the

receivables they own, and for the debtor, it means that the land rights that were originally burdened with mortgage rights will return to a free condition. The SKMHT that is not followed by an APHT as a result, the creditor only has an SKMHT automatically becoming a concurrent (general) creditor without special rights, he does not obtain a priority position in the debtor's debt repayment. Thus, in a subsidized credit agreement without an APHT, the land/debtor guarantee does not have HT status recognized by the UUHT.

However, the government specifically regulates the use of SKMHT for certain credits. For example, the Regulation of the Minister of ATR/BPN No. 4/1996 which has now been revoked and replaced by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 22 of 2017 concerning the Determination of the Time Limit for the Use of a Power of Attorney to Encumber Mortgage Rights to Guarantee the Repayment of Certain Credits, which allows SKMHT for types of housing credit (including subsidized KPR) to be valid until the end of the principal agreement. This means that in subsidized banking practices, implementing banks (such as BTN) often only bind collateral with SKMHT without immediately making APHT, with the consideration that SKMHT remains valid throughout the credit.¹⁵

Home Ownership Credit (KPR) Agreements, especially for subsidized KPR types, in practice only include a Power of Attorney to Charge Mortgage Rights (SKMHT) without the need for a Deed of Granting Mortgage Rights (APHT). So that the Power of Attorney to Charge Mortgage Rights (SKMHT) for subsidized KPR types is valid for the duration of the credit period. This means that the SKMHT will end if the credit agreement has ended or the debtor has paid off his credit burden.

This is in accordance with Article 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 22 of 2017 concerning the Determination of the Time Limit for the Use of a Power of Attorney to Encumber Mortgage Rights to Guarantee the Repayment of Certain Credits, which states that a Power of Attorney to Encumber Mortgage Rights to guarantee the repayment of credit/financing/loans is valid until the end of the principal agreement, namely:

1. Credit/Financing/Loans intended for housing procurement, namely ownership or improvement of core houses, simple houses or flats with a maximum land area of 200 m² (two hundred square meters) and a building area of no more than 70 m² (seventy square meters) and ownership or improvement of Ready to Build Plots (KSB) with a land area of 54 m² (fifty four square meters) to 72 m² (seventy two square meters) and credit provided to finance the building.
2. Other productive credit/financing/loans with a ceiling of up to IDR 200,000,000.00 (two hundred million rupiah).

¹⁵Rifki Yusuf and Maryanto, 2018, The Role of Notaries in the Use of SKMHT Deeds Not Followed by APHT Against Defaulting Debtors, Jurnal Akta, Volume 5 Number 1, p.275

In practice, in providing subsidized Home Ownership Credit (KPR), PT. Bank Tabungan Negara (Persero) Tbk (BTN) as the creditor generally does not physically control the object used as credit collateral, such as land and house buildings. The bank's control is limited only to the formal administrative and legal aspects, namely through the Power of Attorney to Charge Mortgage Rights (SKMHT). However, the process of binding the collateral is often not continued with the creation of a Deed of Granting Mortgage Rights (APHT) and is not registered at the land office, so that the Mortgage Rights are never legally born. Collateral objects such as Ownership Rights, Building Use Rights (HGB), or Cultivation Use Rights (HGU) which should be burdened with Mortgage Rights are only bound through the SKMHT which is a unilateral power of attorney, not as a material collateral that provides executorial power. With these conditions, BTN does not yet have real and factual material rights to the collateral, because there is no mortgage certificate indicating the registration of the collateral rights at the Land Office. This places BTN in a legally vulnerable position in the event of default, because the bank does not have the right to carry out parate execution on the collateral object.

Parate execution is a mechanism for executing collateral by creditors without first going through a lawsuit or court decision. This mechanism is specifically regulated in Article 6 of Law Number 4 of 1996 concerning Mortgage Rights, which states that if the debtor defaults, the first mortgage holder is authorized to sell the mortgage object under his own authority through a public auction and take payment of his receivables from the proceeds of the sale. The implementation of parate execution is possible if the creditor already has a Deed of Granting of Mortgage Rights (APHT) registered at the Land Office, and from this process a Mortgage Certificate (SHT) is issued containing an execution order, which has the same executorial power as a court decision that has permanent legal force.¹⁶

Creditors can submit an auction application directly to the State Asset Service Office with the certificate and Auction (KPKNL) without having to go through a lawsuit first.¹⁷ However, if there is resistance from the debtor or third party, then the implementation of parate execution can be changed to execution through the court based on Article 224 HIR or through a private sale with the agreement of the parties as referred to in Article 20 paragraph (2) of the UUHT. Therefore, parate execution becomes an important instrument in legal protection for creditors because it provides certainty and speed in the settlement of receivables, provided that the formal procedures for imposing mortgage rights have been fulfilled.¹⁸

¹⁶Salim HS, 2004, Development of Guarantee Law in Indonesia, RajaGrafindo Persada, Jakarta, p. 141.

¹⁷Munir Fuady, 2003, Debt Guarantee Law, Citra Aditya Bakti, Bandung, p. 117

¹⁸Rachmadi Usman, 2009, Law on Property Collateral, Sinar Grafika, Jakarta, p. 263.

This situation also reflects the imperfection of the credit guarantee structure, which should provide legal certainty and maximum protection for creditors. Without legal property rights, BTN only holds the power of obligatory (personal) obligations, and not the property preferences recognized in the guarantee system under the Mortgage Law (Law No. 4 of 1996).

3.2. Debt Collateral Execution Procedures in Subsidized Housing Credit Agreements Without APHT According to Applicable Laws and Regulations

A credit agreement is an agreement between a debtor and a creditor (which can be a bank) which gives rise to a debt-credit relationship, where the debtor is obliged to repay the loan given by the creditor, based on the terms and conditions agreed upon by both parties. A credit agreement is also known as a principal agreement which is real in nature.¹⁹

Home Ownership Credit (KPR) is given by banks to debtors to buy a house from a developer. In the process of providing this credit, the bank must be sure that the credit given will be repaid, with collateral in the form of the house and land purchased. In the KPR agreement, the debtor only makes a SKMHT, considering that the land being pledged has not been registered in the name of the mortgagee, because the land certificate has not been divided or combined individually. The purpose of granting power of attorney to impose mortgage rights is also sometimes to avoid complicated procedures and high costs in installing mortgage rights. Considering that the rights to the land being pledged have not fully become the property of the mortgagee, the bank feels that it is sufficient if it obtains power of attorney from the debtor to install the collateral.

Based on the Indonesian legal system, the execution of debt collateral in the form of property rights such as mortgage rights can only be carried out if it has fulfilled the formal and material requirements as stipulated in Law Number 4 of 1996 concerning Mortgage Rights (UUHT). Execution of collateral objects such as land and buildings used as collateral in subsidized Home Ownership Credit (KPR) can only be carried out directly (parate execution) if there is a Deed of Granting of Mortgage Rights (APHT) that has been registered and a Mortgage Rights Certificate (SHT) has been issued. The certificate has the same executorial legal force as a court decision with permanent legal force as referred to in Article 14 paragraph (2) of the UUHT, and the basis for the execution is stated in Article 6 of the UUHT.

However, in the practice of subsidized mortgages, especially by banking institutions such as Bank BTN, the binding of collateral often only goes as far as the Power of Attorney to Charge Mortgage Rights (SKMHT) without being continued with APHT. This condition raises legal problems because SKMHT is not an authentic deed of imposition of collateral for property, but only a power of attorney, so it does not create mortgage rights that can be executed directly. In

¹⁹Dessy Andiyarningsih, Umar Ma'ruf, Transfer of Mortgage Rights in Banking in Banjarnegara Regency, Jurnal Akta, Vol 5 No 1 March 2018, p.89

such circumstances, the execution procedure for debt collateral cannot be carried out through parate execution, because there is no legal mortgage right. Therefore, if the debtor defaults, the creditor must first make an APHT based on the valid SKMHT (if the validity period has not expired), then register it with the Land Office to obtain a Mortgage Certificate. After the process is complete, the creditor can carry out the execution through:

1. Parate Execution (Article 6 UUHT), if there is already a SHT and there is no resistance from the debtor.
2. Execution through the Court (Article 224 HIR/258 RBg), if the debtor resists.
3. Private sales with the agreement of both parties (Article 20 paragraph (2) UUHT), as an alternative form of settlement.

However, if the APHT is not made at all and the SKMHT has expired or is legally void (for example, exceeding the period of 1 month or 3 months in accordance with Article 15 paragraph (3) and (4) of the UUHT without fulfilling the requirements of Article 2 of the ATR/BPN Regulation No. 22 of 2017), then there is no legal basis that can be used to burden mortgage rights.

Legal issues in the implementation of subsidized Home Ownership Credit (KPR) which only uses a Power of Attorney to Charge Mortgage Rights (SKMHT) without being followed up with a Deed of Granting Mortgage Rights (APHT) not only have an impact on the legal position of the collateral, but also concern the aspect of legal protection for the parties in the credit agreement, especially the creditor. In this situation, the bank as the creditor is at risk of losing the property rights that should provide a guarantee of certainty for debt repayment. On the other hand, the debtor may also face uncertainty in terms of the status of collateral that has not been fully legally burdened.

4. Conclusion

The legal position of debt collateral in subsidized Home Ownership Credit (KPR) agreements that are not based on a Deed of Granting of Mortgage Rights (APHT) is legally weak. Although the Regulation of the Minister of ATR/BPN Number 22 of 2017 allows the use of a Power of Attorney to Charge Mortgage Rights (SKMHT) valid until the end of the credit agreement period for certain types of financing, including subsidized KPR, this does not change the legal substance that mortgage rights are only valid if made through an APHT and registered at the Land Office in accordance with the provisions of Law Number 4 of 1996 concerning Mortgage Rights. Without an APHT, the collateral provided by the debtor does not have executorial power and does not provide perfect property rights for the creditor, so that its position is only as a concurrent creditor without special rights to the collateral object. This situation risks harming creditors and creating legal uncertainty in the implementation of housing financing. Therefore, although the subsidized mortgage scheme aims to facilitate access to housing for low-income communities, the binding of collateral must still comply with the

applicable legal principles of collateral in order to ensure certainty and balanced legal protection for all parties.

The procedure for executing debt collateral in subsidized mortgage agreements that are not based on the Deed of Granting of Mortgage Rights (APHT) cannot be carried out directly through the parate execution mechanism, as regulated in Law Number 4 of 1996 concerning Mortgage Rights. Without the APHT and registration of mortgage rights, no legally valid collateral is formed, so that the creditor does not have preferential rights or executorial power over the collateral object. In such conditions, the only way available to the creditor is to seek settlement through a regular civil lawsuit on the basis of default, which is slower, more complex, and risky. Thus, the failure to create an APHT in the implementation of subsidized mortgages directly weakens the creditor's legal position, reduces the effectiveness of the guarantee, and has the potential to cause legal uncertainty in the implementation of housing financing. Therefore, in order for the execution procedure to be carried out in accordance with the principles of justice and legal certainty, it is important for financial institutions to continue to fulfill the formal procedures for imposing collateral in accordance with the provisions of the mortgage law.

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