

INTISARI

PERLINDUNGAN HUKUM BAGI PERUSAHAAN LEASING TERHADAP PEMBEBANAN JAMINAN FIDUSIA (Studi Kasus Putusan Nomor 578/PDT.G/2015/PN.Jkt.Sel)

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Penelitian ini bertujuan untuk memahami dan menganalisis perlindungan hukum terhadap Perusahaan berdasarkan jaminan fidusia dalam perkara nomor 578/PDT.G/2015/PN.JKT.Sel serta mengetahui dan menganalisis pertimbangan Hakim dalam memberikan kepastian hukum terhadap perusahaan leasing berdasarkan jaminan fidusia dalam perkara nomor 578/PDT.G/2015/PN.JKT.Sel.

Penelitian ini, bersifat deskriptif analitis dengan menggunakan data sekunder. Data yang diperoleh dari hasil penelitian selanjutnya dianalisis secara kualitatif yang kemudian disajikan secara deskriptif.

Hasil penelitian Penulis antara lain, Pertama, Perlindungan hukum bagi Perusahaan berdasarkan jaminan fidusia dalam perkara nomor 578/Pdt.G/2015/PN.Jkt.Sel adalah dalam bentuk perlindungan hukum represif, yaitu dengan adanya hak gugat bagi Perusahaan melalui upaya perlawanan terhadap putusan pidana untuk membatalkan penyitaan objek fidusia sebagai barang rampasan negara sesuai pasal 195 ayat (6) HIR. Upaya perlawanan tidak berlaku dalam hal lelang yang didasarkan pelaksanaan putusan pidana telah dilaksanakan, karena hasil lelang tersebut tidak dapat dibatalkan sebagaimana dimaksud pasal 24 dan pasal 27 Peraturan Menteri Keuangan Nomor 106/PMK.06/2013 tentang perubahan PMK Nomor 93/PMK.0612010. Kedua, Pertimbangan Hakim dalam memberikan kepastian hukum didasarkan pada Putusan pidana yang menyatakan barang sitaan dirampas oleh Negara, serta didasarkan pada pelaksanaan lelang oleh Kantor Pelayanan Kekayaan Negara dan Lelang yang telah sesuai prosedur. Sehingga, Hakim mengesampingkan hak fidusia Perusahaan leasing yang melekat pada objek sengketa dan menyatakan Pemenang lelang sebagai pemilik sah atas objek sengketa.

Kata Kunci : Perlindungan Hukum, Perusahaan Leasing, Jaminan Fidusia

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ABSTRACT

LEGAL PROTECTION FOR LEASING COMPANY FOR THE LOADING OF FIDUSIAN GUARANTEE (Case Study Of Decision No. 578/PDT.G/2015/PN.Jkt.Sel)

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This main purpose of this research was to understand and analyze the legal protection of companies based on fiduciary guarantees in case number 578/PDT.G/2015/PN.JKT.Sel as well as knowing and analyzing Judges' considerations in providing legal certainty to leasing companies based on fiduciary guarantees in case number 578 /PDT.G/2015/PN.JKT.Sel..

This research is analytical descriptive using secondary data. Data obtained from the results of the study, then analyzed qualitatively which is then presented descriptively.

The result of the research shows, First, Legal protection for company based on fiduciary guarantees in case number 578/Pdt.G/2015/PN.Jkt.Sel is in the form of repressive legal protection, namely by the existence of a lawsuit for the Company through efforts to resist criminal convictions to cancel the confiscation of fiduciary objects as state booty in accordance with article 195 paragraph (6) HIR. Resistance efforts do not apply in the event that an auction based on the implementation of a criminal decision has been carried out, because the results of the auction cannot be canceled as referred to in article 24 and article 27 of the Minister of Finance Regulation Number 106/PMK.06/2013 as the rules that apply when the a quo lawsuit is filed. Second, Judges' considerations in providing legal certainty are based on criminal decisions that state confiscated goods are seized by the State, and are based on conducting auctions by the KPKNL that are in accordance with procedures. Thus, the Judge ruled out the fiduciary rights of the leasing company attached to the object of the dispute and declared the Winner of the auction as the legal owner of the object of the dispute.

Keywords: Legal Protection, Leasing Company, Fiduciary Guarantee

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