PENGIKATAN JAMINAN KREDIT ATAS TANAH HAK MILIK YANG DIBELI OLEH WNI NON PRIBUMI DI DAERAH ISTIMEWA YOGYAKARTA

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INTISARI

Tujuan penelitian ini ialah untuk mengentahui mekanisme pengikatan jaminan kredit dan untuk mengetahui kepastian waktu (*timing*) pencairan atas tanah Hak Milik yang dibeli oleh WNI Non Pribumi di Daerah Istimewa Yogyakarta sebelum dan setelah berlakunya Permen ATR/BPN Nomor 5 Tahun 2025.

Metode penelitian yang digunakan ialah normatif empiris, yaitu penelitian yang mengkaji pelaksanaan hukum positif secara *in action*. Cara pengumpulan data pada penelitian ini menggunakan penelitian kepustakaan dan penelitian lapangan. Penelitian kepustakaan yang meliputi bahan hukum primer, bahan hukum sekunder. Sedangkan penelitian lapangan menggunakan narasumber dan responden.

Hasil penelitian ini memperoleh fakta bahwa sebelum berlaku Permen ATR/BPN Nomor 5 Tahun 2025 pembelian tanah Hak Milik oleh WNI Non Pribumi di Daerah Istimewa Yogyakarta dilakukan dengan penurunan hak, selanjutnya dilakukan penandatanganan Akta Jual Beli, Perjanjian Kredit, dan pembebanan Hak Tanggungan secara berurutan pada hari yang sama. Sedangkan setelah tahun berlakunya Permen ATR/BPN Nomor 5 Tahun 2025 pembelian tanah Hak Milik dilakukan melalui proses pelepasan hak dan permohonan hak. Selama proses pelepasan hak, bank memerlukan jaminan pengganti agar bisa mencairkan kreditnya, tetapi dalam kondisi tertentu pencairan kredit dapat didasarkan pada penilaian prinsip 5C. Pembebanan Hak Tanggungan baru dapat dilakukan setelah tanah memperoleh status SHGB. Sebelum berlaku Permen ATR/BPN Nomor 5 Tahun 2025 kepastian waktu (*timing*) pencairan kredit menjadi lebih pasti, karena pada saat penandatanganan Akta Jual Beli, Perjanjian Kredit dan SKMHT kewajiban dan hak masing-masing pihak terlaksanakan pada waktu yang sama. Sedangkan setelah berlakunya Permen ATR/BPN Nomor 5 Tahun 2025 kepastian waktu (*timing*) pencairan kredit dan pembebanan Hak Tanggungan menjadi tidak pasti, karena selama proses pelepasan dan permohonan hak ada kekosongan kepemilikan, sehingga bank tidak dapat melakukan pembebanan Hak Tanggungan sebelum status tanah memperoleh SHGB.

Kata kunci: Penurunan Hak, Pelepasan Hak, kepastian waktu

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BINDING OF CREDIT GUARANTEES FOR FREEHOLD LAND PURCHASED BY INDONESIAN CITIZENS OF NON INDIGENOUS DESCENT IN THE SPECIAL REGION OF YOGYAKARTA

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ABSTRACT

The purpose of this research is to examine the mechanism for establishing mortgage rights and to analyze the legal certainty regarding the timing of credit disbursement for freehold land purchased by Indonesian citizens of non-indigenous descent in the Special Region of Yogyakarta before and after the enactment of ATR/BPN Regulation Number 5 of 2025.

The research method used in this study is normative-empirical research, which analyzes the implementation of positive law in practice. Data were collected through library research and field research. Library research included primary and secondary legal materials, while field research involved interviews with informants and respondents.

The results of this study obtained the fact that before the enactment of the Minister of ATR/BPN Regulation Number 5 of 2025, the purchase of freehold land by Non-Indigenous Indonesian Citizens in the Special Region of Yogyakarta was carried out by releasing rights, followed by the signing of the Sale and Purchase Deed, Credit Agreement, and the imposition of Pledge Rights sequentially on the same day. Whereas after the enactment of the Minister of ATR/BPN Regulation Number 5 of 2025, the purchase of freehold land was carried out through a process of releasing rights and submitting rights. During the process of releasing rights, banks require replacement collateral for credit disbursement, but under certain conditions credit disbursement can be based on an assessment of the 5C principle. Collateral binding can only be done after the land has obtained SHGB status. Before the enactment of the Minister of ATR/BPN Regulation Number 5 of 2025, the certainty of the credit disbursement time became more certain, because at the time of signing the Sale and Purchase Deed, Credit Agreement, and SKMHT the obligations and rights of each party were carried out simultaneously at the same time. Meanwhile, after the enactment of the Minister of ATR/BPN Regulation Number 5 of 2025, the certainty of the time for credit disbursement and binding of credit guarantees became uncertain, because during the release process there was a void in ownership, so that the bank could not carry out the binding of guarantees before the land status obtained SHGB.

Keywords: Rights Conversion, Relinquishment of Rights, Timing Certainty.

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