



LEGAL PROTECTION OF CREDITORS ON THE TRANSFER OF FOUR-WHEEL VEHICLES BY THE DEBTOR TO THIRD PARTIES IN PEKANBARU CITY

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Abstract

In a fiduciary agreement, the object used as the object of the fiduciary guarantee is still in the control of the owner of the object (the debtor). case it is the granting of property rights to the fiduciary collateral. object without displaying a physical object. In general, in the law of guarantees whose objects are movable objects, the debtor cannot transfer, pledge or lease to other parties the objects that are the object of the Fiduciary Guarantee. This type of research is a sociological legal research conducted by means of a survey, namely research directly to the research location using a data collection tool in the form of interviews. Meanwhile, if viewed from its nature, this writing is descriptive analytical. Legal Protection Against Creditors for the Transfer of Four-Wheel Vehicles by Debtors to Third Parties in Pekanbaru City that the Fiduciary Guarantee Act has attempted to provide a technical protection for the interests of creditors, the implementation of protection through execution of fiduciary guarantees, which in the end provides choices for creditors to take peaceful way which means providing additional costs. Obstacles in Legal Protection Against Creditors on Transfer of Four-Wheel Vehicles by Debtors to Third Parties in Pekanbaru City that the Fiduciary Guarantee Law has given creditors a weak position, such as the lack of firmness in execution and concerning the implementation of executions.

Keywords: *Legal Protection, Creditors and Debtors.*

1. INTRODUCTION

Leasing Contracts and Financing Contracts are basically financing contracts. However, both have different objectives, characteristics and settings, so that their understanding and implementation cannot be equated, both theoretically and practically. The presence of Leasing Contracts and Financing Contracts is basically in order to answer the community's need for funds, namely to support various needs of the community itself, both consumptive needs and other larger needs in the business scope. (Admiral,2018)

Further details of this contract arrangement can be seen in Book III of the Civil Code on Engagement (verbintenis), which mentions and regulates several contracts, such as buying and selling, exchanging, leasing, civil partnerships, grants, safekeeping of goods, lend use, borrowing, giving power of attorney, guaranteeing debts, lucrative agreements and peace. The contracts referred to and regulated in Book III of the Civil Code are then known as Nominaat Contracts.(Mariam darus Badruzaman,2010) The growth and development of law then contributed to the growth and development of various contracts other than those mentioned in Book III of the Civil Code. These contracts are known as Innominate Contracts. Innominaat contracts themselves are defined by Mariam Darus Badruzaman as contracts that are not regulated in the Civil Code, but exist in the community. This is based on the freedom to enter into agreements or autonomous parties that apply in the agreement.(Sunaryo,2008)

In addition, the guarantee must have a value that is at least equal or even higher than the value of the obligation that must be fulfilled by the debtor. For goods or objects belonging to the debtor that are used as collateral, an loading agreement will be made which is called a guarantee agreement. This guarantee agreement arises because of the main agreement, in the form of a loan agreement or credit agreement. The guarantee agreement cannot stand alone, but always follows the main agreement. If the main agreement ends, the guarantee agreement will also expire or be

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cancelled. (Salim HS,2011) The nature of the guarantee agreement is that it is an *accessoir* agreement. A guarantee agreement is a special agreement made by a creditor with a debtor or a third party who makes a promise by binding certain objects or the ability of a third party with the aim of providing security and legal certainty for credit repayment or the implementation of the principal agreement. (Djuhaenda Hasan,1996)

Material guarantee institutions that are widely applied in credit agreements are mortgages or mortgages, liens and fiduciary guarantees. Mortgage guarantee institutions are used if the object of collateral or collateral is a fixed object (immovable object). If the object as collateral is movable property, it can be tied up with a pledge or with a fiduciary guarantee. The fiduciary guarantee institution as an *accessoir* agreement from the credit agreement (agreement) is a development of the pawn guarantee institution. The principal difference between a pawn guarantee institution and a fiduciary guarantee institution lies in the aspect of control over the object of the guarantee. In a pawning institution, the object of guarantee is submitted and controlled by the recipient of the pledge (creditor), while in a fiduciary guarantee agreement, the object of the guarantee is still controlled by the fiduciary giver (debtor). (M.Bahsan,2007)

Fiducial guarantees are security rights over movable objects, both tangible and intangible and intangible objects. moving especially buildings that cannot be encumbered with Mortgage as referred to in Law Number 4 of 1996 concerning Mortgage which remains in the control of the Debtor, as collateral for the repayment of certain debts, which gives priority to the Fiduciary Recipient over other creditors.

Objects which in principle cannot be encumbered with mortgage guarantees, meaning that several classes of objects can be encumbered with fiduciary guarantees, including (Rachmadi Usman,2008):

- a. moving objects;
- b. Immovable objects that cannot be encumbered by the Mortgage Guarantee
- c. Tangible objects;

The obligation to register a fiduciary guarantee provides legal certainty to interested parties and the registration of this fiduciary guarantee gives preference to the fiduciary recipient over other creditors. Fiduciary guarantee registration is regulated in Article 11 of the Fiduciary Guarantee Act, namely:

1. Objects that are burdened with fiduciary guarantees must be registered.
2. In the event that the object encumbered with a fiduciary guarantee is outside the territory of the Republic of Indonesia, the obligations as referred to in paragraph (1) remain in effect.

Likewise, according to the Regulation of the Minister of Finance of the Republic of Indonesia Number 130 of 2012 that in the context of consumer financing of motorized vehicles by financing companies, consumers submit ownership rights to motorized vehicles in a trust (fiduciary) manner to finance companies. Since the registration was carried out by law, the ownership rights were transferred from the debtor to the creditor and at the same time the borrowing and use rights emerged from the debtor on the collateral object until the debt borne by the collateral object was paid off. When the debtor's debt is paid off or declared paid off, the ownership of the collateral object will return to its original state, namely the debtor will become the owner again without the need to take any legal action, or in other words, the restoration of ownership rights will occur by law or by itself without any legal action. there is a need for leveraging considering that the collateral object has been in the control of the debtor from the start. (D.Y Witanto,2015)

2. IMPLEMENTATION METHOD

Comparing data in the field with data collected from laws and legal regulations regarding fiduciary and expert opinions. The data collected based on the results of the interviews were presented in the form of a sentence description. After the data is compared, namely between theory and practice, it appears that there is a match or conflict between the two parties



3. RESULT AND DISCUSSION

One of the violations that are often committed by debtors is the transfer of objects of fiduciary security without notification to creditors, making it difficult for creditors to execute fiduciary guarantees when the debtor experiences bad credit. This action is usually carried out by debtors who have received financing from a finance company for the purchase of motor vehicles, where the debt has not been paid off but the vehicle has been transferred without the knowledge of the creditor. (D.Y Witanto, 2015)

In a fiduciary agreement, the object used as the object of the fiduciary guarantee is still in the control of the owner of the object (the debtor) and is not controlled by the creditor, so in this case it is the surrender of ownership of the object without surrendering the physical object. The creditor entrusts the debtor to continue to use the collateral according to its function. However, even though the collateral object remains in the control of the debtor, the debtor must have good faith in maintaining the collateral as well as possible. In general, in the law of guarantees whose objects are movable objects, the debtor cannot transfer, pledge or lease to other parties the objects that are the object of the Fiduciary Guarantee. (Munir Fuady, 2002)

Consequences if the transfer, mortgaging or leasing is carried out without the consent of the fiduciary recipient, the debtor can be categorized as having committed an unlawful act and may be subject to criminal law as stipulated in Article 36 of the Fiduciary Guarantee Law. The occurrence of this underhanded transfer of debtors is largely due to the fact that the first debtor is no longer able to continue his credit because his financial condition has begun to be disrupted and so that the first debtor does not experience large losses if his vehicle is taken by a financing institution, a transfer is carried out to another party or third party.

The transfer from the debtor to a third party creates legal problems because the third party accepts the transfer of rights to the vehicle without a rights (BPKB) and although the sale of the car is sold under the hands of the debtor does not eliminate the debtor's obligation to pay his debt to the financing institution. The creditor actually does not want a transfer from the debtor to a third party because after all the creditor only expects the return of the four-wheeled vehicle to the creditor or the debtor makes credit payments according to the stipulated time. However, what happened was that the Debtor was reported to the Police because he was deemed to have embezzled the vehicle (committing a crime) and the Debtor only received a prison sentence of 2 (two) years, and this is actually very unfortunate to have happened to the Director, because the creditor still wants good faith or a solution with visit the Creditor and discuss the resolution of the problems experienced by the Debtor without having to transfer it to a third party, so that the Debtor in the future can fulfill achievements in making payments in arrears that have occurred so far.

The fiduciary guarantee law aims to provide a regulation that is more complete than the existing ones, and in line with that it aims to provide better protection for interested parties. Fiduciary guarantee is a means of legal protection for bank security, namely as a certainty that debtor customers will repay credit loans. (Wirjono Prodjodikoro, 2012)

In the fiduciary guarantee agreement between Syafira Yatim as the debtor and PT. Swadharma Bhakti Sedaya Finance (ACC Group) as the creditor, has entered into a financing agreement to purchase 1 (one) unit of the Honda Odyssey brand car in silver metallic plate B 8526 TI at the Alfa Mobil show room at Riau St. No. 48 Pekanbaru City by paying an advance of Rp 56,182,500, - (fifty six million one hundred eighty two thousand five hundred rupiah) and the remaining payment for the purchase of the car is paid for 24 (twenty four) months commencing from September 08, 2019 s/d 08 October 2011 with credit installments of Rp. 6,570,000,- (six million five hundred and seventy thousand rupiah) per/month. However, Syafira Yatim's husband, Muhammad Afnan, transferred the credit installment payments to Devi Asmi, even though it was clear that Syafira Yatim's husband, Muhammad Afnan, had known that Devi Asmi was a consumer who had been blacklisted by APPI (Association of Indonesian Financing Companies) because he had problems in In terms of financing at another financing company, Muhammad Afnan continued to carry out his intention and informed Syafira Yatim as his wife that her husband Muhammad Afnan

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would transfer the payment of credit installments for 1 (one) unit of the Honda Odyssey brand car, metallic silver plate B 8526 TI to Devi Asmi.

Syafira Yatim as the Fiduciary Giver immediately agreed to the intention of her husband Muhammad Afnan without obtaining prior written approval from PT. Swadharma Bhakti Sedaya Finance as the Fiduciary Recipient, then with the permission and approval of Syafira Yatim as the Fiduciary Giver, her husband Muhammad Afnan has handed over 1 (one) unit of car brand A silver metallic plate B 8526 TI to Devi Asmi (DPO) and her husband Muhammad Afnan received the money amounting to Rp 35,000,000,- (thirty five million rupiah) for the transfer (over credit) of the car to Devi Asmi, and after the car was handed over to Devi Asmi, it turned out that the credit installment was not paid by Devi Asmi and 1 (one) unit car brand Honda Odyssey color metallic silver plate B 8526 TI until now the vehicle is unknown where it is.

The fiduciary recipient and the fiduciary giver according to the Fiduciary Guarantee Law are both given legal protection, the protection giver is in the form of a usufructuary right to the collateral object, and the default of the guarantor will not cause the collateral object to change its ownership rights. With the Fiduciary Guarantee Act, the granting of preferential rights over the receivables and the application of the *droit de suite* principle on collateral objects, for third parties the publicity principle in the fiduciary guarantee agreement will provide information on the fiduciary objects.

Creditor protection in fiduciary guarantees is only limited to Article 20 of the Fiduciary Guarantee Law which states that fiduciary guarantees continue to follow objects that are objects of fiduciary guarantees in the hands of whoever the object is, the article contains the *droit de suite* principle. The interests of the fiduciary recipient are protected by the *droit de suite* principle, because the creditor has the authority to take the object of the fiduciary guarantee that is in the hands or in the control of another party.

Consumers need to know the terms of the agreement, the agreement made between the parties is stated in a written agreement in every document or agreement made by business actors. The agreement made between business actors and consumers is based on best faith. The Consumer Protection Act does not provide a definition of the agreement, but formulates it as "Every rule or legal provision and terms and conditions that have been prepared and determined in advance unilaterally by business actors as outlined in the document. and/or binding agreements and must be fulfilled by consumers.(Rahdiansyah,2018:223)

A fiduciary guarantee agreement is not a guarantee right born by law but must be agreed in advance between the bank and the debtor's customer. Therefore, the juridical function of binding fiduciary guarantees is more special when compared to guarantees born under Article 1131 of the Civil Code. The juridical function of binding fiduciary collateral objects in a fiduciary guarantee deed is an inseparable part of the credit agreement. In addition, creditors receiving fiduciary will get certainty about the debtor's debt repayments. This juridical function will also reduce the risk level of banks in running their business as referred to in the banking law.(A.A. Gede Agung,2018:3)

The same protection can also be seen in Article 23 Paragraph 2: Fiduciary Providers are prohibited from transferring, mortgaging, or leasing to other parties Objects that are the object of Fiduciary collateral which are not inventory items, except with prior written approval from the Fiduciary Recipient. acts and omissions of fiduciary givers, fiduciary recipients based on negligence is not responsible, as referred to in Article 24 of the Fiduciary Guarantee Law: "The Fiduciary Recipient does not bear any liability for the consequences of the actions or omissions of the Fiduciary Giver, whether arising from a contractual relationship or arising from unlawful acts in connection with the use and transfer of the Objects become the object of Fiduciary Guarantee". So according to the writer's opinion, basically the purpose of the fiduciary guarantee agreement in terms of legal protection for creditors is to give special rights or prior rights to him in order to pay off debts of the debtor to him.

Fiduciary Eigendom Overdracht (FEO), hereinafter referred to as fiduciary, is the transfer of ownership rights to an object on the basis of trust and provided that the object whose ownership rights are transferred remains in the control of the owner of the object. However, the transfer of



ownership rights to fiduciary guarantee objects is not perfect like the transfer of property rights in buying and selling, because the transfer of rights is only *constitutum prosectorium*, meaning that legally only the ownership rights are transferred while the goods remain in the power of the fiduciary giver. In relation to the Fiduciary Guarantee Law Number 42 of 1999, the fiduciary guarantee agreement is a pure material agreement and is regulated separately in the law as part of the material security legal system.

The Fiduciary Guarantee Agreement is an *accessoir* agreement, meaning that it is a follow-up agreement to the main agreement, namely the credit agreement. This agreement is an obligatory agreement, because the fiduciary giver and the fiduciary recipient promise to bind themselves to do or give something. On the other hand, if the debtor does not fulfill this achievement, it is known as a default or breach of contract. In the law of fiduciary guarantees, a problem that often creates juridical problems is when the debtor providing the fiduciary guarantee does not carry out an obligation that should have been agreed upon. The debtor's negligence is evidence of a default. (Rosiani Niti, 2014:9-10)

Further legal protection of rights to receivables priority can be seen in the provisions of Article 27 of the Fiduciary Guarantee Law:

1. Fiduciary Recipients have priority rights over other creditors.
2. The priority right as referred to in paragraph 1 is the right of the Fiduciary Recipient to take the settlement of his receivables on the results of the execution of the Object that is the object of the Fiduciary Guarantee.
3. Priority rights and Fiduciary Recipients are not nullified due to bankruptcy and or liquidation of the Fiduciary Giver.

Overall, there are several things that can indicate the existence of legal protection for creditors (Fiducia Recipients) based on Fiduciary Guarantee Laws include the following:

- a. The existence of a fiduciary guarantee registration institution, which is nothing but to guarantee the interests of the party receiving the fiduciary;
- b. There is a prohibition on the fiduciary giver to re-facilitate the object of the fiduciary guarantee (Article 17);
- c. There is a provision that the Fiduciary Provider is not allowed to transfer, mortgage or lease (Article 23 Sub 2);
- d. There is a provision that the fiduciary giver is obliged to submit the object of collateral, if the creditor wishes to carry out the execution of the object of the fiduciary guarantee;

Some of the principles adopted in Fiduciary Guarantee Law Number are: The principle of legal certainty; The principle of publicity; The principle of balanced protection; The principle accommodates the need for practice; - Authentic written principles; - The principle of giving a strong position to creditors. (J. Satrio, 2002)

Problems that may arise in the loading and registration of creditors (Gunawan Widjaja & Ahmad Yani, 2001):

- a. In a fiduciary guarantee, basically there has been a transfer of ownership. In everyday practice, all forms of ownership must be included in the income statement of a company. The provisions regarding the transfer of rights can make it difficult for creditors, because if the collateral is not included in the company balance sheet, it can be considered as embezzlement, but if it is included in a company balance sheet, it must always be explained in the following financial year about the company's assets removed from the company's balance sheet. balance sheet.
- b. Other things that are a problem for creditors are; in the implementation of the fiduciary guarantee agreement even though the deed of imposition of the fiduciary guarantee is carried out with a notarial deed that gives birth to an executorial deed, and is registered at the Fiduciary Registration Office which causes the fiduciary acceptance to become a preferred creditor, but in its implementation, the execution of the object of the guarantee is not strictly regulated, so that the fiduciary recipient has difficulty executing. Often in such cases this is

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forced. the peaceful way is taken, which means that the nature of the fiduciary guarantee certificate is secondary.

The provision confirms that the fiduciary guarantee has a material nature and applies to it the *droit de suite* principle, except for the transfer of inventory objects that are the object of the fiduciary guarantee. The same protection can also be seen in Article 23 paragraph 2. Sanctions for the above provisions are criminal as referred to in Article 36 of the Fiduciary Guarantee Law. For all actions and omissions of the fiduciary giver, the fiduciary recipient based on the negligence is not responsible, as referred to in Article 24 Fiduciary Guarantee Law. The purpose/objective of the fiduciary guarantee agreement in terms of legal protection for creditors is to give special rights or prior rights for them to pay off debts, your debtor (*schuld* and *haftung* principles).

In general, credit guarantees are defined as the grant of wealth, or a statement of one's ability to bear the repayment of a debt. In Article 1131 of the Civil Code, This article provides security for creditors against guarantee agreements. Objects belonging to someone who have economic value can be used as business capital, that is, they can be transferred or can be pledged as collateral. The form of collateral preferred by creditors is material guarantees. Material guarantees have material characteristics in the sense of giving precedence over certain objects and have the inherent nature of following the object in question (*droit de suite*). Even this guaranteeing material rights can be defended against anyone (absolute). (Riduan Syahrani, 2006)

Material guarantees are the most preferred collateral by creditors because if the debtor defaults, the collateralized object can be taken by the creditor as repayment of the debtor's debt. Material guarantees for movable objects are provided by guarantee institutions in the form of pawns (regulated in Article 1150 of the Civil Code) and Fiduciary (regulated in Law Number 42 of 1999 concerning Fiduciary Guarantees), while for fixed (immovable) objects, mortgage institutions are provided for ships registered with a weight of 20M² (twenty square meters) or more and an airplane (regulated in Article 1162 of the Civil Code) and Mortgage for land regulated in Law Number 4 of 1996 concerning Mortgage Rights. (Joyce Karina, 2016:584)

In Fiduciary Guarantee Law to create protection for creditors, the Fiduciary Guarantee agreement must first be registered, as regulated in Article 11 of the Fiduciary Guarantee Law, registration as fulfillment of the principle of publicity, the imposition of fiduciary guarantees only by deed. Notarization without registration will not give birth to preferential rights to fiduciary recipient creditors. In practice in the business world, both at leasing institutions and financial institutions after the deed of imposition of fiduciary guarantees is made with a deed. Notarization is not followed up with the registration procedure, this is related to the thought that the imposition of fiduciary guarantees with a notarial deed is safe enough for creditors besides that it also saves registration fees, another underlying thing is that so far the imposition of fiduciary guarantees is not problematic in practice, however as a deed. The imposition of the fiduciary guarantee is prepared by the creditor for the possibility of being registered if in the future there is a problem with the imposition of the fiduciary guarantee. For example, the debtor defaults, the creditor, to be more secure, chooses to make an agreement with a notarial deed, but there are also some who use a private deed. (M. Bahsan, 2007)

Underhand Deed Notary Deed of Registration If the collateral is charged with a fiduciary deed, then the creditor receiving the fiduciary is an ordinary creditor, if there is a default by the debtor, the creditor must first prove that there has been a debt agreement (debt acknowledgment), a fiduciary guarantee agreement with a private deed cannot be the basis for claiming his preferential rights. If the collateral is charged by a fiduciary with a notarial deed, the debtor is in default, the creditor is recognized as a fiduciary recipient based on the notarial deed, but not as a preferred creditor, because the fiduciary deed is not registered, the creditor's rights are with ordinary creditors. If the collateral object is imposed by a fiduciary with a notarial deed and then registered, at the time of registration, then immediately his rights as a preferred creditor are born, to the creditor broad rights regarding the execution of the collateral object in the hands of whoever the object is.



From other data, there are also practices in several business institutions such as Financing Institutions, Leasing Institutions that apply the imposition of fiduciary guarantees by using an underhand deed or not with a notarial deed. As for the private deed, in an interview that the author conducted at the Adira Finance Financing Institution, the following responses were obtained: "About a private deed, even though it uses the title of a fiduciary agreement, but because it is made standardly, which means it is not a notarial deed, the deed is the agreement could not be registered, as a result the executive power of the deed was lost, however, this practice is still often carried out for reasons other than the effectiveness of the Financing Institution's operations which have also been proven during the course of such practice not having a bad effect in the field, consumers whose indicators can be seen. not many object that the execution is carried out based on the standard fiduciary agreement".

As expressed in the interview of the respondent with Mr. Iptu Febry Hermawan who stated that in fact several The financial institution that receives business credit assistance from the banking institution must follow the fiduciary registration procedure in accordance with applicable regulations, this is because the risks that occur in the financing institution are related to With the difficulty of returning capital due to the difficulty of execution of objects as fiduciary objects, this is a risk for these financial institutions, in line with this fact, our society's legal awareness is actually weak. If law enforcement and awareness is considered important, there should be pressure from lawmakers to regulate The implementation of fiduciary rights is the same as the rules regarding Mortgage where there is a time limit for registration of the deed of imposition of fiduciary guarantees at the fiduciary registration office, which so far does not exist, this important point will not only foster legal awareness of the community and business actors, it will also increase the productivity of additional state treasury from the field."

Based on the results of the author's interview above, that the Fiduciary Guarantee Act is actually very good at providing legal guarantees for fiduciary recipients, although in fact there are also controversies, such as in fact the fiduciary guarantee deed is made by a notary who is a public official according to his duties given by law, but is not useful for a fiduciary guarantee deed that is not registered, so that in fact the position of a notary is not effective, it even tends to provide additional costs for a fiduciary agreement deed, because in addition to having to pay a notary service fee which in practice is sometimes not in accordance with the existing standard price also has to pay a registration fee whose price is also sometimes different in each region, even though we all know that fiduciary registration is very important, with these facts it is not surprising that many fiduciary guarantee deeds practice only ends up at the notary's desk, of course against this action, business actors (as long as they do not register with the Fiduciary Registration Office) do not get protection as preferred creditors". From several fiduciary charges, it can be seen that most of the fiduciary charges for two-wheeled and four-wheeled vehicles are not registered, even though the risk of loss is high, because two-wheelers in addition to having high credit interest rates, have lower credit scores (company investment) as well. in forced taking is not too problematic, compared to four wheels.(Martin Putri,2019:41)

Fiduciary Guarantee Law still considers there is a transfer of rights (*constitutum possessorium*) on the fiduciary guarantee object to the fiduciary recipient. Therefore, the fiduciary giver is no longer authorized to transfer the object. Unless this is not justified in writing by the recipient of the fiduciary or if the object of the fiduciary guarantee is inventory. To protect the fiduciary recipient as the guaranteed debt, in this case the fiduciary holder transfers the inventory object, the fiduciary giver is required to replace the inventory object that has been transferred with an equivalent object. In this case equivalent in the sense of type and value.

However, if there is a default by the debtor then:

- a. Inventory objects that become fiduciary objects cannot be transferred anymore.
- b. The proceeds of the transfer and/or claims arising from the transfer, by law become the object of the fiduciary guarantee in lieu of the object of the fiduciary guarantee that has been transferred.

It can be seen that the main purpose of registration in a fiduciary guarantee is to fulfill the

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principle of publicity as well as to fulfill the principle of publicity, so that it will provide protection for the interests of the fiduciary recipient (creditor). The execution of the fiduciary guarantee which has been applied by creditors to the object of fiduciary security is carried out by means, among others, by selling underhand guarantees on objects based on an agreement with the debtor in 2 (two) ways:

1. Debtors are given the opportunity to look for prospective buyers themselves, with the agreement and approval of the creditor to obtain the highest price from the sale of the collateral object as repayment of credit to a financing institution.
2. The debtor submits a power of attorney to sell to an employee of a financial institution to find a prospective buyer with the price and terms of sale in accordance with the mutual agreement between the debtor and the creditor.

The implementation of underhand sales based on the power of attorney to sell has more advantages than other execution methods, including:

1. Simple requirements and procedures so that the turnaround time can be faster.
2. Cheaper costs because there is no need to pay for advertising in newspapers/media, and there are no auction fees, taxes and other costs.
3. The debtor's good name is maintained, because there are no announcements in the newspapers/media.
4. There is an agreement between the guarantor and the creditor so that conflicts/claims from the guarantor can be avoided.

Underhand execution often creates obstacles, including:

1. Takes a long time
2. Not sure to produce optimal sales results
3. Uncooperative debtors In practice
4. The debtor raises an objection to the proceeds of the sale
5. The object of the fiduciary guarantee is damaged

4. CONCLUSION

From the results of research and discussion that the author did, the authors can draw the following conclusions:

1. Legal Protection Against Creditors for the Transfer of Four-Wheel Vehicles by Debtors to Third Parties in Pekanbaru City that the Fiduciary Guarantee Act has attempted to provide a technical protection for the interests of creditors, it is only unfortunate that the system is not applied by confirming it concretely, in an implementation system protection through the execution of fiduciary guarantees that must be taken through a court decision, which in the end gives creditors an option to take the peaceful path which means giving the debtor additional time to pay off his debts, this of course gives a bad appreciation and is not optimal regarding legal protection for creditors.
2. Obstacles in Legal Protection Against Creditors on the Transfer of Four-Wheel Vehicles by Debtors to Third Parties in Pekanbaru City that the Fiduciary Guarantee Law has given a weak position to creditors such as the lack of firmness in execution and involves the execution of executions, even though the object of fiduciary guarantees involves objects moves that move very quickly so that it is prone to embezzlement besides that often in a fiduciary guarantee agreement there is no confirmation of the need for supervision by the fiduciary recipient of the fiduciary guarantee object controlled by the debtor.



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