



Towards problems and solution in executing fiduciary guarantees for default debtors (A case of PT. mandiri tunas finance, Madiun city, Indonesia)

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Abstract

This study was designed using a qualitative descriptive research method based on an empirical or non-doctrinal legal approach. The goal of this research is to describe a present incident or event. The incident linked to the problematic execution of fiduciary guarantees for debtors that fail on PT. Mandiri Tunas Finance in Madiun City. The data of this study were divided into primary data and secondary data. The primary data included direct interview at problems related parties, and descriptions of the execution of fiduciary guarantees against default debtors. Secondary data include literature review, expert opinions, book literature, national and international journals, internet online media, and laws and regulations relevant to the issues addressed in this study. This study found that the execution of fiduciary guarantee objects varies for each credit issue. The problem will be resolved if Mandiri Tunas Finance and the debtor can reach an agreement through mediation. However, if the party in charged seeks the intervention of the Police or other third parties to resolve the problem by tracing the whereabouts of the lost collateral object unit, the case will be continued until further information is discovered. Meanwhile, if a collateral object unit is discovered to have been stolen, an insurance claim can be submitted with an insurance firm that works with the creditor. Mandiri Tunas Finance, as the creditor, has also acted in conformity with the procedure in the case of disputes over fiduciary collateral objects that have already reached the District Court stage, as well as in full compliance with the Constitutional Court decision Number 18/PUU-XVII/2019, which was carried out on the creditor and debtor's agreement with execution according to the decision court that has permanent legal force.

Keywords: creditor; execution; fiduciary guarantee; regulations; Mandiri Tunas finance

Introduction

In light of the current economic conditions, there are an increasing number of main and secondary demands that must be fulfilled, including the need for the society to participate in business-related activities. The operation of this firm is one of the society's efforts to provide a source of income to support their daily needs. To begin a business, whether small or large scale, a considerable amount of initial capital is required. This capital is what drives many people to enter into debt and credit agreements with a wide range of credit financing institutions (leasing) in order to gain capital by providing fiduciary guarantees, both motorcycles and cars, for a specific period of time in accordance with the mutually agreed credit agreement.

Fiduciary agreements are obligatory, meaning that the fiduciary recipient's rights are fully owned, even though these rights are constrained by matters stipulated jointly in the law (Saradila, 2017) ^[9]. Following Article 5 of Fiduciary Guarantees Law Number 40 of 1999, objects guaranteed fiduciarily will be granted a Fiduciary Guarantee Deed. It is the deed that has executorial authority, which means that if the debtor defaults, the creditor has the right to withdraw or execute the fiduciary object. This Law on Fiduciary Guarantees allows for society demands to be addressed as a means of helping business activities and offering legal assurance to parties involved. Parties, especially debtors, gain from fiduciary guarantees. However, since the fiduciary guarantee is not registered, it does not provide creditor protection. Without the creditor's knowledge, the debtor may guarantee goods that have been burdened with

fiduciary duties to other parties. Prior to the creation of this law, movable objects such as products in inventory, merchandise, receivables, machine tools, and motorized vehicles were commonly used as the objects of fiduciary guarantees (Suparji, 2020) ^[11].

Following the Article 196 paragraph (3) HIR (Herzien Indonesia Reglemen) the creditor first submits an application to the Head of the District Court to carry out the execution of the fiduciary guarantee object based on the executorial title of the fiduciary guarantee certificate (RI, 2019) ^[7]. The court will then provide information to the debtor in order for him or her to submit the fiduciary guarantee object that has been agreed to be submitted and executed voluntarily. If the debtor rejects the court order, the bailiff is directed to execute the fiduciary object, which is then auctioned off in public, with the revenues going to pay off the debtor's arrears, and if there are any remaining proceeds from the auction sale after deducting the debt, the creditor is obligated to return the remaining proceeds to the debtor as his rights, whereas if the proceeds from the auction are insufficient to cover the debt settlement, the debtor is still responsible for paying off the remaining unpaid debt. This is in conformity with the following provisions in Article 34 of Law Number 40 of 1999 on Fiduciary Guarantees: (2) In the event that the execution result exceeds the guarantee value, the Fiduciary Recipient must return the excess to the Fiduciary Giver. (3) If the

results of the execution are not sufficient to pay off the debt, the debtor remains liable for the unpaid debt.

The Fiduciary Guarantee Certificate has executive power, meaning it has the same legal force as a court decision, ensuring that if the debtor defaults, the creditor has the right to sell items that are the object of fiduciary guarantees on their own authority, but only before the decision MK No. 18/PUU/2019 is issued (RI, 2019; Suparji, 2020) [7, 11]. Article 29 of the Fiduciary Law regulates the underhanded execution of collateral at institutions that provide fiduciary guarantees. It states that if the debtor or fiduciary is in default, the execution of items used as collateral for fiduciary guarantees may be carried out through underhanded sales that are operated in accordance with an agreement between the fiduciary giver and receiver to obtain the highest price benefiting the parties. Based on paragraph (1) letter (c), underhanded execution is carried out after a (one) month since it is notified in writing to interested parties by the fiduciary giver and receiver and publicized in at least 2 (two) newspapers circulating in the area where the concerned party resides. Underhanded selling is a potential peace initiative that takes place on the basis of an advance agreement between the creditor and the debtor. This effort protects the debtor so that the collateralized goods can be sold at a fair price determined by market prices, or it may result in some proceeds from the sale remaining after all of the debtor's obligations have been settled because any surplus proceeds will be returned to the debtor as his own property. In the case of settlement of bad credit through underhanded sales, the creditor will ask the debtor to voluntarily sell his collateral himself, then the proceeds will be submitted to the bank for repayment of the debt (Gunadi, 2010) [4].

When the debtor refuses to voluntarily surrender the collateral object despite having been found negligent in carrying out the obligations, an internal settlement procedure will be carried out using a persuasive approach, and this will involve going to the debtor's residence in to explain the delay and provide the opportunity for the execution of the fiduciary object that has been guaranteed with a fiduciary certificate (Salamiah *et al.*, 2018) [8]. If the persuasive stages fail to yield results, they will be carried out by issuing a warning or issuing subpoenas I, II, and III in a (one) week apart. The process of granting internal subpoenas is ongoing, taking into account the debtor's good faith to settle financial obligations as agreed. If this internal subpoena still does not receive a response, then persuasive action is taken again through a "in house lawyer" to take non-litigation persuasive actions, or in other words to repeat subpoenas I, II, and III, but this time the action is carried out preceded by summons of the debtor and puts a greater emphasis on the consequences of actions taken if the debt cannot be repaid or performs actions that violate the law. Furthermore, if the last alternative does not receive a good faith response or there is even an indication that the debtor committed a criminal offense by moving or changing the object of the fiduciary guarantee, the "in house lawyer" will take legal steps such as cooperating with the police to safeguard or provide security for executions undertaken through parate or direct execution of the guaranteed fiduciary objects (Salamiah *et al.*, 2018) [8].

Literature Review

Numerous related relevant studies have previously been conducted. Utomo *et al.*, (2022) [14] They reviewed Constitutional Court Decision No. 18/PUU-XVII/2019, which highlights that a debtor and creditor agreement must underpin any determination of an event that is considered to be in default. Both parties are required to initiate a lawsuit in court if an agreement cannot be reached. The fiduciary guarantee certificate no longer has executive power as a result of the availability of legal remedies through the judicial process. However, Utomo's study does not offer a comprehensive overview of the problems that frequently arise while executing fiduciary guarantees. Ardianto, *et al.* (2021) conclude from their research that, so long as there is an agreement between the debtor, who is the fiduciary giver, and the creditor, who is the recipient, the executive power of fiduciary guarantees after the issuance of the Constitutional Court Decision Number 18/PUU-XVII/2019 remains attached and has the same strength as a court decision with permanent legal force. If there has been a breach of contract and the debtor voluntarily surrenders the fiduciary guarantee object, the execution of the fiduciary guarantee object may nonetheless be carried out by the creditor as the fiduciary recipient provided that the default clause has been agreed upon from the beginning. Ardianto, *et al.* (2021) [6] in their study have not provided yet examples of cases in to further strengthen the location of the disparities before and after the Constitutional Court decision No. 18/PUU-XVII/2019. The current study provides examples of scenarios encountered by PT. Mandiri Tunas Finance in relation to the execution of fiduciary guarantees up to the level of the court procedure and permits the bailiff to carry out the guarantee execution. Maulana *et al.*, (2021) [6] studied the implementation of fiduciary guarantees at PT. Pegadaian branch Pedurungan, Semarang City has a debt and credit agreement and the Fiduciary Guarantee Deed can be notarized or private, depending on the size of the credit provided by PT. Pegadaian. In their study Maulana *et al.*, (2021) [6] only discussed the procedure for executing guarantees and the efforts made by financial institutions in accordance with Law Number 42 of 1999 on Fiduciary Guarantees; they did not discuss the execution of fiduciary guarantees following the Constitutional Court Decision number 18/PUU-XVII/2019. Then Triargono (2017) [12] studied the legal protection of creditors with fiduciary guarantees at PT. Bank Perkreditan Rakyat "Artha Agung" Yogyakarta, as well as the legal remedies available to the creditor once the debtor defaults. Triargono's study (2017) [12] discovered that if the debtor defaults, in this case, the goods used as collateral objects are not available or are no longer in the hands of the debtor, then creditors have legal protection in that they can demand that the debtor continue to fulfil his obligations, as well as legal remedies that can be taken if the debtor defaults first by giving a warning, then a warning letter, and legal action can be taken through litigation or non-litigation.

Research method

This study was designed using a qualitative descriptive research method with an empirical or non-doctrinal legal approach. This empirical legal approach is used because this study examines the legal facts of the application of positive law in people's lives using data from the field, which is then linked to the Law on Fiduciary Guarantees. This is a descriptive study which aims to describe a recent event. The

event is the troublesome execution of fiduciary guarantees for debtors who default on PT. Mandiri Tunas Finance Madiun City. The data in this study were divided into two categories primary data and secondary data. Interview findings, information which is directly at issue with related parties, and descriptions of the execution of fiduciary guarantees against default debtors are examples of primary data. Secondary data sources include literature review, expert opinions, book literature, national and international journals, internet online media, and laws and regulations relevant to the issues addressed in this study. The author's data retrieval techniques include, first, conducting a survey to explore areas related to the issues to be studied. Then, conduct interviews with resource persons who are knowledgeable about the issues to be studied, including 1 (one) PT. Mandiri Tunas Finance branch manager, 1 (one) credit handling supervisor, and 3 (three) default debtors. Following the data collection, it will be processed by reviewing relevant related literatures and documents.

Research results and discussion

In a material guarantee, the right to demand execution through the execution of collateral objects can be exercised only after the debtor has been declared in default. The creditor is not permitted to take any action against the collateral related to the debt agreement as long as the engagement occurs and is carried out in compliance with the agreement. When the debtor fails to pay out his duties, the special rights conferred by law as a new separatist creditor can be exercised. Thus, the rights related to material guarantees are only applicable when the debt is ripened for collection (*opeisbaar*) when the debtor has missed the payment deadline or has been found negligent by a summons (Witanto, 2015)^[15].

1. Problems in executing fiduciary guarantees on default debtors

Handling credit problems prior to being resolved judicially is done first through a personal approach to consumers, through realignment in the form of periodic renewals, restructuring with all the relief. Handling can be accomplished in one of two methods or a combination of both. After being pursued in such a way, when there is still no progress in handling, the problem is resolved through legal procedures. The main agreement data, namely credit agreements or other debt agreements and the amount of debt guaranteed by the fiduciary, are included in the main agreement data. In the practice of guarantees as handled by a Notary, the guarantee deed only mentions the title of the main legal relationship, credit agreement, debt acknowledgment, the form of a real or private note, and the number and date of the concerned deed, as well as who made the deed (Satrio *et al.*, 2002). Factors leading to default are normally carried out by the debtor as a consequence of numerous factors, including: a) the debtor's own fault, such as a person incapable of managing his business. This will lead to losses, making credit installment payments hard. b) The debtor or a member of the debtor's family is suddenly afflicted with a long-term disease that requires considerable medical expenses, and the debtor immediately prioritizes this matter over the loan's repayment. b) The occurrence of discrepancies in the use of credit facilities. This is the debtor's fault for not using it because of its intended purpose as specified in the credit

agreement. c) The debtor fails to repay the loan on time. Some debtors would actively try to avoid repaying the loan before it is due (Adhivinna, 2018)^[11].

A default (Indonesian: *wanprestasi*) occurs when a person fails to meet legal obligations. Therefore, default is the impact of failing to meet legal obligations. There are four sorts of default classified as follows: a. Not doing what he is willing to do; b. Carrying out what he promised, but not as promised; c. Doing what was promised but was too late; d. Doing anything that is not authorized by the agreement (Hariyani & DP, 2010)^[5]. When it comes to credit agreements, default pertains to a condition where a debtor is unable to fulfil obligations. The debtor's obligation is that he must repay the loan he borrowed after a certain period of time. The inclusion of a time restriction is vital because if no date is specified that the debtor must have fulfilled the accomplishment by, the debtor will presume that the creditor will achieve the specified accomplishment at any time and that time can be extended at any time without default. The creation of this time limit is intended to deter bad-faith debtors from postponing the fulfilment of certain achievements. Default is defined as a failure to carry out agreed-upon promises because the debtor does not carry out duties for legally valid grounds. When it comes to bad credit, there are three sorts of default actions: 1. The debtor is fully unable to pay the credit instalments as well as the interest; 2. The debtor pays a portion of the credit instalments as well as the interest; 3. The debtor repays the credit as well as the interest after the agreed-upon period expires. This does not include the debtor paying in full after a creditor-approved extension of the credit period at the debtor's request.

Thus, if the debtor defaults and has bad credit under a credit agreement with a fiduciary guarantee, the creditor can execute assets that are objects of fiduciary guarantees by implementing executorial titles following the Article 29 of Law Number 42 of 1999 about Fiduciary Guarantees. Fiduciary recipients or creditors, as defined in Article 15 paragraph (2). Thus, if the debtor defaults and has bad credit under a credit agreement with a fiduciary guarantee, the creditor can execute objects that are objects of fiduciary guarantees by implementing executorial titles following Article 29 of Law Number 42 of 1999 on Fiduciary Guarantees. Fiduciary recipients or creditors, as defined in Article 15 paragraph (2). However, following the implementation of the Constitutional Court decision Number 18/PUU-XVII/2019, there was a change to the executorial power of the fiduciary guarantee certificate, which stated that if there is an agreement regarding breach of contract and the debtor objects to voluntarily surrendering the object of the fiduciary guarantee, the implementation of the execution of the fiduciary guarantee certificate must be carried out and applies the same as the implementation of the execution of the fiduciary guarantee certificate. Furthermore, the execution of the collateral object is no longer determined unilaterally, but must be based on the creditor and debtor's agreement based on specified legal remedies.

Based on results of an interview with Mr. Rifai, the Remedial Head of the Mandiri Tunas Finance Madiun office, PT Mandiri Tunas Finance encounters the following problems while dealing with default debtors: a) The Debtor Refuses to Submit Fiduciary Guarantee Objects; b) Unlawful Sales of Collateral Objects; and c) Debtor and

fiduciary guarantee object unit problems. 1) There is a debtor, and the unit is stolen; 2) There is a debtor, but the unit is lost but not due to theft; 3) Lost debtors and lost units.

2. Alternative settlement by pt Mandiri tunas finance in overcoming problems in executing fiduciary guarantees

The establishment of Constitutional Court decision Number 18/PUU-XVII/2019 changed the existing rules in terms of the execution of fiduciary guarantees. For those in the debtor's position, the Constitutional Court's decision provides a solution to constitutional rights issues. Their rights will be protected by the court's executable authorization mechanism from the authority to bill or withdraw. Meanwhile, the Constitutional Court's decision has created a new barrier to doing business for financing business actors as creditors, who believe it is no longer easy to reduce the risk of loss. According to Article 49 paragraph (1) of POJK Number 50/POJK.05/2018, *Otoritas Jasa Keuangan* (OJK) [The Financial Services Authority] has the authority to supervise and rectify the finance company's internal guidelines regarding execution. If the in-charge financing company fails to comply with the regulations, the OJK has the right to impose serious repercussions, including the revocation of its business license. Prior to the decision of the Constitutional Court number 18/PUU-XVII/2019, under Article 50 POJK Number 50/POJK.05/2018, submitting mandatory execution procedures in compliance with the provisions of the laws governing collateral. It is apparent that the creditor would defend themselves in carrying out the execution by using the term 'executive power' of the fiduciary guarantee, which is legal to do. Before the Constitutional Court's decision was enforced, the Supreme Court heard a case involving the implementation of fiduciary guarantees in October 2013. The Supreme Court condemned the bank and the parties that were sued. The accused were found guilty of undertaking unlawful acts when collecting credit using intimidation and pressure. The witness was compelled to pay the plaintiff a total of 1 billion rupiah in compensation (Elnizar, 2020) ^[3]. However, since the Constitutional Court decision number 18/PUU-XVII/2019 came into effect, OJK Regulation Number 35/POJK.04/2018 is no longer valid because debtors can seek justice before the Constitutional Court on their own. Based on the results of an interview with Mr. Rifai, the Remedial Head at the Mandiri Tunas Finance office, the following alternative settlement was carried out by PT Mandiri Tunas Finance:

2.1 Cases of Debtors Refusing to Submit Fiduciary Guarantee Objects

When a debtor refuses to hand over the collateral object, PT. Mandiri Tunas Finance takes the first step by granting debt collectors the authority to make direct billing. Because the debtor has bad faith and always avoids being met properly by the creditor or debt collector, billing is done directly. Article 48 of POJK Number 35 of 2018 stipulates that finance companies can cooperate with other parties to perform billing functions for debtors, also known as debt collectors. Collaboration with other parties must meet the following criteria: be a legal entity, have a permit from the competent authority, and have human resources who have received billing certification from a Professional Certification Agency in the field of financing. In addition,

debt collectors should always bring identity cards, professional certificates registered with the OJK, assignment letters from finance companies, and proof of default debtor documents (Utari *et al.*, 2021) ^[13]. After ensuring completeness, the debt collector will conduct reconnaissance on the intended debtor. The debtor will be followed when he leaves the house and will be stopped in a place where he feels safe and then communicates properly in accordance with applicable operational standards without committing violence or engaging in actions that endangers safety. Following communication between the debtor and the collector, the debtor will be given the option of making payment obligations or not. If the debtor shows good faith in meeting their financial responsibilities, the collector will bring the debtor to the Mandiri Tunas Finance Office to make payments. If the debtor still refuses to pay and hand over the collateral object, the process will be escalated to the nearest police station (Polres) for additional mediation. If mediation fails to resolve the case, Mandiri Tunas Finance will refer the matter to court for further legal processing in accordance with applicable processes. Court lawsuits are filed in order to secure legal certainty, legal protection, and justice for both sides. Legal certainty for disputes over submitted collateral objects so that they can be resolved properly, legal protection for debtors to avoid being billed outside arbitrarily, legal protection for creditors to recover the rights that have been granted, and justice for both parties so that they do not cause harm to each other.

The debtor who became the informant in this case was on behalf of Hera Asmara and was located at Jalan Mayjend Sungkono Gang Slamet NO.359, Kota Madiun. Due to unresolved installment arrears, the Hera Asmara case has proceeded to the stage of a court lawsuit. The loan application at MTF began in the form of a Daihatsu Sigr MT car by Hera Asmara's husband, which would later be employed as a livelihood as an online driver, especially GoCar and GrabCar. The debtor can afford the monthly installment of Rp. 3,570,000 because his earning as an online driver is between 200,000 and 300,000 per day. The installments were paid smoothly in the first and second months, but by the third month, around August 2020, the debtor was already experiencing financial difficulties because the Covid-19 pandemic had increased, making passengers hard to find, and government suggestions to just stay at home had caused income to decrease or even cease to exist. At the time, the government issued a credit relaxation policy in order to provide relief to the banking sector and other financial institutions; debtors Hera Asmara and her husband used this policy to apply for credit relaxation to Mandiri Tunas Finance in a bid to obtain credit relief. However, Mandiri Tunas Finance rejected the application since the debtor was a BUMN employee (an outsourced employee of Bank BRI) and the system at Mandiri Tunas Finance did not approve of relaxation. The debtor objected because he felt he did not receive justice. The debtor does not get a way out, and the late maturity has entered the fourth month, so the debtor receives subpoenas 1 and 2 to comply with payment obligations promptly. Because the conditions were not met, the debtor was still unable to make arrears payments, and the debtor had resisted during mediation because he felt he was being treated unfairly. Eventually, Mandiri Tunas Fiance filed a case with the Court seeking further confiscation of collateral by a bailiff from the court.

Mandiri Tunas Finance, as the creditor, carried out the execution of collateral objects for default debtors and in accordance with the decision of the Constitutional Court Number 18/PUU-XVII/2019, which was carried out on creditor agreement, and debtors with execution in accordance with a court decision that has permanent legal force. Within one week of the issuance of the inchoate court decision, a bailiff from the court comprising of the TNI, Polri, Satpol PP, and court officials executes the guarantee, and the debtor Hera Asmara voluntarily surrenders the object of the fiduciary guarantee.

2.2. Underhanded collateral object sales

As a first step in dealing with underhanded sales, Mandiri Tunas Finance implemented internal billing, which was carried out by the Mandiri Tunas Finance internal team. Mandiri Tunas Finance then conducted subpoena 1 after completing a field inspection and determining that the unit was no longer available (sold). If the debtor did not react to subpoena 1, another subpoena was issued until the debtor responded and was able to adequately mediate. During the mediation, issues about the ownership of the unit used as collateral will be raised. If the debtor accurately specifies the location of the collateral object unit, the internal team will conduct withdrawals at that location. However, if the debtor does not provide information on the whereabouts of the collateral object unit, then Mandiri Tunas Finance will direct this case to a Police Report with allegations of embezzlement in accordance with Article 372 of the Criminal Code "Anyone who intentionally and unlawfully owns something that is wholly or partly owned by other people, but those who are in his power not because of a crime threatened because of embezzlement".

Apart from the Criminal Code, the transfer of collateral objects is also governed by the Fiduciary Guarantee Law Number 42 of 1999, specifically Article 36, which states: "A Fiduciary Giver who transfers, mortgages, or leases Objects that are objects of Fiduciary Guarantee as referred to in Article 23 paragraph (2) without prior written approval from the Fiduciary Recipient shall be subject to imprisonment for a maximum of 2 (two) years and a maximum fine of Rp. 50,000,000. - (fifty million rupiah)". These two articles explain how an individual who intentionally transfers or sells goods (collateral object units) can be criminally charged under the relevant laws. This serves as the basis for Mandiri Tunas Finance to issue a Police Report to default debtors who are uncooperative in providing information regarding the whereabouts of the collateral object unit. Mr. Rifai further emphasized that once a report is received and submitted to the police, the police have had the power to initiate legal processes. If the collateral object unit is found during the police search, the police will withdraw the unit and return it to Mandiri Tunas Finance for internal processing. If the unit is not found, the debtor will be prosecuted on embezzlement allegations, as stated in the article above.

In this case, the collateral object was transferred, and Mr. Sunaryo, whose address is in Bukur sub-village, Jiwon District, RT/RW. 003/001, became the informant. On behalf of, he is a debtor. He was solely limited to lending a name for credit financing provided by Agus Deni, Mr. Sunaryo's biological son. Taking out a loan for a Suzuki Tata pickup truck, which will be shipped in March 2021 with monthly payments of Rp. 4,900,000. For 8 installments, everything

went fine. Following that, Agus Deni's business suffered difficulties as a consequence of the Covid-19 Pandemic, with sales of the cut ducks he was running experiencing a nearly 80% fall in turnover. Around January 2022, the collateral object unit was transferred to Agus Deni's friend Yanuar to continue the credit with the permission and knowledge of Mandiri Tunas Finance, with the primary intent that if anything happens in the future regarding installment payments, the party entitled to be charged is Yanuar, not Agus Deni. The installment payments were not made after this was moved, and it was found that Yanuar had auctioned the collateral object unit. The first debtor, the Mandiri Tunas Finance internal staff, and the police searched for units for approximately 3-4 months before the unit was found in Kediri City and executed. After Mandiri Tunas Finance executes the unit, an auction of Rp. 95,000,000 is held because Mr. Sunaryo, Agus Deni, and Yanuar did not agree to make payment of arrears for late credit.

Debtors and fiduciary guarantee object unit's problems include: (a) available debtors, units lost owing to theft. In this case, debtors can still make insurance claims to insurance firms that cooperate with Mandiri Tunas Finance by completing the necessary conditions; (b) available debtors, units lost but not due to theft. In most cases like this, the debtor uses the collateral object unit as a vehicle renting service without Mandiri Tunas Finance's permission. When the unit is rented out to another person, it is lost due to the actions of another person, so the debtor must be held accountable and must continue to complete his obligations to Mandiri Tunas Finance with all the risks imposed; (c) Lost debtors, lost units; (d) In this case, the creditor will distribute police numbers (motorized vehicle registration numbers) on various social media and to several external teams assigned to take to the streets. Additionally, he requested police assistance in discovering the unit, which might be done during vehicle raids on the highway or while arresting units, which is normally done in instances of traffic accidents, vehicle theft, collection, embezzlement, or license plate forgery.

A debtor acted on behalf of Siti Saporitin, whose address is Jalan Biliton Gang Punden number 57, Madiun city, in the following case, she made a loan for the Daihatsu Xenia in 2022. The installment payments have gone off without a hitch for the last six months. The problem occurred when her son-in-law lent the car to One Indra for two days. The car, it turned out, had been handed by her son-in-law to a friend named Budi Hartono. Budi Hartono then loaned the car to another friend, Bagus. After Bagus received the car, it was reported that the lost car did not return for several days. When several individuals were involved in the investigation, the car truly disappeared and was not found along with the last individual who had taken it. The first debtor immediately reported the incident to Mandiri Tunas Finance. After mediation, it was agreed to file a Police Report in order to help in the retrieval and tracking of the car. From July 2022 to January 2023, there has been no confirmation or information regarding the whereabouts of this unit, either from Mandiri Tunas Finance or the Police. Based on the results of the interview with Mr. Rifai, Mandiri Tunas Finance and the Police will continue to search for and track the locations of the car unit until an unspecified time, and the credit status of the financing on behalf of Siti Saporitin that the unit is still being searched.

Conclusion

The execution of fiduciary guarantee objects varies for each credit issue. The problem will be resolved if Mandiri Tunas Finance and the debtor can reach an agreement through mediation. However, if the party in charged seeks the intervention of the Police or other third parties to resolve the problem by tracing the whereabouts of the lost collateral object unit, the case will be continued until further information is discovered. Meanwhile, if a collateral object unit is discovered to have been stolen, an insurance claim can be submitted with an insurance firm that works with the creditor. Mandiri Tunas Finance, as the creditor, has also acted in conformity with the procedure in the case of disputes over fiduciary collateral objects that have already reached the District Court stage, as well as in full compliance with the Constitutional Court decision Number 18/PUU-XVII/2019, which was carried out on the creditor and debtor's agreement with execution according to the decision court that has permanent legal force. Bail execution is carried out by a bailiff from the court, with the involvement of the TNI, Polri, Satpol PP, and court officers, within 1 (one) week following the issuance of the inraht court decision. The importance of drafting the Draft Bill on Movable Object Guarantees (*Rancangan Undang-Undang Jaminan Benda Bergerak* or RUU JBB) is to simplify various regulations regarding guarantees for movable objects classified as fiduciary, mortgage, and warehouse receipts, because there are discrepancies in the rules governed by the regulations of each law, such as issues of scope guarantee object, guarantee object registration, back guarantee, and execution mechanism.

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Conflicts of Interest

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