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Date Submission

01 January 2024

Date Accepted

15 January 2024

Date Published

31 January 2024

DOI

10.52249

JUDGE'S CONSIDERATIONS IN RESOLVING EXECUTION PARATE DISPUTES (CASE STUDY OF MA DECISION NUMBER 2553 K/Pdt/2016)

Abstract

This research aims to examine the judge's considerations in resolving disputes regarding the execution of Supreme Court Decision Number 2553 k/pdt/2016. The research method uses a qualitative approach with a normative juridical research type and library data collection techniques regarding legal sources related to this research, then concluded with deductive analysis. The research results show that the source of law in the judge's consideration refers to statutory regulations, namely Article 6 UUHT which states that executions are carried out without the fiat of the Chief Justice. The decision also took into account the facts presented at the trial and decided that one of the parties had committed an act of breach of contract or breach of contract and that the actions taken by the creditor did not constitute an unlawful act. However, the judge's considerations in this decision did not refer to the general explanation of number 9 UUHT which explains that the execution of mortgage rights is based on the fiat of the Chief Justice. So that the implementation of the UUHT execution still contains confusion and vague diction which results in legal uncertainty.

Keywords: *Business Dispute Resolution, Execution Parate, Judge's Consideration*

Abstrak

Penelitian ini bertujuan untuk menelaah tentang pertimbangan hakim dalam menyelesaikan sengketa parate eksekusi Putusan MA Nomor 2553 k/pdt/2016. Metode penelitian menggunakan pendekatan kualitatif dengan jenis penelitian yuridis normatif dan teknik pengumpulan data kepustakaan tentang sumber hukum yang berkaitan dengan penelitian ini, selanjutnya disimpulkan dengan analisis deduktif. Hasil penelitian menunjukkan bahwa sumber hukum dalam pertimbangan hakim merujuk kepada peraturan perundang-undangan yaitu Pasal 6 UUHT bahwa eksekusi dilaksanakan tanpa fiat Ketua Pengadilan. Putusan tersebut juga mempertimbangkan fakta yang disampaikan dalam persidangan dan memutuskan bahwa salah satu pihak telah melakukan perbuatan wanprestasi atau cedera janji serta tindakan parate eksekusi yang dilakukan pihak kreditur tidak termasuk perbuatan melawan hukum. Namun, pertimbangan hakim dalam putusan ini tidak merujuk kepada penjelasan umum angka 9 UUHT yang menjelaskan bahwa pelaksanaan eksekusi hak tanggungan berdasarkan fiat Ketua Pengadilan. Sehingga pelaksanaan eksekusi pada UUHT masih terdapat kerancuan dan kekaburan makna yang mengakibatkan ketidakpastian hukum.

Kata Kunci: Pertimbangan Hakim, Penyelesaian Sengketa Bisnis, Parate Eksekusi.

INTRODUCTION

The Bank has a strategic position as an institution that can encourage national economic growth. In carrying out its role as a financial institution, banks carry out their duties as intermediation institutions by collecting funds from the public and channeling them in the form of credit (Pasal 1 Ayat (2) Undang-Undang Nomor 10 Tahun 1998 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan., n.d.). As a credit provider or creditor, the bank provides trust and confidence that the credit recipient or debtor can return the credit in accordance with the agreement between the parties. This is something fundamental and important for banks to pay attention to as creditors, because the source of credit funds lent by banks belongs to the community, so banks need to absolutely pay attention to credit distribution so that it is not distributed haphazardly (Lestari, 2017, p. 82).

Credit provision between banks (creditors) and customers (debtors) is usually based on a credit agreement. Banks usually have made a form of credit agreement in the form of a credit agreement form or blank. Because of this, there is often an imbalance in the bargaining position between the debtor and the creditor, where the debtor is always faced with 2 (two) things, the first is whether the debtor is willing to accept the entire contents of the agreement and continue the credit application process or cancel the credit. So, when providing credit, legal protection is required for each party (Utomo, 2011).

In a credit agreement, one of the clauses is that it is important to provide credit collateral. Based on the provisions of Article 8 paragraph (1) of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, it is explained that banks are obliged to have confidence that the debtor can return the credit in accordance with what has been agreed. This confidence is obtained by the bank based on several aspects, such as the debtor's character, abilities, capital, collateral and business prospects. Regarding credit guarantees, collateral is a form of material security.

One form of collateral as credit collateral given by debtors to creditors is land. Land is one of the forms of collateral that is most often used as credit collateral by debtors, because land has a value that never decreases and even increases in value (Hutagalung, 2005). Apart from that, land as an object of collateral can provide stronger legal certainty and legal protection for creditors. Because in essence the land will be bound by a mortgage institution which can provide the main position for the creditor.

Even though the bank always hopes that the debtor or customer can return the credit according to the agreement, the problem of default cannot always be avoided. If the customer or creditor is still unable to return the credit according to the agreement, then the debtor is said to have committed an act of default. Of course, this has a big influence on the health of a bank. In an effort to save from default, one alternative carried out by banks is to execute the credit guarantee object, in which case the collateral object is land. Based on the provisions of Article 6 of Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects related to land (UUHT), it is explained that if the debtor commits an act of breach of contract, the bank as the holder of the first mortgage right has the right to sell the object of the mortgage right or own authority through a public auction and collect debt repayment from the auction proceeds of the object of the mortgage right.

The auction effort is usually carried out by creditors as an act of execution over the object of mortgage rights. This is done as a form of rescue effort in the event of breach of promise or default on the part of the debtor. The term execution does not only relate to court decisions that have permanent legal force. However, the term execution is also found in the collateral law section, namely the implementation of the creditor's rights as the holder of collateral rights to the collateral object by selling the collateral object. This action is carried out if the debtor breaks his promise or defaults (Suyatno, 2016). The efforts made by creditors are known as *parate execution* at the State Property and Auction Services Office (KPKNL).

Even though the creditor's efforts *to execute parate* are a form of credit rescue due to breach of contract or default, these efforts are not immediately accepted by the debtor parties. Debtors who pledge their assets to creditors as objects of mortgage rights for a credit agreement try to fight to defend their rights to objects of mortgage rights. This resistance was carried out as a form of legal action through a trial in court. The legal remedies that can be taken by debtors start from the first level and final level court decisions, in the form of appeals, cassation and judicial review. A literature study of several studies regarding execution *parates* shows information that execution *parates* are an option for creditors to recover receivables given to debtors (Jamilus, 2017, pp. 283–299). *Parate execute* can be done if it took place by recipient fiduciary with notice condition injury acknowledged promise direct giver fiduciary, and object fiduciary given in a way volunteer (Dkk, 2022, pp. 554–579).

However, in the implementation of the execution of fiduciary guarantees, especially after Constitutional Court Decision No. 18/PUU-XVII/2019 with a case study in the Padang city area shows that this practice is carried out by financing institutions through third parties or *debt collector*, which is different from banks which carry out debt restructuring by paying attention to Financial Services Authority Regulation number 11/POJK.03/2020. However, that is the process considered oppose law, and considered No legitimate moreover post The 2019 Constitutional Court decision requires this creditor submit application to the PN in do execution (Syam, 2023, p. 335). Existence MK Decision Number 18/PUU-XVII/2019 and the latest that is MK Decision Number 2/PUU-XIX/2021, shows that position *parate execution* in the Law on Guarantee Fiduciary has eliminated and execution process must be done through agreement with debtor and / or submit application on Court Country (Kosasih, Johannes Ibrahim nak Agung Istri Agung, n.d., pp. 114–135).

If observed clearly, there is confusion in the regulations regarding *execution parates in the UUHT*. This confusion can be seen when compared with the General Explanation number 9 of the UUHT which states that the implementation of *execution parates* is based on Article 224 HIR or Article 258 Rbg which must be based on the fiat of the Chairman of the Court. The confusion in the UUHT regarding the implementation of *the execution law* has resulted in multiple interpretations which have resulted in the principle of ease and legal certainty *in the execution of mortgage rights* not being achieved, because in the end the creditor as the holder of the mortgage right cannot carry out the execution of the mortgage right easily in accordance with the ideals of establishing the UUHT.

RESEARCH METHODS

This research is normative legal research that is study with a library model or *library research*. Data collection methods use methods secondary data collection namely data or information obtained through consisting of documents from material primary law, obtained from statutory regulations and regulations related to legal force and legal remedies for

execution in business disputes ,while material law Secondary data is obtained from books, scientific works and related documents that are relevant to this study. The data obtained was then analyzed using method descriptive - qualitative.

RESULTS AND DISCUSSION

Legal Arrangements for Execution Parate According to the Mortgage Rights Law (UUHT).

Parate execution in the doctrine is an authority to sell on one's own power. Parate execution is carried out if the debtor defaults in fulfilling the credit contract agreement with the creditor. In this case, the creditor can carry out the execution of the collateral object, without having to request a fiat from the head of the court and not based on the implementation rules in civil procedural law. The provisions for implementing execution parate have their own regulations which do not require prior confiscation and do not need to involve bailiffs, because the procedure prioritizes easy elements and lower costs (Poesoko, 2013).

Several experts also put forward their formulation of parate execution, as Subekti formulated parate execution is carrying out oneself or taking what is rightfully one's own, in the sense that without the intermediary of a judge, who is shown over a collateral item and then sells the item himself (Poesoko, 2007). *Parate execution* according to Mariam Darus Badruzaman is to carry out it yourself or take what is rightfully yours without the intermediary of a judge (Bavruzaman, 1991).

The same opinion was also expressed by Tartib that *parate execution* is an execution that is carried out personally by both the first mortgage holder with *beding van eigen mectige verkoop* and the pawn holder, since the debtor as the mortgagee and the pawnbroker cannot pay the principal debt or the interest (Tartib, 1996). Purnama Tioria Sianturi defines *execution parate* as the holder of mortgage rights who can sell collateral directly with the assistance of the State Property and Auction Service Office (KPKNL) without requiring approval from the owner of the collateral and without needing to request an execution *fiat* from the Court (Sianturi, 2008). J. Satrio also formulated his opinion regarding *execution parate* , namely as a law used by creditors in an effort to cash in on bills and therefore is similar to an execution (Satrio, 1993).

The execution parameters for mortgage rights are clearly regulated in Law Number 4 of 1996 concerning Mortgage Rights for Land and Objects related to land (UUHT) Article 6 UUHT which reads: "If the debtor breaks his promise, then the holder of the first mortgage right has the right to sell the object of mortgage rights under his own authority through a public auction and take part in repayment of receivables ." Article 6 of the UUHT clearly provides convenience and time effectiveness in carrying out the execution of objects of mortgage rights without asking for a court fiat, because the execution can be carried out at a public auction and the creditor will receive protection if there is an act of breach of contract on the part of the debtor. Efforts to execute this mortgage right in order to accelerate the repayment of debts of debtors who experience problems or default (Korompot, 2023).

Based on the explanation of the Mortgage Law, the cause of execution parate is a breach of contract or default on the part of the debtor. Default is regulated in Article 1238 of the Civil Code, namely that the debtor is declared negligent with a warrant, or with a similar deed or based on the strength of the agreement itself which results in the debtor being declared negligent by exceeding the agreed time (Hani, n.d.). Compilation of Sharia Economic Law

(KHES) Article 36 also explains that a person can be said to have broken a promise or defaulted if he does not carry out the contents of the contractual provisions in the agreement, carries out obligations but does not comply with the agreement, is late in carrying out obligations, or does something that is prohibited in the agreement (Kompilasi Hukum Ekonomi Syariah, 2011). The author can conclude that a breach of contract is the non-fulfillment of obligations by one party as contained in the agreement agreed upon by both parties.

Parate execution also has several advantages, as proposed by Pitlo regarding the advantages of parate execution in mortgage rights, namely sales based on power of attorney (mandaat) or as an exercise of one's own rights (execution) promised by the guarantor, outside the area of procedural law with procedural law consequences throughout regarding execution, it is not mandatory to demand it, there is no need to go through confiscation, there is no need to show *a grosse deed*, there is no need for a fiat of execution from the Chief Justice, and there is no need for a summons if the credit agreement has passed a certain time/date (Satrio, 2004).

Article 6 UUHT reflects the principle of legal protection in carrying out execution parate, namely with ease, fast time and low costs as a form of returning creditors' receivables due to a breach of contract on the part of the debtor. Efforts to rescue receivables relate to procedures for selling objects of collateral rights based on one's own authority, without confiscation of collateral or confiscation of execution based on court fiat (Musjtari et al., 2018).

One of the characteristics of mortgage rights contained in the general explanation of number 9 UUHT is that it is easy and certain to execute, if the debtor commits an act of breach of contract. This characteristic of the mortgage right becomes the basis for the creditor's privilege to sell the object of the mortgage right under his own authority through a public auction and take part in repayment of the receivables. In exercising this privilege, the creditor can do so without having to follow the execution provisions in the civil procedural law.

Article 6 UUHT was born as a form of legal protection for creditors to recover receivables for actions not in accordance with the agreement made by the debtor (Res, 2021). However, if you look more closely at the UUHT, there is a dualism in the provisions regarding the execution of mortgage rights, namely the provisions in Article 6 UUHT concerning execution parates with a general explanation of number 9 UUHT. The general explanation of number 9 UUHT reads, "*one of the characteristics of a strong mortgage right is that it is easy and certain to implement, if the debtor breaks his contract. Although in general the provisions regarding execution have been regulated in the applicable civil procedural law, it is deemed necessary to specifically include provisions regarding the execution of mortgage rights in this Law, namely regulating the execution parate institutions as referred to in Article 224 HIR and Article 258 RBG (Undang-Undang Hak Tanggungan, 1996).*

Then, when coupled with the explanation of Article 14 paragraphs (2) and (3) UUHT which states that, "*the irahs included in the mortgage rights certificate and in the provisions of this paragraph, are intended to confirm the existence of executorial power in the Mortgage Rights Certificate, so that if the debtor in breach of contract, is ready to be executed in the same way as a court decision that has obtained permanent legal force, through procedures and by using execution parate institutions in accordance with civil procedural law regulation (Undang-Undang Hak Tanggungan, 1996).*

Due to the confusion contained in Article 6 of UUHT and the general explanation of number 9, it does not necessarily mean that the implementation of UUHT is always easy to carry out, because in the implementation of the execution *parate* process the meaning has shifted and not all State Property and Auction Service Offices (KPKNL) are willing to carry out auction sales. against the object of mortgage rights as contained in Article 6 UUHT, namely through the execution *parate* (Hirsanuddin & Sudiarto, 2021). The reason for the shift in the meaning of the execution *parate* is that every public sale (auction) of the mortgage object must go through court fiat. This is due to errors in the formation of UUHT and the Judicial Institution in understanding the two execution institutions based on the existence of executorial titles (Korompot, 2023).

As in Article 30 of the Regulation of the Minister of Finance of the Republic of Indonesia Number 263/PMK.01/2016 concerning Amendments to the Regulation of the Minister of Finance Number 170/PMK.01/2012 concerning the Organization and Work Procedures of Vertical Institutions, the Directorate General of State Assets emphasizes that, "State Assets Services Office and Auction (KPKNL) has the task of carrying out services in the fields of state assets, appraisal, state receivables and auctions." Based on these provisions, it can be understood that in the event of a credit problem or default on the part of the debtor which cannot be tolerated, a state or private bank (financing institution) can submit a tender request consisting of an execution auction, a mandatory non-execution auction, and a mandatory non-execution auction. The auction is a voluntary non-execution and its implementation is carried out by the Directorate General of State Assets (DJKN) with its operational office, namely the State Assets and Auction Services Office (KPKNL) in accordance with their respective jurisdictions (Febrianto & Ayunda, 2019).

Law Number 4 of 1996 concerning mortgage rights over land and objects related to land, there is a mixture of meanings between executory *parate* and execution based on executorial title, of course these two meanings in the UUHT create confusion for creditors as holders of mortgage rights. Not only does it have an impact on creditors, this also creates fear for auction implementers, in this case KPKNL, to accept execution *parate* auction requests based on Article 6 UUHT, because the execution *parate* process often encounters obstacles when vacating the auction object on the grounds that the execution is not based on court fiat.

Legal conflicts that occur in the execution *parate* arrangement can be an excuse for the debtor that the implementation of the execution *parate* carried out by the creditor according to the provisions of Article 6 UUHT is in conflict with the provisions of Article 224 HIR. Apart from that, creditors also experience difficulties in carrying out execution measures against the rights of mortgage objects if the debtor defaults or breaches his contract. If the bank as the creditor submits an auction request directly to the KPKNL based on Article 6 UUHT, there is a possibility that the request will also be rejected by the KPKNL on the grounds that to execute the object of the mortgage right a fiat must be requested from the Chief Justice (Duswara, 2003).

If the debtor feels that he does not accept that the object of the mortgage right is being auctioned directly by the creditor through the KPKNL using execution *parate*, then the debtor can fight to refuse to vacate the object of the mortgage right that is guaranteed, if this resistance is carried out it will take up time, energy and also costs for the creditor. Apart from this, in practice, in court, judges who are given the freedom to decide on execution disputes according to their beliefs will allow for a dualism of freedom in deciding execution disputes. There are

judges who are of the opinion that the implementation of execution parates must still require the fiat of the head of the court, but apart from that there are also judges who have another opinion that the implementation of execution parates does not have to be based on the fiat of the court. As is the case, it is clear that there is legal dualism which results in the lack of legal certainty.

Judge's considerations regarding execution parate in Supreme Court Decision Number 2553 K/Pdt/2016.

Judicial power is independent power and judicial power is free from interference from extra-judicial powers, except for matters mentioned in the 1945 Constitution. Freedom in exercising judicial authority is absolute, because essentially the judge's job is to uphold the law and justice is based on Pancasila, so the decision should reflect justice for all Indonesian people. Furthermore, Article 24 paragraph (2) confirms that judicial power is exercised by a Supreme Court and a religious court body, a military court, a state administrative court, and a constitutional court (Hamzah, 2006).

The judge's consideration is one of the important aspects in determining the realization of the value of a judge's decision which contains justice and contains legal certainty, besides that it also contains benefits for the parties concerned. So the judge's considerations must be addressed with precision, kindness and care. If the judge's considerations do not refer to the principles of thoroughness, goodness and thoroughness, then the judge's decision originating from the judge's considerations can be annulled by the High Court or Supreme Court (Arto, 2004).

Cassation Decision Number 10/Pdt.Kas/2016/PN.Skt jo. Number 114/Pdt.G2015/PN.Skt with Supreme Court decision Number 2553 K/ Pdt/ 2016 concerning cases of unlawful acts involving acts of parate execution carried out by one of the parties. In this decision the Supreme Court considered and decided based on the reasons *Judex Facti*/ Semarang High Court decision Number 45/PDT2016/PT.SMG which confirmed the decision of the Surakarta District Court Number 114/Pdt.G/2015/PN.Skt that the decision of the Semarang High Court It is not wrong to apply the law by considering that there were acts of default by the Plaintiffs, that Defendant I had given warnings 3 (three) times to the defendants, and based on the existence of these acts of breach of contract, Defendant I through Defendant II (KPKNL) had the right to auction of disputed objects in accordance with the provisions of Article 6 of Law Number 4 of 1996 concerning Mortgage Rights. Therefore, Defendant II was declared not to have committed any unlawful act. Unlawful acts have been explained in Article 1365 of the Civil Code which explains that: "*Every unlawful act that brings loss to another person, requires the person whose fault it was to cause the loss, to compensate for the loss.*" This article contains several elements regarding unlawful acts, namely:

- a. Actions that are not only contrary to the law, but also include actions that violate other people's rights, are contrary to the perpetrator's legal obligations, are contrary to the precautionary principle and are contrary to applicable norms or rules.
- b. Actions as referred to in Article 1365 of the Civil Code are actions that contain errors.
- c. Actions that result in loss
- d. There is a causal relationship between mistakes and losses (Kitab Undang-Undang Hukum Perdata).

The judge's consideration in deciding and determining that the plaintiff (debtor) has committed an act of default refers to the facts or evidence presented at the trial. Based on these

legal reasons, Article 6 UUHT concerning the implementation of the execution parate can be used as protection for creditors to recover repayment of receivables. So, based on this decision, the execution parate action carried out by the creditor is not considered an unlawful act.

The source of law used as consideration by the judge in decision Number 2553 K/Pdt/2016 refers to Article 6 UUHT concerning execution parate which has been declared valid and does not include unlawful acts. However, in this decision the judge did not consider the general explanation of number 9 which means that the provisions for the execution of mortgage rights are only valid if they are based on Article 224 HIR/ Article 258 RBg. Whereas according to Article 224 HIR/ Article 258 RBg, when the debtor commits an act of default, the creditor as the holder of the mortgage right goes to the Head of the Court to submit a request so that the object of the mortgage right can be executed.

Based on this explanation, it is very clear that the general provisions of number 9 UUHT which lead to the provisions of Article 224 HIR/ Article 258 Rbg state that the implementation of the execution parate contained in Article 6 UUHT is not in accordance with the provisions of civil procedural law. So based on this, there is confusion in the UUHT which creates legal uncertainty. As a result of this legal uncertainty, it can have an impact on society, because this confusion results in being unable to answer the legal needs that society needs in the execution process.

In other matters, Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects related to Land was reviewed at the Constitutional Court against the 1945 Constitution in decision Number 21/PUU-XVIII/2020. The existence of a judicial review effort carried out by the applicant to the Constitutional Court is a form of effort to find a bright spot because there is confusion in the meaning of the implementation of the UUHT execution of Article 28D paragraph (1) and Article 28H paragraph (4) of the 1945 Constitution. In this decision, the judge The court was of the opinion that the argument stated by the applicant regarding the unconstitutionality of the norms in the UUHT and Articles of the 1945 Constitution was declared legally unreasonable. So in this decision the judge decided to reject the applicant's application in its entirety (ohannes Ibrahim Kosasih, Anak Agung Istri Agung, 2022).

According to Gustav Radbruch, justice and legal certainty are permanent parts of the law. As is his view that justice and legal certainty must be taken into account, legal certainty must be maintained for the sake of security and order in a country. So that in the end positive law must always be obeyed, in order to fulfill legal certainty and the values to be achieved, namely the values of justice and happiness (Ali, 2002). Apart from that, according to Gustav Radbruch, there are four basic things related to the meaning of legal certainty, namely that the law is positive, namely legislation, that the law must be based on facts, that the facts must be formulated in a clear way so as to avoid errors in meaning and are easy to implement. Finally, positive law cannot be easily changed (Hukum & Transportasi, 2023).

In reality, legal certainty is the main goal of law, social order is closely related to legal certainty, because order is the essence of the certainty of the law itself. Legal certainty is an effort to regulate law in legislation made by authorized and authoritative parties, so that these rules have a juridical aspect that can guarantee certainty that the law functions as a regulation that must be obeyed (Astuti & Daud, 2023). Referring to the Supreme Court decision Number 2553 K/Pdt/2016 which makes Article 6 UUHT a source of consideration for judges in deciding cases where the act of executing mortgage rights without court fiat is an act that is

not against the law. However, in other cases, the Plaintiff or Cassation Petitioner in this case argued against the provisions for execution contained in the general explanation of number 9 UUHT that the execution of mortgage rights is based on the provisions of civil procedural law or refers to Article 224 HIR and Article 258 RBg which states that execution mortgage rights based on court decisions. The provisions of Article 6 UUHT and the general explanation of number 9 UUHT clearly show that there is legal dualism in the provisions for the execution of mortgage rights. The legal conflict that occurred in the UUHT resulted in blurred diction and the lack of legal certainty. The legal conflict in the UUHT certainly cannot answer the legal problems needed by society.

CONCLUSION

Regulations regarding execution parates in mortgage rights are clearly regulated in Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects related to land (UUHT) without going through Court fiat. However, the general explanation of number 9 UUHT also explains that the execution of mortgage rights is based on civil procedural law which refers to Articles 224 HIR and 258 Rbg, namely the execution is based on Court fiat. The implementation of the execution of mortgage rights in the UUHT shows that there is legal dualism which creates confusion which gives rise to multiple interpretations of meaning by the public and becomes a source of consideration for judges in court.

In the Supreme Court's decision Number 2553 K/ Pdt/ 2016 concerning the case of unlawful acts regarding acts of execution by one of the parties, it is clear that the judge's considerations chose Article 6 of the UUHT as the basis for the decision that acts of pare execution carried out by the creditor do not constitute acts against the law, because the decision is based on facts in the trial process that the debtor has indeed committed a breach of contract or breach of contract. However, in this case, the plaintiff's (debtor's) argument based on the general explanation of number 9 UUHT was not taken into consideration by the judge in this decision. Thus, the provisions for execution of mortgage rights still contain confusion and vague diction which results in legal uncertainty. Therefore, this provision is not able to answer legal problems that occur in society.

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