

Research Article

Legal Status of the Object of the Fiduciary Determined as State Confiscated Goods that Have Been Auctioned

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Abstract: The purpose of this study is to analyze the legal status of fiduciary collateral objects designated as state-confiscated assets that have been auctioned, and to examine the resolution of the state's rights in confiscating and auctioning fiduciary collateral objects in relation to the rights of financing companies as fiduciary creditors whose claims remain unsettled. This study employs a normative juridical research method using statutory, case, and conceptual approaches. The results show that fiduciary collateral objects confiscated and auctioned by the state do not automatically nullify the creditor's rights, as the principle of *droit de suite* entitles creditors to claim the object or the proceeds from its sale. Regulatory ambiguity creates legal uncertainty and discourages fiduciary-based financing practices. From a justice perspective, the state must not arbitrarily execute assets without considering the legitimate rights of creditors. Resolution of the conflict between the rights of the state and creditors must be carried out proportionally through criminal, civil, or non-litigation avenues, in order to establish a balance between law enforcement and creditor protection, thereby maintaining stability in the financing sector.

Keywords: Auction, Fiduciary Collateral Object, State-Confiscated Assets

1. Introduction

Indonesia as a country of law mandate all over aspect life nation and state subject to the principles legality and certainty law . Constitution confirm that supremacy law become a main pillar in guard balance between right individuals and state authorities , including in realm economy that becomes bone back welfare national (Dwi, 2023). In the context this , institution guarantee fiduciary appear as instrument crucial bridging need financing economy with principle certainty law , as set up in Constitution Number 42 of 1999 concerning Guarantee Fiduciary (UU JF). However , the practice law latest show existence clash normative between right preference creditors based on principle the power of the suite in law civil with state authority to seize asset as goods proof act criminal based on criminal procedure law (T'ion, 1985) .

The problem fundamental lies in the absence synchronization vertical between the JF Law and the Criminal Procedure Code (KUHP), in particular regarding legal status object guarantee fiduciary seized by the state through Decision Court . In fact , Article 20 of the JF Law specifically firm ensure right execution creditors on object guarantee although has switch ownership , while Article 46 of the Criminal Procedure Code provides authority absolute to the state to auction goods loot without consider right civil party third (Siwi, 2017) . Conflict norm This create uncertainty law potential systemic to grind trust perpetrator business to institution financing , as seen in Decision Tanjung Karang District Court Number 26/ Pdt.G

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/2023/PN Tjk which ignores the rights of PT Federal International Finance as holder fiduciary .

Study This use approach legal normative with analyze hierarchy regulation legislation , doctrine law , and decisions court related to object status guarantee fiduciary . Through method interpretation systematic and comparative , study This aiming identifying legal lacunae in arrangement collision authority between law civil and criminal , at the same time formulate a satisfactory solution model principle balance (balance of interests) between interest enforcement law criminal law and protection right creditors . Findings study expected give contribution academic in Updates law guarantee responsive fiduciary to dynamics modern economy without ignore principle good faith in relation law civil (Wiraguna, 2024) .

The analysis focused on three dimensions main : (1) position law fiduciary as right material things that are tangible absolute in system Indonesian law ; (2) implications legal auction goods state seizure of principle priority creditors ; and (3) urgency harmonization normative between the JF Law and the Criminal Procedure Code through mechanism special case derogatory legion generali . Research This to argue that neglect right fiduciary in the process of state seizure not only contradictory with principle protection law (rechtsbescherming) but also has the potential create distortion in ecosystem impactful financing systemic to stability economy national.

2. Literature Review

Certainty law and justice is two fundamental pillars in system the law that has been become focus study intensive philosophers and theorists law during centuries . Both draft This No only to form runway theoretical for development system modern law , but also become the main parameter in evaluate effectiveness and legitimacy a order law in public .

Theory of Legal Certainty

Theory of certainty law experience development significant through contribution various thinker leading , with Gustav Radbruch as figure the center that formulates draft certainty law as one of the from three objective law main together justice and utility . Radbruch explain that certainty law own four matter fundamental : law is matter positive meaning legislation , law based on facts , facts must formulated with clear For avoid error interpretation , and law positive No may easy changed . While that , Hans Kelsen through theory law pure emphasize that law is system norms that are "das sollen " in nature include regulation about What should done , where it exists rules and implementation rule the cause certainty law . Contribution important other come from Jan M. Otto which requires five conditions For certainty law : rules clear and consistent laws , consistent application by the authorities , agreement majority citizens , judicial independence , and the ability implementation decision justice in a way concrete (Berteau, 2008) .

Theory of Justice

Theory of justice get elaboration deep from John Rawls in his work " A Theory of Justice " (1971) which became reference main in literature academic international indexed by Scopus. Rawls introduced two principle main justice : first , every individual own equal rights on freedom the broadest compatible base with freedom of others; second , inequality social and economic only can accepted If give benefit the biggest for member the most disadvantaged communities lucky and if position open for everyone . Rawls uses the concept of " position" original position and " sheath " " veil of ignorance " as framework hypothetical For ensure impartiality in taking decision about principle justice . On the other hand , Aristotle as pioneer thinking justice classic to put forward two type justice : justice related distributive with distribution source Power in a way proportional based on contribution and ability individuals , as well as justice corrective focused on recovery balance in connection social . Aristotle 's thoughts still relevant in context system Indonesian law based on Pancasila, especially in implementation please secondly " Just and Civilized Humanity " and precepts fifth about justice social (Boot, 2012) .

Second theory This show that effective law need balance between certainty and justice , where certainty law give predictability and consistency in implementation rules , while justice ensure that law serve higher moral and social goals high . In the context of Indonesia which is facing challenge modernization system law , understanding deep to second theory This become crucial For develop framework law that does not only give certainty but also realize justice for all over public.

3. Research Methods

Study This is study law prescriptive purposeful provide suggestions and prescriptions in finish legal status issues object guarantee fiduciary who has set as goods state looting and has auctioned , with use three approach main that is approach legislation , approach cases , and approaches conceptual . The type of research used is method legal normative which focuses on studies secondary data library and analysis in the form of regulation legislation , literature , and results study previously , with material primary laws such as the 1945 Constitution, Criminal Code, Criminal Procedure Code, Guarantee Law Fiduciary , and regulations implementation related , materials law secondary like explanation regulations , books , results research , opinion experts , articles , and journals , as well material law tertiary like dictionaries and encyclopedias . Collection technique material law done through studies bibliography , while analysis material law use technique analysis qualitative prescriptive For formulate solutions and recommendations application related clash interest between right guarantee fiduciary in realm civil and state rights in to seize as well as auction goods proof in realm criminal , so that expected can give contribution real in settlement conflict interest law between the state and the company financing (Marzuki, 2010:133)

4. Discussion

Legal Status of Fiduciary Guarantee Objects Determined as Confiscated State Goods that have been Auctioned

The concept of fiduciary in Indonesia refers to the concept of *fidusa cum creditore* where there is a transfer of ownership based on trust to the creditor as stated in Article 1 number 1 of the JF Law which states "Fiduciary is the transfer of ownership rights of an object based on trust with the provision that the object whose ownership is transferred remains in the possession of the owner of the object." (Huri, 2022) .

The current concept of fiduciary which functions as a guarantee, not a transfer of ownership as happened in Roman times is clearly seen in the provisions of Article 33 of the JF Law. This provision prohibits the recipient of fiduciary from owning objects that are the object of Fiduciary Guarantee if the debtor defaults or defaults. Any promise that grants such authority is null and void by law. Thus, there is no perfect transfer of ownership, but what arises is the right to guarantee the object that is used as Fiduciary Guarantee (Usman, 2021) .

In the fiduciary guarantee legal system, one of the fundamental principles that applies is the principle of *droit de suite* which gives the creditor as the guarantee holder the right to continue to demand the fiduciary object even though it has been transferred to another party (Article 20 of the JF Law). However, in cases where the guarantee object is determined as state confiscated goods and then auctioned based on a criminal court decision, there is a conflict between the state's authority in carrying out the execution of the criminal decision and the creditor's rights who have bound the object with a fiduciary agreement. (Prasetyo, 2020) .

Determination of an item as state confiscated goods usually occurs in criminal cases where the court states that the item is related to a particular crime and must be confiscated for the benefit of the state. In this case, the state through the prosecutor's office has the authority to execute the court's decision by auctioning off the confiscated goods. Problems arise when the auctioned item is an object of fiduciary collateral, where the creditor has not yet received payment of his debt from the debtor. If the confiscation and auction process is carried out without considering the creditor's rights as the holder of the fiduciary collateral, then there is the potential for violations of the creditor's rights which should receive legal protection. (Simatupang et al., 2021) .

In Indonesian criminal procedure law, goods that can be confiscated by the state must be preceded by confiscation. Regarding goods that can be confiscated, this is regulated in Article 39 paragraph (1) of the Criminal Procedure Code which explains that "what can be subject to confiscation are a) objects or claims of the suspect or defendant which are wholly or partly suspected of being obtained from criminal acts or as a result of criminal acts; b) objects that have been used directly to commit criminal acts or to prepare for them; c) objects used to obstruct the investigation of criminal acts; d) objects that are specifically made or intended to commit criminal acts; e) other objects that have a direct relationship to the criminal act committed."

The status of evidence that was initially a confiscated object changes to state confiscated goods when the Public Prosecutor can prove that the confiscated goods are the results/tools used to facilitate the commission of a crime. However, even though the evidence that has been confiscated in a criminal case is proven to be a means to commit a crime, the evidence can be returned to the rightful party. For example, to the leasing company which is the holder of the fiduciary guarantee for the means to commit the crime.

In practice, we can see how the District Court in the criminal realm responds to evidence that still contains fiduciary guarantees. Decision Number 525/Pid.B/2020/PN Kot on behalf of the defendant Yogi Indra Saputra bin Ahmad Syafei, at the Kota Agung District Court in a case of theft under aggravating circumstances as regulated in Article 363 paragraph (1) Ke-4 of the Criminal Code. In the decision, the Panel of Judges in its decision determined that the evidence in the form of 1 (one) unit of a Honda Beat motorcycle in red and black with Police Number BE 7937 Z, Frame Number MH1JFM212EK517855 and Engine Number JFM2E1526658 (hereinafter referred to as the "beat motorbike") was confiscated for the state. The Panel of Judges in the a quo case is of the opinion that the Beat motorbike was confiscated because "the goods still have economic value that can be used for the benefit of the state, therefore based on Article 46 paragraph (2) of the Criminal Procedure Code regarding the evidence, the Panel of Judges agrees with the Public Prosecutor that it is necessary to determine that it be confiscated for the state". In fact, the motorbike is still in credit status at the FIF Group Lampung Branch, as evidenced by the Fiduciary Guarantee Certificate Number: W9.00143205.AH.05.01 of 2020 dated November 6, 2020 issued by the Lampung Regional Office of the Ministry of Law and Human Rights, which in principle the debtor on behalf of Muhamad Solpan as the fiduciary grantor agreed to transfer ownership of the Beat motorbike as the object of the fiduciary guarantee to PT FIF as the creditor guaranteeing the payment of debt for debtor Muhamad Solpan. Furthermore, because the Beat motorbike was declared confiscated for the state, the Prosecutor at the Pringsewu District Attorney's Office conducted an auction of the confiscated goods as per the Letter of Implementation of the Auction of Confiscated Goods Number: B-1806/L.8.20/Cum.1/11/2021 at the Pringsewu District Attorney's Office with a receipt dated November 10, 2021 for IDR 920,000.00 (Nine Hundred Twenty Thousand Rupiah) and the Decree of the Head of the Pringsewu District Attorney's Office Number: KEP-35/L.2.80/Cu.3/11/2021 which in essence stated that the Honda Beat motorbike had been auctioned and purchased by Median Suwardi as the Prosecutor at the Pringsewu District Attorney's Office.

However, a different attitude can be seen in Decision Number 664/Pid.B/2023/PN Smg, at the Semarang District Court on behalf of the defendant MARULI AGUNG KURNIAWAN, SH, Bin Rijadi in a case of jointly receiving as regulated in Article 480 paragraph (1) in conjunction with Article 55 paragraph (1) Ke-1 of the Criminal Code. In the decision, the Panel of Judges in its decision determined that the evidence in the form of 21 (twenty-one) units of 2-wheeled motor vehicles of the Honda brand was returned to the rightful party through PT FIF. The Panel of Judges in the a quo case did not provide a legal or sociological opinion regarding the reasons why the evidence was returned to the rightful party, in this case the FIF Group, but according to the author, this decision has provided justice for the creditors.

In principle, the holder of a fiduciary guarantee has a preferential right over the object being guaranteed. This preferential right means that the creditor has a higher position compared to other creditors in terms of debt repayment from the results of the execution of the guarantee. In the context of civil law, this right provides a guarantee that the creditor has the right to obtain repayment of his receivables before other parties. However, in the case of goods designated as state confiscated goods, this right can be displaced by the state's authority to confiscate and auction goods related to criminal acts.

In one of the case examples that the Author has described above, it creates legal uncertainty for financing institutions and creditors because the district court declared the fiduciary collateral as state confiscated goods. In practice, this can weaken the principle of legal certainty in fiduciary agreements, because the collateral that was previously considered an instrument of creditor protection can be unilaterally lost due to a criminal court decision.

Court decisions declaring fiduciary collateral as state confiscated goods have serious impacts on legal certainty and economic stability. From a legal perspective, this creates a conflict between civil and criminal law, and reduces protection of creditor rights. From an economic perspective, this uncertainty can increase credit risk, reduce investor interest, and increase financing costs for the community.

From the perspective of the theory of legal certainty explained by Utrecht, which emphasizes that legal certainty provides protection for individuals, including financing companies, from arbitrary government actions. The legal status of fiduciary collateral objects that have been seized and auctioned by the state should still be recognized as assets that still have fiduciary rights attached to them, as regulated in the JF Law. In this case, the state as the party carrying out the seizure and auction must provide legal certainty regarding the creditor's rights to the auction results or ensure that the object does not immediately remove the fiduciary guarantee. If the legal status of the fiduciary collateral object does not have clear certainty after the seizure, then this has the potential to harm legal certainty in financing practices, thereby weakening the trust of financing companies/institutions in fiduciary guarantees which can result in weakening the stability of the country's financial sector.

From the perspective of the theory of justice presented by Aristotle, which states that justice functions to correct mistakes, provide compensation to the injured party, or provide appropriate punishment, it is necessary to see whether the act of confiscation and auctioning of fiduciary collateral objects has provided proportional justice for all interested parties, especially for creditors who legally have ownership rights to the fiduciary collateral object. In principle, creditor rights should not be set aside just because there is a state confiscation decision against the fiduciary collateral object. Creditors have provided financing based on a legally valid agreement and are even guaranteed by law. Therefore, in order for justice to be maintained, there should be a legal mechanism that ensures that creditors still obtain their rights, such as being given rights to auction results or other mechanisms that will be explained in the following discussion.

The legal status of the object of fiduciary guarantee in the context of state confiscation cannot be said to be automatically removed, even though the goods have been auctioned and changed hands. Due to the absence of a normative settlement mechanism, the legal status of the object becomes gray due to the disharmony of norms between the criminal and civil legal systems, so that regulatory harmonization is needed to ensure that the principles of legal certainty and justice are maintained in legal practices involving 2 (two) legal domains (criminal and civil).

Based on the above, the legal status of fiduciary guarantees is highly dependent on the existence of the object being guaranteed and the legal relationship between the creditor and the debtor. In the context of fiduciary guarantee objects that are designated as state confiscated goods and have been auctioned, it is necessary to consider whether the object is truly destroyed or has only lost its execution power due to the transfer of ownership. Thus, it is appropriate that the status of fiduciary guarantees for fiduciary guarantee objects not be destroyed/fallen, even though they have been declared confiscated for the state based on a decision that has been *incracht*, because its existence still exists and the principle of *droit de suite* remains attached to the object of the fiduciary guarantee, so that the rights of the fiduciary guarantee holder remain recognized and legally protected to the creditor in accordance with the principle of *droit de suite*.

Settlement of State Rights in Seizing and Auctioning Fiduciary Guarantee Objects with the Rights of the Financing Company Holding the Fiduciary Guarantee as Creditor that have not been fulfilled

In the Indonesian legal system, the state has the authority to seize goods originating from or used to commit a crime, as regulated in the Criminal Code and Criminal Procedure Code. These provisions provide a legal basis for the state, through the prosecutor's office for the implementation of court decisions, to seize and auction goods related to criminal acts as part of the law enforcement process.

When the state seizes and auctions the fiduciary collateral object as part of the execution of a criminal court decision, a legal conflict arises between the state's rights to enforce the criminal decision and the rights of the financing/ leasing company as the holder of the fiduciary collateral. In this context, the settlement between the two rights must be examined based on the principles of legal certainty and justice so as not to create inequality in the legal system and the financing sector.

On the other hand, in civil law, especially in the field of fiduciary guarantees, the holder of the fiduciary guarantee, in this case a financing institution or leasing company, has a preferential right to the goods used as collateral. This preferential right provides a higher legal position compared to other concurrent creditors in terms of executing the guarantee if the debtor defaults. In addition, the principle of *droit de suite* also regulates that property rights remain attached to the object, even if the object is transferred to another party. Therefore, even though the object of the fiduciary guarantee is under the control of another party,

including the state based on a criminal decision, the creditor should still have the right to execute it.

The principle of *droite de suite* aims to protect the creditor's rights to the object of fiduciary collateral, so that if the debtor defaults, the creditor can execute the collateral even though the goods have changed ownership or control. However, this principle of *droite de suite* conflicts with the state's authority to confiscate and auction goods that are considered the result of a crime or a tool of crime. In criminal law, the state has the authority to confiscate goods as part of a criminal decision which results in civil rights over the goods being set aside.

Legal conflicts arise when an item that has been bound by a fiduciary guarantee is declared as state confiscated goods in a criminal case. In this situation, the execution rights of the fiduciary guarantee holder are threatened because the state prioritizes the public interest in prosecuting crimes. This often occurs in cases of motor vehicles financed by leasing companies, where the vehicle is used by the debtor or the debtor's partner to commit a crime and is then confiscated and auctioned by the state.

The conflict between fiduciary guarantees and the state's right to seize and auction goods creates legal uncertainty for creditors. The state has the authority to seize goods related to criminal acts, but this must not eliminate the legitimate creditor's rights to the object of fiduciary guarantees. However, until now there has been no clear regulation governing the legal conflict. Therefore, there needs to be a clearer and fairer legal mechanism to balance the state's interests in law enforcement with the interests of fiduciary guarantee holders as legitimate creditors.

In the context of confiscated goods seized by the state, the existence of fiduciary guarantees can be threatened because there is a conflict between the state's right to seize and auction goods resulting from or used to commit a crime with the creditor's rights as the holder of the fiduciary guarantee. The principle of *droit de suite* inherent in fiduciary guarantees emphasizes that the creditor's rights remain even though the object of the guarantee is in the possession of a third party, including the state. Therefore, it is important to examine the solutions that can be taken by creditors. The Author provides solutions that the Author will divide into 3 (three) main aspects, namely criminal, civil, and non-litigation, in order to ensure that the creditor's rights remain protected. The Author will describe this as follows:

1. Criminal Aspects

In the criminal context, there are two main strategies that can be carried out by creditors to maintain their rights to fiduciary collateral objects. First, creditors can file a Judicial Review (PK) on behalf of the defendant, arguing that the seized object actually still has the status of a valid fiduciary collateral and must be returned to the creditor as the entitled party. In fact, PK can only be filed by the convict or his heirs. However, if the creditor can cooperate with the convict, then a PK can be filed on the grounds that there is *novum* (new evidence) showing that the seized object is a fiduciary collateral object that was made legally according to law. This approach can be used if there has been a decision that has permanent legal force (*incracht*), so that if the object has already been auctioned, the restoration of rights will be more difficult.

Second, participate in the criminal process from the investigation stage, with the aim that the Public Prosecutor in his/her charges can ask the Panel of Judges to determine that the confiscated evidence is an object of fiduciary collateral, so that it must be returned to the rightful party (in this case the creditor/ leasing company). This step is a preventive effort that can prevent the confiscation of fiduciary collateral objects without considering the creditor's rights.

2. Civil aspects

From a civil aspect, creditors can take legal action through an Unlawful Act (PMH) lawsuit. A PMH lawsuit can be filed based on Article 1365 of the Civil Code which states "Every act that violates the law and causes loss to another person, requires the person who caused the loss due to his/her fault to replace the loss". This can be done on the grounds that the state has carried out a seizure that is detrimental to the creditor without a clear legal basis and efforts to find material truth about the goods that have been confiscated, so that the state is obliged to replace the losses suffered by the creditor.

3. Non-Litigation Aspects

In addition to litigation, creditors can also take a non-litigation approach, which is often the quickest and most efficient solution in resolving disputes. One step that can be taken is mediation with the prosecutor's office or related state agency before the goods are auctioned, to ensure that the creditor's rights to the fiduciary collateral object are still considered in the legal process. If the goods have been auctioned, mediation can be carried out to try to allocate

part of the auction proceeds to the creditor as a form of compensation. In addition, creditors can also negotiate directly with the auction winner, with the aim of finding a solution that does not harm the creditor, such as returning the object with certain compensation or sharing the auction proceeds. Although more flexible than litigation, the success of the non-litigation approach depends on the good faith of the parties involved.

From these three aspects, it can be concluded that the optimal strategy for creditors depends on the stage of the problem faced. If the collateral object is still under investigation, the criminal aspect is more effective in preventing seizure that is contrary to the creditor's rights. However, if the object has been auctioned, then the civil or non-litigation approach is a more realistic choice. If the creditor prioritizes the restoration of rights quickly, then mediation and negotiation are the best solutions, while the civil route can be taken if there is strong evidence that the state made a mistake in auctioning the fiduciary collateral object. Therefore, in facing this problem, creditors must consider the legal strategy that best suits the concrete conditions so that their rights remain optimally protected.

From the perspective of the theory of legal certainty as stated by Gustav Radbruch who defines legal certainty as *Scherkeit des Rechts Selbst*, namely legal certainty regarding the law itself, there should be clear rules and a firm mechanism regarding how creditors' rights over fiduciary objects can be resolved when the state confiscates and auctions off fiduciary collateral objects. The JF Law has stipulated that creditors as holders of fiduciary collateral have preferential rights to collateral objects, so that confiscation by the state must not ignore these rights. However, in practice, there are no provisions that expressly regulate how creditors' rights are resolved when collateral objects are confiscated by the state. As a result, there is legal uncertainty that can hinder the creditor's rights to execute defaulted fiduciary collateral objects, thus creating the potential for disputes between the state and the holders of fiduciary collateral, in this case financing/ leasing companies .

Regulatory uncertainty can impact the credibility of the financing system in Indonesia. If there is no legal certainty in protecting creditors, then financing companies will face a very high risk in distributing credit, especially those based on fiduciary guarantees. As a result, financing institutions may implement stricter policies in providing credit, increase interest rates, or even reduce the amount of credit provided. This will certainly have a negative impact on the economic sector, especially in terms of accessibility of financing for the community. Therefore, clear regulations or policies are needed so that legal certainty can be guaranteed in resolving state rights and creditor rights over fiduciary guarantee objects.

In the perspective of the theory of justice as stated by John Rawls, every individual must have the same rights and ensure proportionality in the exchange of rights and obligations between the parties involved, including in this context, namely the state and the financing company. The settlement of rights between the state and creditors must consider the principle of proportionality so as not to harm one party excessively. The state does have the authority to seize assets that are relevant to criminal acts, including assets that are still objects of fiduciary collateral. However, creditors also have rights recognized by law over the objects of fiduciary collateral that have been financed. Therefore, the settlement solution must reflect justice while still providing protection to creditors.

Considering the theory of legal certainty, stricter regulations are needed to regulate the settlement mechanism between the state's rights to seize and auction assets with the creditor's rights to the fiduciary guarantee object. Meanwhile, from a justice perspective, the settlement must be carried out proportionally so as not to unfairly harm one party. With a clearer and fairer legal mechanism, not only the state's rights are protected, but also the rights of financing/ leasing companies can still be respected, thus creating a balance in the legal and economic systems.

Based on the above, the rights of the fiduciary guarantee holder over objects that have been designated as state confiscated goods can still be fought for through various legal mechanisms. Although the state has the authority to confiscate and auction confiscated goods, this must not eliminate the rights of creditors who have previously obtained guarantees for the goods. Therefore, it is important for creditors to take appropriate legal steps to protect their rights and ensure that their interests are still taken into account in every process of executing state confiscated goods.

Furthermore, the explanation above shows the phenomenon of conflict of interests between the state and its people (in this case creditors/ leasing companies). This conflict shows the need for harmonization between criminal law and fiduciary guarantee law so that the state's interest in enforcing the law does not automatically eliminate the legitimate rights of creditors. There needs to be a regulation that accommodates a compensation mechanism

or settlement scheme for fiduciary guarantee holders when their collateral objects are seized and auctioned by the state, so that the legal system can run more fairly, not only for the state but also for economic actors who run fiduciary-based financing businesses.

5. Conclusion

The legal status of the fiduciary collateral object that is designated as state confiscated goods and has been auctioned remains under the legal protection of the creditor as the collateral holder, because the principle of *droit de suite* makes the creditor's rights remain attached to the collateral object even though it has changed hands. However, because there is no explicit regulation in positive law regarding the settlement of rights to fiduciary objects that are confiscated and auctioned by the state, its legal status becomes gray, thus opening up loopholes for violations of the protection of property rights that have the potential to result in injustice for creditors.

The settlement between the state's right to seize and auction off fiduciary collateral objects and the rights of financing companies as creditors whose performance has not been fulfilled must be carried out through a legal mechanism that guarantees a balance between public and private interests. The settlement can be taken through three channels, namely 1) the criminal route, by filing a Judicial Review (PK) or being involved from the investigation stage so that the creditor's rights can be accommodated; 2) the civil route, by filing a lawsuit for unlawful acts; and 3) the non-litigation route, through mediation with the state or the winning auction party to seek compensation or recognition of rights to creditors. The absence of norms that specifically regulate the mechanism for resolving this problem shows that regulatory harmonization is needed to ensure legal certainty and justice for all parties.

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