PELINDUNGAN HUKUM BAGI KREDITUR TERHADAP KREDIT MACET DENGAN JAMINAN TANAH YANG TERKENA PROYEK STRATEGIS NASIONAL

(Studi Kasus antara Bank X dengan Debitur Y)

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INTISARI

Penelitian ini bertujuan untuk mengetahui serta menganalisis pelindungan hukum kreditur terhadap objek jaminan berupa hak tanggungan atas tanah yang terkena pengadaan tanah untuk kepentingan umum dalam Proyek Strategis Nasional dan posibilitas penyelesaian kredit macet melalui penggunaan uang ganti kerugian

Penelitian ini menggunakan metode yuridis empiris dengan data primer diperoleh melalui wawancara dengan pihak bank sebagai kreditur, debitur, Kantor Pertanahan, dan panitera pengadilan, serta data sekunder berupa peraturan perundang-undangan yang mengatur hak tanggungan, pengadaan tanah untuk kepentingan umum, dan mekanisme penyelesaian sengketa.

Hasil penelitian menunjukkan bahwa pelindungan hukum kreditur dilaksanakan melalui mekanisme internal dan eksternal yang saling melengkapi. Pelindungan internal diwujudkan melalui hubungan kontraktual antara bank dan debitur, meliputi hak tanggungan, APHT, perjanjian pokok kredit, perjanjian asesoir, serta langkah mitigasi risiko seperti restrukturisasi kredit, penerbitan surat peringatan, dan penjualan agunan secara damai. Pelindungan eksternal bersumber dari peraturan perundang-undangan dan kewenangan lembaga negara berupa mekanisme konsinyasi, mediasi, dan pencairan ganti kerugian di pengadilan, sehingga kepentingan kreditur tetap dijaga secara yuridis dan ekonomis. Selain itu, penelitian menegaskan bahwa penggunaan Uang Ganti Kerugian tanah yang terkena Proyek Strategis Nasional dimungkinkan dan sah untuk digunakan sebagai penyelesaian sebagian kredit macet yang dijamin dengan Hak Tanggungan. Uang Ganti Kerugian tersebut tidak dipandang sebagai hak absolut debitur, melainkan harus memperhatikan hubungan hukum jaminan yang telah ada antara debitur dan kreditur. Posibilitas tersebut didukung oleh kerangka hukum pengadaan tanah dan peraturan pendanaannya, serta diimplementasikan melalui mekanisme pembayaran kepada pihak yang berhak, mediasi, dan konsinyasi di pengadilan guna menjamin kepastian dan perlindungan hukum bagi para pihak. Dengan demikian, pelindungan hukum kreditur tetap terjamin, serta menciptakan keseimbangan antara kepentingan privat dan publik dalam pelaksanaan Proyek Strategis Nasional.

Kata kunci: Pelindungan Hukum, Kreditur, Hak Tanggungan, Proyek Strategis Nasional, Ganti Kerugian, Kredit Macet.

LEGAL PROTECTION FOR CREDITORS AGAINST NON-PERFORMING LOANS WITH LAND GUARANTEES AFFECTED BY NATIONAL STRATEGIC PROJECTS

(Case Study between Bank X and Debtor Y)

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ABSTRACT

This research aims to examine and analyze the legal protection afforded to creditors holding land mortgage security rights (Hak Tanggungan) over land subject to land acquisition for public interest within National Strategic Projects (Proyek Strategis Nasional), as well as the possibility of resolving non-performing loans through the utilization of compensation funds.

This study employs an empirical juridical method, using primary data obtained through interviews with creditors (banks), debtors, the Land Office, and court clerks, alongside secondary data consisting of laws and regulations governing mortgage rights, land acquisition for public purposes, and dispute resolution mechanisms.

The findings indicate that creditor protection is implemented through both internal and external mechanisms that complement one another. Internal protection is realized through contractual arrangements between banks and debtors, including mortgage deeds (APHT), principal credit agreements, accessory agreements, and risk mitigation measures such as credit restructuring, issuance of warning letters, and amicable sale of collateral. External protection derives from statutory regulations and the authority of state institutions through consignment, mediation, and disbursement of compensation funds via court mechanisms, ensuring that creditors' interests are safeguarded both legally and economically. Furthermore, this research confirms that compensation funds arising from land acquisition for National Strategic Projects may lawfully be used to settle part of non-performing loans secured by mortgage rights. Such compensation funds cannot be regarded as the absolute entitlement of the debtor, but must be considered within the framework of the pre-existing legal relationship between debtor and creditor. This possibility is supported by the legal framework governing land acquisition and its financing regulations, and is implemented through payments to entitled parties, mediation, and court consignment procedures to ensure legal certainty and protection for all parties. Accordingly, creditor protection remains ensured while maintaining a balance between private interests and public interests in the implementation of National Strategic Projects.

Keywords*: Legal Protection, Creditor, Mortgage Rights, National Strategic Projects, Compensation, Non-Performing Loans.*

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