

SECURING FINANCIAL INSTITUTIONS: SAFEGUARDING GUARANTEES AMID STATE CONFISCATION

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ABSTRACT

This study explores the intricate legal landscape surrounding the safeguarding of financing institutions when the assets serving as guarantee material are confiscated by the state. The examination delves into the complexities, challenges, and mechanisms available to protect the interests of these financial entities when their collateral is seized. By scrutinizing legal frameworks, case studies, and pertinent regulations, the paper aims to elucidate potential avenues for mitigating risks and securing the rights of financing institutions amidst state asset confiscation. The analysis presents a comprehensive overview of the legal protections available to these institutions, offering insights into potential measures and strategies to fortify their position in such scenarios.

Keyword: protection, law, objects of material collateral, state confiscation.

INTRODUCTION

The financing agreement made by the creditor by placing a fiduciary guarantee on a motor vehicle provides a position for creditors as consumers to freely use the vehicle for various interests (Noor & Putri, 2021). However, this does not rule out the possibility that the vehicle is used or becomes an object in a criminal case that is being processed legally through the judiciary. If the vehicle is confiscated by the state for investigation purposes, then the creditor is still responsible for the debt, of course, no other legal problems will arise (Purwanto, 2009). However, if the creditor is negligent in fulfilling his achievements on the grounds that the object of financing is not in the control of the creditor, of course, the debtor can take legal action by stating that the creditor has defaulted (Admiral, 2018).

The creditor as the party receiving the fiduciary basically will not underwrite the obligation for the occurrence of an action or negligence of the fiduciary giver (Azwarfajri, & Najib, 2021). This condition either comes from the ties that exist in the agreement or from the existence of an unlawful act related to the use and transfer of the object that is the object of the fiduciary guarantee (Winarno, 2013). Fiduciary recipients will still receive legal protection, especially in the legal provisions of laws and regulations for the existence of crimes committed with collateral objects, so in essence the agreement cannot just be deleted (Supianto, 2015).

Objects that experience confiscation by the State which are fiduciary guarantees, in this case cannot be said to be destroyed objects (Winarno, 2013). Because it is destroyed, it means that the form no longer exists, while based on the fact that the object is still there, but legally the object is no longer in existence with the fiduciary recipient. As for the form of legal protection for third parties, including fiduciary guarantee holders so that their rights can be maintained, even though the objects are still confiscated for the state to use civil procedural law instruments for

which the KUHAP itself has provided a legal basis as stipulated in Article 98 (Oletta, 2016).

An object that has been tied with a fiduciary guarantee as a guarantee for repayment of debtor debt to creditors may not be confiscated, either civilly or criminally (Witanto, 2015). Even though it turns out that in the future the object of the fiduciary guarantee is related to criminal cases, be it banking or fraud (Thalib, 2016). The bond in the fiduciary guarantee carried out by the debtor as a consumer with the creditor must be seen in the form of good faith actions from creditors who do not know at all. Whereas what is objected as a fiduciary guarantee is produced by the debtor for actions that are contrary to the law, namely banking crimes or fraud.

Because creditors hold their fiduciary guarantees in good faith, the rule of law has an obligation to protect them. But on the other hand, if the effort is carried out in carrying out binding agreements with creditors with indications of bad actions with the aim of saving their objects resulting from crime (Winarsasi, 2020). Specifically for banking crimes or criminal acts of fraud from confiscation by a court, objects that have been bound with fiduciary guarantees may be confiscated by investigators upon court determination because they are evidence of the proceeds of crime that must be secured by the authorities.

Although the financing institution has the preferred right to the material guarantee of a vehicle, the position of the financial institution has not received legal protection and has no legal certainty (Sasongko, 2021). This is because objects that become fiduciary guarantees can be confiscated by law enforcement officers in such cases. This is due to having deviations from Article 24 of Law no. 42 of 1999 concerning fiduciary guarantees which states that: "the fiduciary recipient does not bear any obligations or bear losses due to the actions of the fiduciary giver who violate the law in connection with the use of the transfer of objects that are the object of the fiduciary guarantee".

Then the executive legal force that exists in Article 15 paragraphs (1) and (2) UUJF no. 42 of 1999 which affirms, "The fiduciary guarantee certificate has the same executorial power as a court decision that has obtained legal force and remains neglected by the court's decision on the investigator's request to confiscate the object of fiduciary guarantee" (Winarsasi, 2020). The court's decision on the confiscation of the object of the fiduciary guarantee which results in the cancellation of the executive power which has the same legal force as the court's decision which has permanent legal force as contained in Article 15 paragraphs (1) and (2) of UUJF no. 42 of 1999 (Sasongko, 2021). This is not justified in the procedural law system, both civil and criminal in Indonesia.

RESEARCH METHODS

This research is classified as observational research. The research was conducted in a survey where the author directly conducted research in a predetermined place. This research is also descriptive in nature by providing an overview as well as the facts researched in the field regarding the legal protection of financial institutions whose objects of material security are confiscated by the state. The object of this research is the object of the guarantee that the property is confiscated by the state in the jurisdiction of Indragiri Hulu Regency, Riau Province. This research was conducted at the financial institution Wom Finance Airmolek Branch, Indragiri Hulu Regency and the Indragiri Hulu District Attorney's Office.

RESEARCH RESULTS AND DISCUSSION

1) Legal Protection for Objects of Material Confiscated by the State

The development of financial institutions in Indonesia is in line with the development of banking and non-bank institutions, both conventional and sharia. This happens and cannot be separated from the demands and needs of the community to fulfill needs that they cannot do on their own. Financial institutions have an important role in carrying out actions to provide funding to finance

community needs (Azwarfajri & Najib, 2021). Financial institutions are growing in Indonesia, in line with technological developments and the need to meet people's needs, both from information, increasingly high lifestyles and also primary needs. The community can meet their needs directly through loans in the form of credit to debtors and may also be given funds or other goods to debtors in the form of financing (Sasongko, 2021).

Financing business activities are emphasized on the functions attached to financing institutions. Where each institution has focused on business activities in accordance with their functions, namely in an effort to provide assistance in providing funding to all people who need it (Widjaya and Yani, 2011). The increasing development of a financial institution can be seen from the surge in interest from the public as consumers in the use of this service. People use it on the grounds that the process in its implementation is not difficult, the time required to disburse the funds is not long and the installments are light (Purwanto, 2009).

Basically, credit can be given by anyone who has the ability, for that through a debt agreement between the creditor on the one hand and the debtor on the other. After the agreement is agreed, then the obligation is born to the creditor, namely to hand over the agreed money to the debtor and the right to receive the money back from the debtor on time, accompanied by interest agreed by the parties. The rights and obligations of the debtor are reciprocal with the rights and obligations of the creditor (Widjaya and Yani, 2011).

In principle, the fiduciary guarantee provider in the credit agreement at the financing company aims to protect the creditor holding the fiduciary guarantee in the context of paying off his receivables, if the debtor defaults (Razali, 2020). But in reality, if there is a confiscation of the object of fiduciary security by the State through a court related to a criminal case, the guarantee of legal protection for creditors holding a fiduciary certificate in making repayment of their receivables becomes difficult to implement because the object of the fiduciary guarantee has been confiscated by the state due to actions or actions. debtor negligence

(Azwarfajri & Najib, 2021). With the confiscation of the object of the fiduciary guarantee, the creditor who holds the fiduciary guarantee and who naturally has the right to execute the object that has been guaranteed will be ignored due to an act of expropriation by the State by force by confiscation.

The rules governing fiduciary guarantees which are basically to protect the creditor's rights as the party holding a legally valid guarantee have absolutely no legal force, if it is associated with a decision to confiscate from the court, especially in the crime of theft committed by Fani Sukma. debtor). The confiscation caused a loss to the creditor who had provided financing to the suspect. In addition, the creditor inevitably has to file a lawsuit against the debtor who has not made good faith to enter into an agreement with the creditor.

The seizure of the object of the fiduciary guarantee by the state causes the transfer of control to the state, thereby causing the loss of the right of the recipient of the fiduciary guarantee to execute objects that have been charged with fiduciary duty. In this case, the result of the confiscation can have consequences for the abolition of the fiduciary guarantee if the object of the fiduciary guarantee loses its material rights (Widjaya and Yani, 2011). Bearing in mind that the agreement in the binding of fiduciary guarantees is a follow-up matter, that is, it cannot occur without the existence of a principal agreement, then the abolition of the fiduciary agreement does not necessarily abolish the main agreement. This means that the main agreement remains valid as long as the agreement is valid and has legal force like law (the principle of *pacta sun servanda*) and does not conflict with Article 1320 BW concerning the legal requirements of an agreement.

If you pay attention to these provisions, it can be stated that when the parties are bound in a main agreement, namely a financing agreement on an object that is used as the object of a financing guarantee, it is certain that the guarantee is in the control of the party providing financing until the object of the guarantee can be paid off. So basically the implementation of the confiscation of material objects that have not been paid off cannot be carried out because the ownership rights are still with the financing institution. When such a case occurs, the confiscation of the

provisions underlying the existence of the financing has not been able to provide legal protection, and the Toyota Rush car which has been used as the object of fiduciary guarantee among PT. WOM and Ms. Fani Sukma, therefore it should be returned to PT Wahana Ottomitra Multiartha. Tbk (Wom Finance).

Fiduciary guarantee which is defined in Law No. 42/1999 states: "guarantee rights to movable objects, both tangible and intangible and immovable objects, especially buildings that cannot be encumbered with mortgage rights". This guarantee will essentially remain in the control of the fiduciary provider, which aims to pay off all debts that are its obligations. Then, if you look at the provisions of Article 15 paragraph (1) of the Fiduciary Guarantee Law, it is also stated that, "In the fiduciary guarantee certificate as referred to in Article 14 paragraph (1), the words For Justice Based on God Almighty are included". The purpose of this is that a certificate of fiduciary guarantee has the same legal force as a court decision that already has permanent legal force. So that the recipient of the certificate for the fiduciary guarantee has complete authority to carry out the execution of the object of the fiduciary guarantee in the event of an act of breaking a promise or breach of promise in paying debts (Razali, 2020).

Furthermore, Article 20 of the Fiduciary Guarantee Law, Number 42 of 1999 states: "Fiduciary guarantees continue to follow objects that are objects of fiduciary guarantees in the hands of whoever these objects are, except for the transfer of inventory objects that are objects of fiduciary guarantees". The regulation contains the principle of ownership of "droit de suite" which binds property rights to an object that is an object of fiduciary guarantee. Fiduciary recipients who are creditors have the right to land the rights they have.

As stipulated in Article 24 of the Fiduciary Guarantee Law no. 42 of 1999 states that, "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 objects that are the object of the fiduciary guarantee". Based on the explanation

above, it can be said that this rule provides legal protection to creditors as parties who hold a fiduciary guarantee certificate for a situation that is not known to the creditor of an unlawful act so that if this happens, the creditor cannot participate in taking responsibility for the action.

The Fiduciary Guarantee Institution allows fiduciary givers to control the objects that are guaranteed, to carry out business activities financed from loans using fiduciary guarantees. At first, objects that became fiduciary objects were limited to movable property in the form of equipment. However, in subsequent developments, objects that become fiduciary objects include intangible assets, as well as immovable objects. In the implementation of financing between creditors and debtors, sometimes there is a default or broken promise. So, when the debtor breaks his promise, the creditor can execute the object that has been guaranteed through a fiduciary guarantee.

Consumer protection aims to give a position to consumers, especially in terms of receiving their rights. These rights have basically been established and implemented in accordance with applicable regulations, especially those that regulate consumers' interests. So that with the rules that have been set, consumers can be protected from business operators who do not carry out their activities properly, but in practice these consumer rights are still not implemented properly because there is still the desire of business actors who are influenced by a profit.

The legal concept and understanding of consumer protection are known to mean that all the principles and rules that govern providing protection to consumers, especially to provide a product for the benefit of consumers, can be said to be a form of regulating consumer protection (Karimah, & Putra, 2021). The regulation of consumer protection is a form of instrument that provides protection for the interests of every consumer, this can be seen from the principles and objectives embodied in the arrangement (Sinaga, 2018). Regulations on consumer provisions are all the rules that underlie every principle and rule of law in every consumer bond with other consumers in carrying out human life. The regulation of consumer protection is clearly stated in the provisions of Law Number 8 of 1999 which states

that, "Consumer protection is all efforts that guarantee legal certainty to provide protection to consumers." Thus, it can be ascertained that the regulation of consumer protection can guarantee and provide legal certainty in fulfilling consumer rights.

2) Status of Object Confiscated by the State

The existence of law in the community can not only be interpreted as a means to bring order to people's lives, but also as a means to change the mindset and behavior patterns of citizens. The increasingly complex social changes of citizens also affect the work of the law in achieving its goals, therefore lawmaking should be able to eliminate any conflicts that are expected to occur in society (Razali, 2020). Legal norms in their function as protection of human interests have a purpose. The main purpose of law is to achieve an orderly social order to create order and balance. With the creation of order in society, it is hoped that human interests will be protected.

The provision of credit is based on a sense of trust given to each consumer. Trust occurs due to the fulfillment of all the requirements specified to get credit (Hartanto, 2015). The trust given by the financing institution is due to the belief that the financing that has been received can definitely be returned (Sunaryo, 2013). Based on the provisions of Article 20 UUJF No. 42 of 1999 states that, "The fiduciary guarantee continues to follow the object that is the object of the fiduciary guarantee in the hands of whoever the object is, except for the transfer of inventory objects that are the object of the fiduciary guarantee". In relation to the legal status of objects that are used as objects of fiduciary security seized by the state, they are collateral objects that have the nature of *droit de suite* (Razali, 2020). With such a nature, the finance company as a fiduciary recipient has the right to follow the object that is the object of the fiduciary guarantee in the hands of whoever the object is.

Droit de Suite is one of the characteristics of material things, namely a right that continues to follow the owner of the object, or a right that follows the object in the hands of anyone. As stated by Hasbullah, "Droit de Suite is one of the characteristics of material things, namely a right that continues to follow the owner of the object, or a right that follows the object in the hands of anyone (het recht volgt de eigendom van de zaak)" (Salim, 2011). Basically, the law does not care about what causes people to enter into an agreement, but what is considered or supervised by the law is the content of the agreement, which describes the objectives to be achieved by the parties, whether prohibited by law or not. From the description of the conditions for the validity of the agreement above, these conditions can be divided into two parts, namely subjective conditions and objective conditions. The subjective conditions are contained in the first two conditions because they are attached to the person who is the subject of the agreement, if it is not fulfilled then the agreement can be canceled by one of the parties, while the objective conditions are contained in the last two conditions, if the objective conditions are not met then the agreement is canceled for the sake of law.

Legal certainty can provide guarantees for everyone to carry out behavior according to the applicable legal rules. Thus, if certainty does not exist, people in carrying out each activity will not get a guarantee. So that Gustav Radbruch's opinion is not wrongly stated that: "certainty is one of the goals of law". Where in the composition of life is related to the legal goals that are the hope. Basically, legal certainty can take the form of rules and judges' decisions. Legal certainty is related to the life that is run by the community.

Article 15 paragraph (2) of the Fiduciary Law states, "The Fiduciary Guarantee Certificate as referred to in paragraph (1) has the same executive power as a court decision that has permanent legal force." Elucidation of Article 15 paragraph (2) of the Fiduciary Law states, "In this provision, what is meant by "executory power" is that it can be directly implemented without going through a court and is final and binding on the parties to implement the decision." The

provisions for fiduciary execution as regulated in Article 15 of the Fiduciary Law as currently enforced, have resulted in the absence of fair legal protection as guaranteed in Article 28D Paragraph (1) of the 1945 Constitution. This is due to a heavier position on the one hand, where creditors must bring this case to court, while the debtor does not have to bring this case to court (Muhammad and Murniati, 2000).

In the practice of law enforcement for the crime of money laundering (TPPU), it is often understood differently regarding the evidence, whether it is necessary or not to first prove the predicate offences. For example, in a crime whose origin is in the form of a criminal act of corruption, the act of concealing, disguising, or embezzling the proceeds of the crime of corruption, is definitely not a prerequisite for it to be proven that the crime of corruption is first proven. It should be noted in advance that in terms of original intent, predicate offenses still rely on the act and maker (*daad-dader strafrecht*), while the object of the crime of money laundering is property that is suspected to have originated or obtained from the predicate crime. The difference between the objects of the two criminal acts has an impact on normative evidence, namely the proof of the predicate crime (against the actions and mistakes of the maker), while the proof of assets in money laundering offenses is on the acquisition of assets suspected of originating from criminal acts. With the adoption of differences regarding the evidence regarding the object of the act or in other words a different context of the objective act, it leads to the consequence of not having to wait for the proof of the original crime.

Confiscation is formulated in Article 1 paragraph (16) of the Criminal Procedure Code which states "Confiscation is a series of actions by an investigator to take over and or keep under his control movable or immovable, tangible or intangible objects for the benefit of evidence in investigation, prosecution and trial." Based on the definition of the article, confiscation is intended for the purposes of investigation, prosecution and trial. Collateral items can be returned if these processes have been carried out. However, if the fiduciary security object is proven

to be used to commit a crime, then the object can be confiscated and no one can use it. So if it is related to the good faith of the financial institution that has provided the object of material to the law enforcement officers, then in essence the object of the object is as an aid for proof, not to be deprived of the rights owned by the financing institution.

Consumer financing is a financing activity in procuring objects based on the wishes of the community using a gradual purchase method and not as in bank credit. Consumer financing as a credit sale is the gift of an object with a purchase on credit and the client gets a certain object after he has paid off his obligations in a consumer financing agreement. According to him, the legal basis for consumer financing is that there is no law, but consumer financing is regulated in technical regulations, so what applies is because consumer financing begins with an agreement.

The business actor in this case did not receive any legal protection on the consumer financing agreement wherein the consumer did not fulfill the payment due to the problem of the crime he had committed and as mandated in the UUPK Article 6 letter (b) the business actor had the right to obtain legal protection from consumer behavior. who have bad intentions. Consumer actions that do not carry out good faith are usually in the form where consumers do not make payments from an agreement that has been made with business actors or actions where consumers violate something that has been agreed with business actors.

One form of legal protection provided is to take full responsibility and provide a guarantee if something is detrimental to the consumer. This form of protection indicates that the company has implemented consumer rights, namely the right to compensation. An agreement made legally means that it does not conflict with the law binding on both parties. The agreement is generally irrevocable except with a certain agreement from both parties or based on reasons determined by law.

There is flexibility from interested parties to enforce the contract law contained in book III of the Civil Code, which is also a complementary law coupled with the principle of freedom of contract that allows the parties in practice to enter

into agreements that are not at all contained in the Civil Code and the Criminal Code. thus by law it is allowed to make an agreement that must be valid for the parties who make it. If in the agreement there are things that are not specified, the matters are subject to the provisions of the law.

The legal relationship will run smoothly if each party fulfills its obligations in accordance with the specified time. However, it is possible that in the loan agreement, one of the parties does not fulfill the agreement in accordance with what has been mutually agreed upon. In order to prove the rights and obligations of the parties, both creditors and debtors, if one of the parties does not fulfill their obligations according to what was agreed upon, then the agreement needs to be stated in a written agreement.

It should be understood that in a transaction and/or agreement in any form, both parties bind themselves to carry out something that has been agreed upon (achievement), but in reality it is possible that one of the parties does not carry out what has been agreed. An agreement if the debtor does not carry out what has been agreed, it can be said to have defaulted. It can also be said that he was negligent or negligent or broke his promise or violated the agreement by doing something that was forbidden or not allowed to be done.

Regarding the object of fiduciary security that is confiscated by the state, there are no provisions governing this matter. The confiscation of the fiduciary object does not cause the fiduciary security to be nullified, where the abolition of the fiduciary guarantee is regulated in Article 25 paragraph (1) of the UUJF which states that: The fiduciary guarantee is nullified for the following reasons: abolition of debts guaranteed by fiduciary; Release of rights to fiduciary guarantees by fiduciary recipients; The destruction of objects that are objects of fiduciary guarantees. Based on the provisions of the article, the seizure of a fiduciary object by the state does not eliminate debts that have been burdened with fiduciary guarantees, so the debtor must still carry out his obligations to pay off his debts. However, the creditor's position in this case is very dangerous if the debt from the

debtor has matured and the debtor does not make payments on his debts which causes the execution of the fiduciary object because the object is not in the control of the debtor but is confiscated by the state.

Law is a system of norms, while norms are statements that emphasize aspects of "should" or *das sollen*, by including some rules about what must be done. Norms are the product of deliberative human action. Laws containing general rules serve as guidelines for individuals to behave in society, both in relation to fellow individuals and in relation to society. These rules become limitations for society in burdening or taking action against individuals. The existence of these rules and the implementation of these rules create legal certainty (Umam, 2010).

Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a system of norms with other norms so that they do not clash or cause norm conflicts. Legal certainty refers to the application of a clear, permanent, consistent and consequent law whose implementation cannot be influenced by subjective circumstances. Certainty and justice are not merely moral demands, but factually characterize the law. An uncertain and unjust law is not just a bad law.

Material law, both written and unwritten, is a guide for every member of the community on how they should act or not act in society. For example, provisions such as: "Whoever because of his fault causes harm to another person is required to compensate the other person" as regulated in Article 1365 of the Civil Code (KUHPerdara). This is a guideline or rule that essentially aims to protect the interests of every member of the community (Suryono, 2014).

The principle of good faith is usually found in the law of agreements or contracts as regulated in Article 1338 paragraph (3) of the Civil Code which reads: "Agreements must be carried out in good faith". Good faith is a form of legal obligation that must be complied with in the entire contract process. Everyone must have the awareness to carry out a responsibility for every act they do, both consciously and unconsciously. This responsibility is a form of moral value that a

person has to bear everything that results without exception. Basically, responsibility is not something that is only owned by individuals, but the responsibility covers everyone in their lives.

Consumers and business actors have a relationship that is bound to each other. Where they need each other in the implementation of an activity. The relationship is created because of the dependence to meet the necessary needs. where consumers will not be able to meet the needs in their lives if there are no business actors who can produce something that can be consumed, as well as business actors who really need consumers to carry out their activities. So that is what causes the relationship between consumers and business actors to need each other. But even though there is a relationship, there are still consumers who experience losses due to the actions of business actors. What has been experienced by consumers is basically caused by a lack of consumer awareness of their rights.

Implementation in providing guarantees is one form of legal certainty (Winarno, 2013). Where the guarantee is seen when a person's rights can be exercised in accordance with the rule of law. When the law can be implemented in accordance with the rules, legal certainty will be easily applied in the life of every community. Actions to seek to protect consumers in a form of legal protection are actions to empower consumers' lives, especially those carried out based on legal rules that have firmness and clarity to provide protection either before or after the occurrence of a problem that arises. The protection provided is a goal that is intended for consumers so that consumers do not experience any more losses for their activities. Because the position of consumers is in a helpless state. So it's easy for their rights to be treated arbitrarily by irresponsible parties.

Basically, the legal protection provided to consumers has several forms, whether carried out repressively or preventively. Repressive is an action given to someone who has violated the provisions by imposing a sanction, while preventive is an action to prevent a problem from occurring (Thalib, 2016). Thus, it can be said

that basically consumers have received protection before an activity is carried out and after a problem occurs.

Legal certainty is a guarantee of law that contains justice. Norms that promote justice must really function as rules to be obeyed. Justice and legal certainty are permanent parts of the law. Justice and legal certainty must be considered, legal certainty must be maintained for the security and order of a country. Finally, positive law must always be obeyed. Based on the theory of legal certainty and the value to be achieved, namely the value of justice and happiness (Supianto, 2015).

There are three values in law enforcement efforts that must be considered, namely legal certainty, expediency and justice (Winarno, 2013). These three values must be compromised, must receive proportional attention in a balanced way. However, in practice it is not always easy to seek a proportionally balanced compromise between the three elements. Without legal certainty, people do not understand what to do and finally anxiety arises. However, the emphasis is too much on legal certainty, too strict in obeying the legal regulations, as a result, it is rigid and will cause a sense of injustice. Legal goals that are close to realistic are legal certainty and legal benefits. The Positivism emphasizes legal certainty, while the Functionalists prioritize the benefits of law, and if it can be argued that "summon ius, summa injuria, summa lex, summa crux" which means that harsh laws can hurt, except justice can help them, thus even though justice is not the sole goal of law, the substantive goal of law is justice.

CONCLUSIONS

Legal protection for financial institutions whose objects of material guarantee are confiscated by the state in the jurisdiction of Indragiri Hulu Regency cannot be carried out optimally because it is still contrary to Article 24 of Law Number 42 of 1999 concerning fiduciary guarantees, because the confiscation does not pay attention to the good faith of the institution. financing and still ignore the rights owned by financial institutions for unlawful acts committed by consumers, causing

injustice and the absence of legal certainty as fiduciary guarantee holders whose guarantee objects have registered fiduciary certificates, which guarantee holders should get legal protection .

The status of goods confiscated by the State belonging to a third party with good intentions must be returned to the financing institution because in accordance with Article 24 of Law no. 42 of 1999 concerning fiduciary guarantees which states that: "The fiduciary recipient does not bear any obligations or bear any losses due to the actions of the fiduciary giver who violate the law in connection with the use of the transfer of objects that are the object of the fiduciary guarantee. So legally the seized goods or vehicles are the property of Wom Finance and must be returned by the state through a court decision to Wom Finance, because the debtor's debt has not been paid off.

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