

THE STATUS OF CIVIL RIGHTS ON PEOPLE WITHOUT KNOWLEDGE THE DOMICILE IN CASE OF HOUSE OWNERSHIP LOANS (KPR) AT BANK BTN PEKANBARU BRANCH

¹Gian Alan Trio, ²Prof. Dr. Busyra Azheri, ³Dr. Nani Mulyati
¹Master Of Notary Student, ²Master Of Law Lecture, ³Master Of Law Lecture
Faculty Of Law, Andalas University, Padang, West Sumatera, Indonesia
Email – ¹trigian12@gmail.com

Abstract: Civil law is known as a state of absence (*afwezigheid*), which is a condition in which a person does not occupy or reside in his place of residence for certain reasons and its whereabouts are not clearly known. The main problem in this study is how the status of civil rights over people whose domicile is unknown in the case of Home Ownership Credit (KPR) at Bank BTN Pekanbaru Branch and how to analyze the decision No.150/PDT/G/2013/PN.PBR regarding civil rights over people the domicile is unknown in the case of Home Ownership Credit (KPR) at Bank BTN Pekanbaru Branch.

Key Words: Civil Rights, *Afwezigheid*, Home Ownership Credit (KPR).

1. INTRODUCTION:

Home Ownership Credit Agreement is an agreement made to bind the debtor and creditor which contains all the rights and obligations that must be carried out by each party, and for the implementation of the transfer of rights in this case using the Sale and Purchase Deed, it must be carried out before the Land Deed Making Officer. [1]

The legal status of the person who is declared absent (*afwezigheid*), must first be stated in a decision from the District Court which states that the person is not present (*afwezigheid*). A deed regarding a person's legal status is very important in terms of recording carried out by a civil registry institution which aims to provide complete information and therefore also to provide legal certainty regarding events related to a person's legal position. The recording is not only beneficial for the person who recorded it but also for other interested parties. The status of a person who is declared in a state of absence (*afwezigheid*) is closely related to the agency or institution which according to the law is entrusted with managing or administering the rights to a person's assets is declared in a state of absence (*afwezigheid*).

2. THEORITICAL FRAMEWORK:

a. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is carried out, that those entitled by law can obtain their rights and that decisions can be implemented.[2]

b. Theory of Legal Protection

According to Satjipto Raharjo, legal protection is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law.[3]

3. LITERATURE REVIEW:

The definition of credit according to accounting is the provision of cash loan facilities (not based on sharia principles) to customers, either in the form of cash loan facilities or non-cash loans.[4]

Ida Bagus Wyasa Putra has the view that agreement and contract are the same term. Wyasa emphasized that the term contract is an absorption term that is absorbed from English, *contract*, which is a term that refers to an agreement, written (*written agreement*) or unwritten (*oral agreement*), which is made by two or more people to regulate ties and commercial bond materials. among them.[5]

In many terms a house is more described as something physical or a building for a residence/building in general (such as a building and so on). If viewed more deeply, the house is not just a building but the social context of family life where humans love each other and share with those closest to them.[6]

5. METHOD: The method used in this research is a normative juridical approach, namely *alibrary research*, which is a method of collecting data by studying books, laws and regulations, and writings related to this research.[7]

6. DISCUSSION:

The house is one of the needs that must be fulfilled, with the fulfillment of the need for a house, it can improve the welfare of the family and community and will create an atmosphere of harmony in family and community life in shaping the environment as well as a place for seeding the nation's cultural values in accordance with the goals to be achieved by the Indonesian nation and for To meet the need for housing, the State (in this case the government) provides and organizes programs aimed at achieving these goals through housing credit programs for the community.[8] The first time a debtor buys a house with a Home Ownership Credit (KPR), what is done is the signing of a credit agreement between the debtor and the creditor and the signing of the deed of sale and purchase between the *developer* and the debtor. The signing of the sale and purchase deed is evidence for the issuance of a certificate on behalf of the debtor, which is the object of collateral to be pledged as collateral to the creditor (Bank). When the debtor is no longer able to pay credit installments to the creditor (Bank) and so that there is no default which results in the object of the collateral from the credit agreement being confiscated by the Bank, the debtor looks for a way out by reselling or transferring what is the object of collateral in the Agreement. mortgage.

7. ANALYSIS:

A. Status of Civil Rights on Persons whose domicile is unknown in the Case of Home Ownership Loans (Kpr) at Bank Btn Pekanbaru Branch

Normative legal certainty related to the status of civil rights of people whose domicile is unknown can be fulfilled when a regulation made and promulgated is used as a reference and implemented legally clear and logical so as not to cause multiple interpretations. In other words, legal certainty refers to the application of a clear, permanent, consistent and consequent law whose implementation cannot be influenced by subjective circumstances. Because the theory of legal certainty emphasizes that the law is tasked with ensuring legal certainty in human interaction which aims to ensure the realization of a sense of justice for interested parties. Whereas in Islamic law, people who inherit their inheritance, namely people who die, whether they die essentially or because of a court decision, such as people who are missing (*al-mafqud*) and whose news and domicile are not known are called *muwaris*.

B. Analysis of Decision No.150/Pdt/G/2013/Pn.Pbr Regarding Civil Rights Over People Who Do Not Know Their Domicile In The Case Of Home Ownership Loans (Kpr) At Bank Btn Pekanbaru Branch

Associated with analysis of Decision No.150/PDT/G/2013/PN.PBR regarding civil rights over people whose domicile is unknown in the KP case) at the Pekanbaru branch of the State Savings Bank (BTN), namely in this case, the judge handed down a *verstek* and granted the Plaintiff's claim for all in this case 1 (one) housing unit Type RSS 36/120 Block OO No. 4 in the Citra Sari Housing Complex in Pekanbaru City is legal and valuable. According to positive law, it can be carried out systematically through three stages of settlement action, namely the stage of temporary action, suspicion of perhaps having died, and the stage of definitive inheritance, but in addition to providing certainty, the law must also provide protection for civil rights of people whose domicile is unknown. In accordance with the concept of legal protection theory which is an inseparable part of the theory of legal certainty, where the law not only provides protection to civil rights for people whose domicile is unknown, but also parties involved in the KPR case at Bank BTN. This aims to protect the rights and obligations of *stakeholders*.

8. CONCLUSION :

From the discussion as explained earlier, several conclusions can be drawn, including:

- The status of the civil rights of a person whose domicile is unknown in the KPR case at the Pekanbaru Branch of BTN must first be stated in a decision from the District Court which states that the person is not present (*afwezigheid*). A deed regarding a person's legal status is very important in terms of recording carried out by a civil registry institution which aims to provide complete information and therefore also to provide legal certainty regarding events related to a person's legal position.
- Analysis of Decision No.150/PDT/G/2013/PN.PBR regarding civil rights over people whose domicile is unknown in the case of Home Ownership Credit (KPR) at Bank BTN Pekanbaru Branch, namely the judge handed down a *verstek* and granted the Plaintiff's claim in its entirety in terms of This 1 (one) house unit Type RSS 36/120 Block OO No. 4 at the Citra Sari Housing Complex in Pekanbaru City is legal and valuable. The Plaintiff is a parent with good intentions who pays the credit installments in full on behalf of Defendant I to Defendant II and has the right to request and receive a certificate of ownership of the right to use the building. The Bank as Defendant II must submit a certificate of Hak Guna Bangunan on behalf of Defendant I and other documents to Defendant I.

REFERENCES:

1. Budi Harsono, 2008, *Hukum Agraria Indonesia; Sejarah Pembentukan Undang-Undang Peraturan Agraria, Isi dan Pelaksanaannya*, Jembatan, Jakarta, page 313.
2. Sudikno Mertokusumo, 2007, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, page 160.
3. Satjipto Raharjo, 2000, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, page. 5.
4. Sigit Triandaru dan Totok Budi Santoso, 2006, *Bank Dan Lembaga Keuangan Lain Edisi 2*, Salemba Empat, Jakarta, page 113.
5. Ida Bagus Wyasa Putra, 2017, *Hukum Kontrak Internasional The Law Of International Contract*, Cet I, Refika Aditama, Bandung, page 1.
6. Aminudin, 2007, *Peran Rumah Dalam Kehidupan Manusia*, Kanisius, Semarang, page 12.
7. Soerjono Soekanto, Sri Mamudji, 2003, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, PT. Raja Grafindo, Jakarta, page 23.
8. Handri Rahardjo, 2003, *Cara Pintar Memilih dan Mengajukan Kredit*, Pustaka Yustisia, Yogyakarta, page 94.