

ABSTRAK

Dalam kredit perbankan, nasabah debitur diwajibkan menyerahkan jaminan kepada kreditur sebagai jaminan kepastian dikembalikannya kredit. Sebagaimana kasus nasabah debitur yang mengajukan kredit di bank dengan jaminan sertifikat hak atas tanah. Debitur berhasil melunasi angsuran beserta bunganya tepat waktu, namun kreditur tidak kunjung mengembalikan sertifikat hak tanggungan bahkan hingga 7 bulan pasca lunasnya kredit tersebut. Dengan tidak dikembalikannya sertifikat hak tanggungan tersebut mengakibatkan kerugian bagi debitur, yakni mengalami kesulitan ketika hendak melakukan pencoretan hak tanggungan atau roya ke Kantor Pertanahan. Oleh karena itu penelitian ini penting dilakukan karena mendeskripsikan apa saja hak yang harus diperoleh nasabah debitur yang telah melunasi kredit dengan jaminan hak tanggungan serta untuk menganalisis upaya yang dapat dilakukan nasabah debitur atas hilangnya sertifikat hak tanggungan.

Penelitian ini menggunakan metode penelitian adalah jenis penelitian normatif, yaitu menggunakan metode pendekatan dengan perundang-undangan (*statue approach*).

Hasil penelitian menunjukkan bahwa hak yang harus diperoleh nasabah debitur yang telah melunasi kredit dengan jaminan hak tanggungan yaitu hak untuk dilakukan pencoretan hak tanggungan atau roya ke Kantor Pertanahan. Upaya yang dapat dilakukan nasabah debitur selaku pihak yang dirugikan untuk memperoleh sertifikatnya kembali terdapat 2 (dua) alternatif dalam melakukan penyelesaian sengketa yaitu melalui jalur *litigasi* yaitu mengajukan permohonan atau gugatan kepada pengadilan dan melalui jalur *non litigasi* yaitu melalui jalur di luar pengadilan. Jalur *litigasi* dilakukan dengan mengajukan permohonan kepada Pengadilan Negeri untuk memerintahkan pencoretan hak tanggungan, mengajukan gugatan wanprestasi di Pengadilan Negeri apabila memang terdapat klausul perjanjian untuk mengembalikan Sertifikat Hak Tanggungan ketika kredit nasabah debitur lunas serta mengajukan gugatan perbuatan melawan hukum (PMH), sedangkan jalur *non litigasi* dilakukan melalui Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan (LAPS SJK) yang didalamnya menyediakan mekanisme mediasi dan arbitrase dan melalui Alternatif Penyelesaian Sengketa (APS).

Kata Kunci: Perlindungan Hukum, Nasabah Debitur, Hak Tanggungan

ABSTRACT

In bank credit, debtor customers are required to submit collateral to creditors as a guarantee of the certainty of returning credit. As in the case of a debtor customer who applied for credit at a bank with a land title certificate as collateral. The debtor managed to pay off the installments and interest on time, but the creditor did not return the mortgage certificate even up to 7 months after the credit was paid off. The non-return of the mortgage certificate resulted in losses for the debtor, namely experiencing difficulties when he wanted to carry out the removal of the mortgage or roya to the Land Office. Therefore, this research is important to do because it describes what rights must be obtained by debtor customers who have paid off credit with a mortgage guarantee and to analyze the efforts that can be made by debtor customers for the loss of a mortgage certificate.

This research uses a research method is a type of normative research, which uses a statutory approach (statue approach).

The results showed that the rights that must be obtained by debtor customers who have paid off credit with collateral for mortgage rights are the rights to carry out the removal of mortgage rights or roya to the Land Office. Efforts that can be made by the debtor customer as the injured party to obtain the certificate back there are 2 (two) alternatives in resolving the dispute, namely through litigation, namely submitting an application or lawsuit to the court and through non-litigation, namely through out-of-court channels. The litigation path is carried out by submitting an application to the District Court to order the removal of mortgage rights, filing a default lawsuit in the District Court if there is an agreement clause to return the Mortgage Certificate when the debtor customer's credit is paid off and filing a lawsuit against the law (PMH), while the non-litigation path is carried out through the Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK) which provides mediation and arbitration mechanisms and through Alternative Dispute Resolution (APS).

Keywords: Legal Protection, Debtor Customer, Mortgage Rights