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FORMULATING YOUTUBE ACCOUNTS AS A COLLATERAL OBJECT: A PROGRESSIVE LEGAL PERSPECTIVE

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ABSTRACT

Using a YouTube account as a collateral object is one of the progressive legal policies as YouTube nowadays tends to have economic orientation. This study discusses the legal certainty of setting up a YouTube account as a collateral object from a progressive legal perspective. This is a normative legal research with a conceptual and statutory approach. This research shows that in order to guarantee legal certainty, it is necessary to establish the Financial Service Authority (OJK) Regulation which substantively regulates standards and guidelines for assessing a YouTube account whether or not it can be used as collateral for debt. Using a YouTube account that can be used as collateral for debt must be seen from its positive and negative impacts. It is necessary to diagnose potential problems that might arise in the future; hence there will be no Youtube accounts can be used as debt collateral, as it would need the parameters to be taken as a standard for assessing a sustainable economic value.

Keywords: Progressive Law; Debt Guarantee; Youtube account.

INTRODUCTION

The changing era has become a significant factor in the evolution of the law. The evolution of legal practice is directly related to the evolution of society. In the technologically and informationally advanced era of the digital age, legal practice must be able to adapt to the times. (Koos, 2022). One of the periods that has implications for the development of legal practice involves the practice of receivables, where it is anticipated that debt collateral will be able to utilize a YouTube account. (Tasev, 2020). Youtube account is a personal account in which there are certain videos or content that based on certain terms and conditions can be economically valuable. Certain terms and conditions have a consequence of Youtube account has true economic value can be seen from the large number of subscribers and the number of viewers or viewers of the video or content of the youtube(Mahardhika et al., 2021).

The more subscribers and viewers, the more potential a Youtube account has high economic value. The development of technology and information that places the Youtube account as one aspect that has economic value can certainly be pursued as an effort and means to be used as debt collateral (Nabila & Bintang, 2021). Debt guarantee through Youtube account is actually a progressive step to facilitate public in obtaining financing capital with guarantees that are relevant to the times. One of the main obstacles of the community related to the need for financing capital is related to debt guarantees. Debt guarantees in this study are in the form of guarantees that are used as protection measures for creditors if a debtor cannot pay off his debts. it can be understood as not all people have debt guarantees. Although it has no guarantee, Indonesia is popular as one of country that its citizens are the largest Youtube users in the world. By February 2023, We Are Social situs explained that there are 139 million Indonesians as YouTube users (Sadya, 2023).

Of the 139 million people who use YouTube, by the end of 2022, in Indonesia there are more than 1,300 channels managed by Youtube accounts (Beritasatu.com, 2022). The large number of Youtube users and accounts has a positive implication for the income of Youtube channel managers. Some YouTubers accounts have big incomes as follows (Tribunnews.com, 2023):

a. Frost Diamonds with an income of US$ 442.1 thousand per month or IDR 6.55 billion.
b. MiawAug with an income of US$ 327.9 thousand or around IDR4.8 billion per month.
c. RANS Entertainment with an income of US$ 4.5 billion per month.
d. Deddy Corbuzier with an income of IDR 3.84 billion per month.
e. Jess No Limit with an income of US$ 211.7 thousand or equivalent to IDR3.14 billion per month.

From the data above, it can be seen the five richest YouTubers in Indonesia until early 2023. They actually have a huge income through their YouTube accounts. Therefore, it can be concluded that Youtube accounts actually have a great economic potential. it makes the government initiate to make the Youtube account as debt collateral.

Government Regulation Number 22, 2022 concerning the Implementation Articles 7 to 14 of the Act Number 24, 2019 concerning Creative Economy (hereinafterGRCE) which emphasizes intellectual property-based financing emphasizing aspects of intellectual property rights such as song or music copyrights and other intellectual property rights. One of the intellectual property rights is copyright that can be integrated with Youtube (Sinaga, 2020). for example a copyright on song or music works uploaded through a Youtube account has economic potential and can certainly be part of debt guarantees (Suny, 2021). that the GRCE is an implementating regulation of of Act Number 24, 2019 concerning Creative Economy (Hereinafter CE Act) which in Article 16 mandates the government to facilitate financing by emphasizing aspects of intellectual property rights. As the implementer of the CE Act , GRCE comprehensively regulates the urgency of using Youtube accounts as debt collateral. Article 8 of the GRCE , actually provides limitations or limitations related to Youtube accounts that can be used as debt collateral.

The limitation of YouTube accounts that can be used as debt collateral refers to Article 8 of GRCE , namely the assessment of Youtube accounts that can be used as debt collateral carried out by financial institutions, both banks and non-banks. Arrangements regarding the valuation of YouTube accounts that can be used as debt collateral carried out by financial institutions actually have the potential to cause legal uncertainty, because there is no clear assessment standard regarding how Youtube accounts can be used as a collateral object. Financial institutions must obtain clear parameters through positive legal arrangements formulated by the state. This is to minimize the potential for differences in parameters to establish a Youtube account that can be used as a collateral object by each financial institution. Therefore, the legal issue in this study is the uncertainty of setting up a Youtube account that can be used as a collateral object. This study aims to discuss legal certainty of setting up a Youtube account that can be used as a collateral object and efforts to regulate a Youtube account that can be used as a collateral object from a progressive legal perspective.

The perspective of progressive law is the main conception of this study because progressive law identifies laws that continue to grow and live in the midst of the times. Therefore, progressive law is relevant in discussing the regulation of Youtube accounts that can be used as debt collateral because it relates to the development of legal practice in the community. Research on Youtube accounts that can be used as debt collateral has actually been carried out by Dewi and Manggala (2022) which focuses on imposing fiduciary guarantees on Youtube content that already has advertisements(Dewi et al., 2022). The advantage of this study is that it explains factually about the development of Youtube content that already has advertisements associated with GRCE . The weakness of this study is that it has not discussed the normative provisions for setting Youtube content standards that can be used as fiduciary guarantees in GRCE . The next research was conducted by Gustin, et al. (2022) who discussed the urgency of the requirements and technical completeness of using Youtube content as a guarantee (Purwita Lana et al., 2022).

The advantage of this study is that it has exposed the obstacles to the implementation of GRCE , especially when affirming Youtube content as a guarantee. The drawback of this study is that it has not presented empirical examples of obstacles experienced by the community related to the implementation of GRCE . The first research discussed aspects of license agreements related to Youtube accounts as fiduciary guarantees (Maulana, 2023). The advantage of this study is that it specifically discusses the license agreement associated with Youtube content as a guarantee. The drawback of this study is that it has not discussed the problem of regulating Youtube content as collateral in GRCE. Of the three previous studies, research on legal certainty and efforts to regulate Youtube accounts that can be used as debt collateral from a progressive legal perspective has never been examined by the previous three studies. Therefore, this research isgoing to fill the gap of those previous studies. .

RESEARCH METHOD

This is a normative legal research.. A normative legal research is legal research based on the "internal" framework of legal science that prioritizes coherence between concepts, theories, principles, and laws and regulations (Efendi, A'an, Dyah Ochtorina Susanti, 2019). The primary legal materials used in this study are the 1945 NRI Constitution, the Indonesian Civil Code, the EC Act , Act Number 21, 2011 concerning the OJK (hereinafter OJK Act) and the GRCE . Secondary legal materials are current journal articles, books, and research results related to GRCE and guarantee law. Conceptual and statutory approaches are applied.

RESEARCH OUTCOME AND DISCUSSION

1) The Legal Certainty of Setting YouTube Account as a Collateral Object

The regulation of YouTube accounts that can be used as debt collateral is one of the regulations that has an orientation to see the development of the times. Satjipto Rahardjo argues that law as a social subsystem of society must always see the development of society that continues to change at any time (Rahardjo, 2010). Positive law is indeed a rule and provision on paper. However, in its implementation the positive law must remain "alive" to be adapted to the existing context. Law that continues to adjust to the context of the development of the times is actually a manifestation of the three functions of law in the social-social aspect. Roscoe Pound views that in the context of social-society the law must be put on three aspects (H'ng et al., 2022), namely: first, the law in its position as the regulator of society. Law as a regulator means that the law becomes a regulator in society, including how the law can create an orderly society and in accordance with the objectives of the law.

The law is an authoritative decision of the holder of state power. It has position as a regulator of society places so that in community life the law is able to accommodate and facilitate various aspects of social development which are then regulated in legal instruments(Winata & Purwanto, 2023). Second, the law as a protector as well as a protector of society. As protectors and protectors of the community, it stipulates various community rights that must be protected by the state (Agustina et al., 2021). In addition to the rights of the community that have been determined, the law is also oriented to enforce the rights of the community that have been guaranteed. Thus, that the rights of the community can be exercised and implemented properly. Third, the law as a facilitator to achieve certain goals. In this context, the law is expected to be a facilitator as well as a means of mobilizers to achieve certain goals, especially when there is a context of changing times that requires the community to carry out a certain activity(Kurniawan, 2022).

Of the three legal orientations according to Roscoe Pound above, it is associated with arrangements regarding Youtube accounts that can be used as debt collateral. So the legal aspect as a regulator actually places that the law seeks to regulate society. This is in order to take advantage of technological and information developments through Youtube accounts to be utilized in economic aspects, namely to be used as debt collateral. In the context of protecting as well as protecting the community, the law seeks to protect people's economic rights in the form of economic potential regarding Youtube accounts to be optimized and maximized into debt collateral(Tasev, 2020). From the legal aspect as a facilitator to achieve certain goals, optimizing Youtube accounts as debt collateral is expected to trigger the development of the creative economy in Indonesia.

The EC Act as the basis for the formulation of the EK PP is actually aimed at three aspects, namely: first, the EC Act is expected to be a "locomotive" to encourage the implementation of a creative economy that utilizes various aspects of society. The presence of this Act is expected to foster various productive aspects that can be utilized by the community to improve the creative economy (Febrina, 2022). Second, the EC Act exists as a response to global economic competition that requires every country to compete and compete in the free market era. The presence of the SEZ Law is expected to be the "basis" for the formulation of various policy packages that encourage the productivity and progressivity of Indonesia's creative economy (Wahyuningsih & Satriani, 2019). Third, the SEZ Law is expected to encourage an inclusive climate of the creative economy that can benefit all levels of Indonesian society (Yuwono Priant, Marian, 2021). In this context, the EC Act is expected to be one way for people from all walks of life to participate in the creative economy.

Referring to the three legal orientations in responding to changing times and seen from the three objectives of the EC Act, it is clear that the EC Act has a regulatory and responsive character in an effort to succeed the creative economy in society. The regulative character of the EC Act can be seen from how the EC Act is formulated as an "Umbrella Law" regarding the creative economy (Wijaya & Aini, 2020). This can be seen from various substantive aspects that are fundamentally regulated in the EC Act in the hope that it can be followed up by the regulations below. The responsive character of the EK Law focuses on the efforts of the EK Law to utilize various aspects of economic potential to support the implementation of the creative economy in the community(Kurniasari & Rahman, 2023). One aspect that is considered potential by the EC Act is the aspect of intellectual property to be used as debt collateral. This is as stipulated in Article 16 of the EK Law.

As an implementation of Article 16 of the EC Act, the government established ECGR. One of the important orientations of such Regulation as affirmed in Article 4 paragraph (2) of GRCE where one of the orientations is the use of intellectual property with economic value(Barizah, 2020). There are two orientations why efforts need to be made to utilize intellectual property with economic value, namely: First, the need for the use of intellectual property with economic value is actually a global demand where in the international arena intellectual property rights are one of the assets exhibited and offered in global trade competition(Gagliani, 2021). Intellectual property then becomes a trend of a country's wealth when compared to the previous phenomenon that identifies a country's wealth with the wealth of natural resources.

Second, the use of intellectual property with economic value is an important orientation based on the reality that develops in society (Ariani, 2021). One of the implementations of the use of intellectual property with economic value in GRCE is the use of Youtube accounts as debt collateral. The use of Youtube accounts as a collateral object as stipulated in this Regulation is actually a step and effort based on facts and reality of Indonesian people who have Youtube accounts. Indonesian people's awareness regarding Youtube accounts that have economic potential is also fairly low and therefore, The presence of the Regulation, one of the reasons for which is to use a YouTube account as debt collateral, is a progressive step based on reality in society. Regarding efforts to make Youtube accounts as debt collateral, conventionally in Articles 1131 and 1132 of the Indonesian Civil Code, there are two orientations to confirm that there are two forms of guarantees in law, namely general and special guarantees.

General guarantee is a guarantee which is intended to guarantee the interests of creditors which includes all the debtor's wealth (Nurbaedah, 2021). This type of guarantee will be optimal if the price of the guarantee is greater than the amount of debt owed by the debtor. However, if the amount of the debt is greater than the value of the guarantee, there is a phenomenon of injustice for the creditor because even though a general guarantee has been applied, the debtor has not been able to carry out its obligations to the creditor. The next guarantee is a special guarantee related to guarantees that, although they cannot guarantee exactly when a bill will be paid, provide property rights as guarantees to creditors so that they can better guarantee the fulfillment of guarantees. (Abdul Rachman, Atiqi Chollisni, Muklis, Dewi Reni, 2022).

Articles 1131 and 1132 of the Indonesian Civil Code which affirm the existence of two forms of guarantees, namely general guarantees and special guarantees, are emphasized by the existence of three forms of guarantees, namely: material, immaterial, and other guarantees(Neng Yani, 2015).. A material guarantee is a guarantee whereby the debtor surrenders a specific property right that can be utilized by the creditor in the event of default. In the context of using a Youtube account as debt collateral, it can be concluded that a Youtube account guarantee is a material right with monetary value. Youtube accounts can generate income through adsense and other activities on the platform. YouTube accounts have economic value; therefore, they can be used as collateral to secure payment.

Although it has economic value, the Regulation , does not necessarily consider all Youtube accounts that can be used as a collateral object. Article 10 of GRCE actually provides a limitative prerequisite that a Youtube account can be used as debt collateral, namely: Youtube account that has been registered and has been managed either independently or transferred to another party. Furthermore, regarding the assessment of a Youtube account whether it can be used as debt collateral or not submitted to a financial institution, in this context it is the Bank. Article 8 of the Regulation authorizes financial institutions, one of which is the Bank to assess Youtube accounts that can be used as debt collateral. Article 12 of the REgulation states that the assessment of Youtube accounts can be used as debt collateral must refer to several approaches including: income, cost, market, and/or other assessment approaches. If read carefully in Articles 8 and 12 of the Regulation , the assessment standard for Youtube accounts can be used as debt collateral yet to guarantee legal certainty.. Because it has not determined specifically what assessment standards and guidelines can be used to evaluate a YouTube account, it cannot be used as collateral object.

The provisions of Article 12 of GRCE also create legal vagueness, especially in the phrase "other approaches/assessments". The phrase can be subjective for appraisers and financial institutions to assess a Youtube account can be used as debt collateral. Therefore, legal uncertainty in this article needs to be formulated an implementing regulation for GRCE to specifically regulate standards, guidelines, and guidelines regarding the assessment of intellectual property rights that are used as collateral including in an effort to assess a Youtube account to be used as debt collateral. Regulations regarding standards, guidelines, and guidelines to ensure legal certainty appropriately can be formulated through OJK Regulations. Referring to Article 5 of the OJK Law, one of OJK's authorities is to regulate every transaction carried out in the financial services sector.

With this authority, referring to Article 8 of the GRCE that the assessment on whether a Youtube account to be used as debt collateral or not is a financial institution, then OJK is appropriately authorized to regulate standards, guidelines, and guidelines for assessing a Youtube account to be used as debt collateral (Putri, 2020). In this case, OJK needs to form OJK Regulations that substantively regulate standards, guidelines, as well as guidelines to ensure the certainty of a Youtube account to be used as debt collateral. The OJK Regulation to be prepared is also expected to continue to refer to severalaspects of the GRCE as in Article 8 in conjunction with Article 12 of the Regulation, especially OJK Regulations provide authentic interpretations of the provisions of Article 12 of the GRCE regarding other assessment standards.

It can be said that the efforts to assess a Youtube account to be used as a collateral object in order to ensure legal certainty is indeed to to form OJK Regulations that substantively regulate standards, guidelines, as well as guidelines for assessing a Youtube account to be used as debt collateral or not. The OJK regulation that was prepared is also expected to harmonize with GRCE as well as to provide valid standards on what approaches can be used as guidelines for assessing a Youtube account that can be used as a collateral object.

2) Establishing YouTube Accounts as a Collateral Object: A Comprehensive Legal Analysis

Setting a Youtube account that can be used as a collateral object is actually part of a legal development based on the reality that develops in society (Rahmanda & Benuf, 2021). The development of digitalization in society has implications for the dominant role of Youtube for Indonesian society. In fact, in some ways such as practicality, Youtube has been able to replace television(Nathania Abigail Hanson, Rika Ratna Permata, 2022). The culture of people who watch television together has now been replaced by private streaming through Youtube. The dominant role of Youtube as an implication of the development of digitalization in society can actually be used in things with an economic dimension. One of these utilization efforts is to make a Youtube account as debt collateral. Youtube in addition to developing and becoming part of people's lives also has an economic impact (Huffman, 2020). its impact actually raises a new paradigm to make Youtube accounts as debt collateral.

. The idea of making a Youtube account as debt collateral has relevance to a progressive legal perspective. The progressive legal perspective as proposed by Satjipto Rahardjo actually views legal development as a "mirror" of societal development (Rahardjo, 2008). In Satjipto Rahardjo's view, law and society are "one body", if one part of it is affected by certain things, then it can have an impact on other aspects (Dicky Eko Prasetio Adam Ilyas Felix Ferdin

Bakker, 2021). Regarding its relevance to the development of the times, progressive law places itself as a guide to the development of the times.

Progressive law as a guide to the development of the times presents three orientations and patterns of thinking. Fisrtly,the inevitability of the times makes progressive law view that legal norms are not something "sacred", "sacred" or even "cult".Progressive law even mandates efforts to reform of law if legal norms and instruments actually hinder the development of the times (Markus Marselinus Soge, 2022). The character to continue to develop in progressive law emphasizes that the law must not close itself. The essence of law is to adapt and serve all human needs.

Secondly, progressive law sees the development of the times as an enigmatic condition or an uncertain condition because the legal provisions in force today may be changed tomorrow morning because they conflict with the legal needs of society(Dewantara, 2022). This enigmatic condition seeks to place the law responsively, which means that the law must explore the aspirations and needs of the community. In exploring the aspirations and needs of the community, the law involves various levels of society to know and inventory their needs. By understanding and knowing the legal needs in the community, the development of the times which is an enigmatic condition can be simplified into a programmatic condition, which is a planned and predictable condition.

Thirdly, progressive law realizes that the development of the times on the one hand has a positive impact but on the other hand development also brings "congenital diseases" in the form of new problems that previously did not exist and were not even predicted to exist(Rifai, 2011). Therefore, progressive law in addition to having to facilitate the development of the times must also diagnose the potential of "congenital diseases" as an implication of the development of the times so that solutions can be found. From the three orientations of thinking in the progressive law above, it can be understood that setting a Youtube account that can be used as debt collateral must be seen from two aspects, namely from a positive side and a negative side. From a positive perspective, setting up a Youtube account that can be used as debt collateral can have implications for the development of the creative economy sector. Through the CE Act and GRCE , the government actually aims to optimize aspects of the creative economy which are divided into 17 sectors which include: culinary, visual communication design, architecture, music, fine arts, including optimization of intellectual property rights.

The regulation of Youtube accounts that can be used as debt collateral, this has the potential to turn the wheels of the economy because of the ease of providing capital, particularly with Youtube account guarantees, and the comprehensive and constructive nature of the capital provided. From a negative perspective, as the "skeptical" of progressive laws towards the times, the use of Youtube accounts that can be used as debt collateral must anticipate various "congenital diseases" that could potentially damage the community if they are not carefully diagnosed. One of the potential issues that may arise in relation to Youtube accounts that can be used as debt collateral relates to the YouTube account prerequisite requirements that must be met before the account can be used as debt collateral. Furthermore, how can the existence of the economic value of a Youtube account be guaranteed and maintained, for instance when applying for a debt loan? His Youtube account has a high economic value, but its economic value decreases over time.

The next question is whether the standards set by GRCE can be a "safety net" in debt loan practices using Youtube accounts as collateral. from the positive and negative aspects of using a Youtube account that is used as a collateral object, the progressive law offers a solution, which is necessary to regulate and to provide strict standards and assessments related to the eligibility of Youtube accounts that can be used as debt collateral.. Obviously, the economic value of a YouTube account remains its primary focus, but this economic value must be created in a sustainable manner. One of the characteristics of a Youtube account that can be used as debt collateral from a progressive legal perspective is that it has enduring economic potential. In this instance, sustainable economic potential is one of the criteria that must be assessed and used as a prerequisite for a YouTube account that can be used as debt collateral.

. The discussion above has shown that orientation from a progressive legal perspective regarding the use of Youtube accounts which is used as a collateral object should be seen from positive and negative impacts. In terms of potential negative effects, it is necessary to identify potential problems. Thus, there will be no issues in the future regarding the use of YouTube accounts as debt collateral. Progressive law provides one of the criteria that can be used to evaluate a such collateral object that is the existence of sustainable economic value. Sustainable economic value should be one of the requirements for a YouTube account to qualify as a collateral object. This implies that if a YouTube account submitted as a collateral object fails to meet the criteria of sustainable economic value, the account is rejected as a collateral object or guarantee.

CONCLUSION

The effort to assess a YouTube account which is used as a collateral object in order to ensure legal certainty, it is necessary to establish the OJK Regulations that substantively regulate standards, guidelines, and guidelines for assessing its object. The OJK regulation that is prepared is also expected to harmonize with GRCE as well as to provide valid standards on what approaches can be used as guidelines, and guidelines for assessing a Youtube account to be used as debt collateral. This must be seen various positive and negative impacts. Especially regarding the potential negative impacts, it is necessary to diagnose potential problems so that in the future there will be no problems regarding the use of Youtube accounts that can be used as debt collateral.. Progressive law provides one of the criteria that can be used to evaluate a Youtube account that is used as a collateral object, that is the existence of sustainable economic value. Sustainable economic value should be one of the requirements for a YouTube account to qualify as collateral for a loan. This implies that if a YouTube account submitted as a collateral object is not able to meet the sustainable economic value criteria, the account is not eligible for the collateral object.

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