

**PERLINDUNGAN HUKUM TERHADAP KREDITUR  
ATAS OBJEK JAMINAN YANG BERUBAH STATUS  
BERDASARKAN PERJANJIAN PERKAWINAN  
YANG DIBUAT SETELAH MENIKAH  
OLEH DEBITUR**

Oleh :

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**INTISARI**

Tujuan penelitian ini yaitu untuk mengetahui dan menganalisa upaya hukum kreditur (1) apabila debitur melakukan suatu perbuatan hukum terkait status harta bersama yang merupakan objek jaminan dalam perjanjian kredit, (2) upaya mitigasi terkait objek jaminan yang merupakan harta bersama dalam perjanjian kredit.

Penelitian ini merupakan penelitian normatif yang didukung data empiris. Penelitian hukum normatif dilakukan dengan penelitian kepustakaan dengan menelusuri data sekunder berupa bahan hukum primer, sekunder, tersier, dengan cara pengumpulan data melalui studi dokumen. Penelitian data empiris dilakukan melalui penelitian lapangan dengan wawancara untuk mendapat data primer yang diperlukan terkait topik penelitian, subjek penelitian ini adalah responden dan narasumber. Analisis data menggunakan metode analisis data kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa (1)kreditur, selaku pihak ketiga, yang tidak diikat jaminan dapat mengajukan gugatan PMH untuk membatalkan perjanjian perkawinan setelah menikah yang dibuat oleh debitur dan pasangan kawinnya, apabila merugikannya. Dalil yang diajukan kreditur ialah perjanjian perkawinan telah melanggar syarat objektif perjanjian yaitu klausula yang halal tepatnya Pasal 29 ayat (4) UU Perkawinan, akibat hukumnya ialah perjanjian perkawinan tersebut batal demi hukum. Kreditur yang diikat jaminan mengajukan gugatan wanprestasi karena debitur melanggar hal yang diperjanjikan. (2) Terdapat dua upaya mitigasi, pertama melakukan perjanjian pengikatan objek jaminan, sehingga kreditur tetap dapat melakukan eksekusi apabila debitur wanprestasi, sebagaimana sifat dari jaminan kebendaan adalah *droit de suite*. Kedua, membuat klausula dalam perjanjian kredit larangan bagi debitur untuk memindah tangankan objek jaminan. Oleh karena itu disarankan (1)pemerintah menegaskan upaya hukum yang dimiliki pihak ketiga jika perjanjian perkawinan yang dibuat merugikannya,(2)perjanjian kredit disertai pengikatan objek jaminan.

**Kata Kunci** : Perjanjian Perkawinan, Perjanjian Kredit, Kreditur

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**LEGAL PROTECTION TOWARDS CREDITOR FOR  
GUARANTEED OBJECT WHICH THE STATUS CHANGED  
ACCORDING TO PRENUPTIAL AGREEMENT  
MADE AFTER MARRIAGE BY DEBTOR**

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**Abstract**

The aims of this study is to find out and analyze (1) the legal remedies that can be carried out by creditor if the debtor commits legal action related to the status of joint assets which are collateral or guarantee objects in the loan agreement, (2) what are the efforts that can be carried out by creditor to avoid losses related to the collateral object which is a joint assets in a loan agreement.

This research is a normative study supported by empirical data. Normative legal study was carried out with library research by tracing secondary data in the form of primary, secondary, tertiary legal materials, and by collecting data through document studies. Empirical data research is acquired through field research by collecting data from respondents and informants through interview to obtain the necessary primary data related to the research topic. The data were analyzed qualitatively.

The results of research and discussion show that (1) the creditor as a third party can request cancelation or annulment of prenuptial agreement made after marriage by the debtor and his marriage partner, if it is detrimental the creditor. The right for creditors arises from the affirmation in Article 29 paragraph (4) of the Marriage Law. The creditor submits the annulment requisition through a tort's claim in court with the argument that the prenuptial agreement has been violates the objective requirement of the agreement, namely the legal clause. Therefore the prenuptial agreement made after marriage is null and void. Creditors that has been binding the object, shall claim in court.(2) There are two mitigation efforts that can be done by creditors. The first is agreed to make an agreement to bind the collateral object, so that the creditor's can still execute the collateral object if the debtor defaults, as the nature of material *droit de suite*. The second is arrange a provision in the loan agreement that prohibits the debtor to take an action that can change the ownership status of collateral object. Therefore, the recommendations are (1) The government should emphasizes legal remedies that can be carried out by third parties if the prenuptial agreement is detrimental to them, (2) complete the loan agreement with the binding of collateral object on an agreement.

**Keywords : Prenuptial Agreement, Loan Agreemeent, Creditors**

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