



## Repositioning of Control of Objects by Creditors in the Execution Process According to Law Number 42 of 1999 concerning Fiduciary Guarantees

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### ABSTRACT

*This study examines consumer protection against online transaction crimes in accordance with Law The purpose of this study is to analyze and describe the execution of the control of fiduciary collateral objects for creditors according to Law Number 42 of 1999 concerning fiduciary collateral and to analyze and describe the obstacles and solutions to the execution of fiduciary collateral against defaulting debtors. This research method uses an empirical legal research method with a statutory and case approach. The legal materials used in this study are primary legal materials, namely the Civil Code and Law No. 42 of 1999 concerning Fiduciary Collateral and secondary legal materials. The results of this study are: The process of executing fiduciary collateral must follow the established legal procedures, namely through an agreement between the creditor and the debtor regarding breach of promise, or through a valid court decision. The process of executing fiduciary collateral consists of four stages, namely: 1) the initial monitoring stage, namely the classification of debtors based on the potential for bad debt; 2) the warning stage, namely at this stage the creditor delivers a warning of late payment and sanctions to the debtor; 3) warning letter issuance stage, namely the creditor verifies and issues a warning letter to the debtor who is experiencing bad credit; 4) execution stage, namely the execution carried out by the creditor after the debtor receives the third warning letter. Constitutional Court Decision Number 18/PUU-XVII/2019 has provided a legal interpretation that the executorial power of the Fiduciary Guarantee Certificate cannot be enforced immediately, but is dependent on certain circumstances, for example: a default agreement by the creditor and debtor or the debtor's willingness to hand over the fiduciary guarantee object. Obstacles and solutions in the execution of fiduciary guarantees include: 1) the collateral object is not in the hands of the debtor when the execution is carried out, the solution involves debtor education, digitization of records, firm legal action, and increased supervision; 2) the obstacle of intervention by mass organizations/NGOs, the solution is to increase legal understanding, mediation, law enforcement, transparency, and focus on appropriate roles; 3) the obstacle of the fiduciary object being in the TNI/POLRI/Lawyer/Judge environment, the solution is a legal approach through the courts, coordination, mediation, and compliance with legal procedures.*

**Keywords:** Debtor; Fiduciary Guarantee; Creditor

### ABSTRAK

Penelitian ini mengkaji perlindungan konsumen terhadap kejahatan transaksi online sesuai dengan Undang-Undang. Tujuan penelitian ini adalah untuk menganalisis dan menjelaskan pelaksanaan pengawasan objek agunan fidusia bagi kreditur sesuai dengan Undang-Undang Nomor 42 Tahun 1999 tentang agunan fidusia dan untuk menganalisis dan menjelaskan hambatan dan solusi pelaksanaan agunan fidusia terhadap debitur yang gagal bayar. Metode penelitian ini menggunakan metode penelitian hukum empiris dengan pendekatan hukum dan kasus. Bahan hukum yang digunakan dalam penelitian ini adalah bahan hukum primer, yaitu KUHP dan Undang-Undang Nomor 42 Tahun 1999 tentang Agunan Fidusia dan bahan hukum sekunder. Hasil penelitian ini adalah: Proses pelaksanaan agunan fidusia harus mengikuti prosedur hukum yang telah ditetapkan, yaitu melalui kesepakatan antara kreditur dan debitur mengenai pelanggaran janji, atau melalui putusan pengadilan yang sah. Proses pelaksanaan agunan fidusia terdiri dari empat tahap, yaitu: 1) tahap pengawasan awal, yaitu klasifikasi debitur berdasarkan potensi gagal bayar; 2) tahap peringatan, yaitu pada tahap ini kreditur menyampaikan peringatan keterlambatan pembayaran dan sanksi kepada debitur; 3) tahap penerbitan surat peringatan, yaitu kreditur memverifikasi dan menerbitkan surat peringatan kepada debitur yang mengalami kredit macet; 4) tahap eksekusi, yaitu eksekusi yang dilakukan oleh kreditur setelah debitur menerima surat peringatan ketiga. Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 telah memberikan interpretasi hukum bahwa kewenangan eksekusi dari Surat Jaminan Fidusia tidak dapat dilaksanakan segera, tetapi bergantung pada keadaan tertentu, misalnya: kesepakatan wanprestasi antara kreditur dan debitur atau kesediaan debitur untuk menyerahkan objek jaminan fidusia. Hambatan dan solusi dalam pelaksanaan jaminan fidusia meliputi: 1) objek jaminan tidak berada di tangan debitur ketika eksekusi dilakukan, solusinya melibatkan edukasi debitur, digitalisasi catatan, tindakan hukum yang tegas, dan



peningkatan pengawasan; 2) Hambatan intervensi oleh organisasi massa/LSM, solusinya adalah meningkatkan pemahaman hukum, mediasi, penegakan hukum, transparansi, dan fokus pada peran yang tepat; 3) Hambatan objek fidusia berada di lingkungan TNI/POLRI/Pengacara/Hakim, solusinya adalah pendekatan hukum melalui pengadilan, koordinasi, mediasi, dan kepatuhan terhadap prosedur hukum.

**Kata Kunci:** Debitur; Jaminan Fidusia; Kreditur

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## INTRODUCTION

The development of leasing in Indonesia shows the dynamics of the modern economy. Initially, leasing focused on renting heavy equipment and industry, but has now expanded to the retail sector such as motor vehicles and household electronics. Data from the Financial Services Authority (OJK) shows that the growth in receivables from financing or leasing companies reached 10.82% (yoy) in April 2024, to IDR 486.35 trillion, indicating the high number of credit applications from the public (Utari, 2024).

Every financing or leasing application involves an agreement between the applicant and the lender. According to the Civil Code (KUHPerduta), an agreement is an act in which one or more parties bind themselves to another party, creating rights and obligations that must be carried out by the creditor (lender) and debtor (borrower) (Pasal 1313 KUHPerduta). One common type of agreement is a credit agreement, regulated in Article 1754 of the Civil Code, which is an agreement between the creditor and the debtor regarding the loan, interest rate, payment term, and other conditions (Pasal 1754 KUHPerduta).

One of the legal consequences of a credit agreement is the existence of collateral, including the widely used fiduciary collateral. Fiduciary collateral is collateral for movable objects (tangible or intangible) and immovable objects that cannot be burdened with mortgage rights (Undang-Undang RI Nomor 42 Tahun 1999 tentang Jaminan Fidusia). In a fiduciary agreement, ownership of the object is transferred to the creditor based on trust, but the debtor still has the right to use the object. This is different from a pawn, where the pawned object must transfer power to the creditor. Fiduciary collateral is considered more profitable because the debtor still controls the collateralized object (Winarno, 2013). However, motor vehicle bad debts are an increasing issue. In April 2024, the OJK recorded that non-performing financing (NPF) in the Indonesian multifinance industry reached 2.82%, up 35 basis points annually. The causes are diverse, including debtor financial problems, poor planning, economic conditions, and lack of awareness to fulfill obligations. When bad debt occurs, leasing institutions often execute fiduciary objects, while many debtors embezzle fiduciary objects (Irsyaad W, 2024).

“Fairness of Fiduciary Guarantee Execution After Constitutional Court Decision Number 18/PUU-XVII/2019”. This study analyzes the implementation of fiduciary guarantee execution after Constitutional Court Decision Number 18/PUU-XVII/2019, compares it with previous regulations, and evaluates the fairness given to creditors. However, the research you are doing (this research) will focus on how fiduciary execution is understood by creditors and debtors regarding the control of fiduciary guarantee objects based on Law Number 42 of 1999 concerning Fiduciary Guarantees (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia) (Fuseen Gasali, 2020).

“Legal Protection for Creditors with Fiduciary Guarantees in Credit Agreements”. Alex Komang’s research discusses legal protection for creditors with fiduciary guarantees. Meanwhile, the research you are conducting (this research) will discuss the execution of control of fiduciary guarantee objects for creditors according to Law Number 42 of 1999 concerning Fiduciary Guarantees (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia), with the aim that its implementation does not cause conflicts that are detrimental to one of the parties (Alex Komang, 2024).



"Execution of Fiduciary Guarantees and Legal Risk Management at PT BCA Finance Post Constitutional Court Decision Number 2/PUU-XIX/2021". Ani's research analyzes the implementation of the Constitutional Court's decision on the process of executing fiduciary guarantees and legal risk management at PT BCA Finance. On the other hand, your research (this research) will discuss the execution and authority of both parties, both debtors and creditors, in implementing the execution of fiduciary guarantees based on the Fiduciary Guarantee Law (Ani, 2023).

## LITERATURE REVIEW

This study examines the control and execution mechanisms for fiduciary guarantee objects, taking into account the latest regulatory dynamics in Indonesia. The primary focus of this literature review is to align the provisions of Law Number 42 of 1999 with the latest legal interpretations from the Constitutional Court.

### Legal Basis and Execution Procedure

Based on the Fiduciary Guarantee Law, execution is a crucial action taken by a creditor when a debtor experiences default or breach of contract. 1)Executorial Power: A Fiduciary Guarantee Certificate has legal standing equivalent to a legally binding court decision. 2)Execution Mechanism: Execution can be carried out in three ways: exercising the executorial title, a private sale based on an agreement, or through a lawsuit in the district court if a dispute arises. 3)Procedural Stages: Execution practices generally go through four stages: initial monitoring of potential bad debts, issuing verbal/message warnings, issuing warning letters (SP1 to SP3), and the physical execution stage.

### Impact of Constitutional Court Decision Number 18/PUU-XVII/2019

This decision reinterprets Article 15 paragraphs (2) and (3) of the Fiduciary Guarantee Law to provide greater protection for debtors. 1)Default Agreement: Creditors cannot unilaterally determine a default; this must be based on an agreement between the two parties or a court decision. 2)Voluntary Surrender: The executorial power of the collateral certificate cannot be immediately enforced if the debtor refuses to surrender the object voluntarily.

### Operational Obstacles and Solutions in Execution

Previous research identified several major obstacles to implementing object control in the field: 1)Object Transfer: Debtors often transfer or embezzle collateral objects without written permission, which is legally punishable by criminal sanctions. 2)Third Party Intervention: The involvement of mass organizations or NGOs that obstruct execution often disrupts legal certainty for creditors. 3) Special Location Access: Obstacles arise when the object is located in a restricted area such as the Indonesian National Armed Forces (TNI), Indonesian National Police (POLRI), or other legal agency areas. 4)Strategic Solution: Resolution steps include digitizing object data records, constructive mediation, and close coordination with law enforcement and the courts.

### Originality and Position of the Research

To confirm the originality of this research, comparisons are made with several previous theses: 1)Fuseen Gasali (2020): Emphasizes the aspect of justice for creditors following the Constitutional Court Decision. This research focuses on the actual understanding between debtors and creditors regarding control of collateral objects. 2)Alex Komang (2024): Discusses legal protection for creditors as a right to compensation. This research emphasizes the execution of object control to avoid conflicts that harm either party. 3)Ani (2023): Analyzes legal risk management in a specific financial institution (PT BCA Finance). This research has a broader scope regarding the authority of both parties under the Fiduciary Guarantee Law in general.

## METHOD

The problem approach used in this study is the approach of legislation and cases. Research Specifications The specifications of this study are in the form of descriptive analysis research. Descriptive analysis is a study that attempts to describe legal problems, legal systems and examine or analyze them according to the needs of the research concerned (Kukuh Sudarmanto dkk., 2022). The type of research that can be used in this study is using the empirical legal research method. Empirical legal research, in English, is called empirical legal research, in Dutch it is called the term empirical juridisch onderzoek, which is one type of legal research that analyzes and examines the workings of law in society. Soerjono Soekanto and Sri Mamudji, present that empirical legal research is "legal research



conducted by examining primary data" (Kukuh Sudarmanto dkk., 2022). The collection methods used in this study are library research and field research. The analysis method used, namely legal material analysis, is a process of understanding and studying legal materials that have been obtained in a structured manner, whether it is data obtained from analyzing laws and regulations or data from secondary legal sources, the ultimate goal of which is to draw a conclusion and formulate a solution to a legal problem.

## RESULT AND DISCUSSION

### Execution of Fiduciary Guarantee: Review Based on Law and Constitutional Court Decision Regulation of Execution of Control of Fiduciary Guarantee Objects.

Execution of fiduciary guarantee is a crucial process carried out by creditors when the debtor defaults, where the collateral object is taken over or sold. This process is specifically regulated in Law Number 42 of 1999 concerning Fiduciary Guarantees (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia) and has undergone significant confirmation through the Decision of the Constitutional Court (MK) Number 18/PUU-XVII/2019. According to the Fiduciary Law, fiduciary is defined as the transfer of ownership rights of an object based on trust, with ownership of the object remaining in the hands of the owner (debtor). Fiduciary guarantee objects include movable and immovable objects that cannot be burdened with mortgage rights, providing a primary (preferential) position for the fiduciary recipient (creditor) over other creditors (Pasal 1 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia). The process of providing fiduciary guarantees can involve more than one fiduciary recipient or their attorney/representative (Pasal 8 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia).

Registration of fiduciary guarantees is mandatory and is carried out at the Fiduciary Registration Office (Pasal 11 ayat (1) Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia). This registration involves submitting an application containing details of the party's identity, fiduciary deed, principal agreement, description of the object, and the value of the guarantee (Pasal 13 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia). After being recorded, a Fiduciary Guarantee Certificate is issued, which has the same executive power as a permanent court decision (Pasal 13 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia). This means that if the debtor defaults, the creditor has the right to sell the collateral object without having to go through a court process (Pasal 16 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia).

The Fiduciary Law also regulates the rights and obligations of both parties. The fiduciary grantor has the right to the loan and continues to control the collateral object, and can even trade the object if it is in the form of merchandise. (Pasal 1 ayat (2) Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia). However, they are obliged to make a fiduciary deed (Pasal 5 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia), pay off the debt (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia), not re-fiduciate the same object (Pasal 29 Undang-Undang Jaminan Fidusia), and hand over the object upon execution (Pasal 11 Undang-Undang Jaminan Fidusia). On the other hand, the fiduciary recipient has priority rights in debt repayment (Pasal 13 Undang-Undang Jaminan Fidusia), control of certificates (Pasal 15 Undang-Undang Jaminan Fidusia), and execution (Pasal 23 Undang-Undang Jaminan Fidusia). Their obligations include registration of collateral (Pasal 25 Undang-Undang Jaminan Fidusia) and notification of the removal of collateral (Pasal 15 ayat (2) Undang-Undang Jaminan Fidusia). However, the practice of executing fiduciary collateral has undergone fundamental changes after the Constitutional Court Decision Number 18/PUU-XVII/2019. This decision stated that Article 15 paragraphs (2) and (3) of the Fiduciary Law are contrary to the 1945 Constitution. The phrases "executory power" and "equal to a court decision that has permanent legal force" do not apply if there is no agreement regarding default and the debtor refuses to hand over the object voluntarily (Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019). Furthermore, this decision emphasizes that default cannot be determined unilaterally by the creditor, but must be based on an agreement between the two parties or a court decision (Pasal 15 ayat (2) Undang-Undang Jaminan Fidusia). This Constitutional Court Decision aims to provide more protection to debtors and ensure that the execution process is fair, balanced, and does not result in abuse of authority by creditors.

### Fiduciary Collateral Object Execution Process and Procedure

Fiduciary collateral execution occurs when the debtor defaults, allowing the creditor (fiduciary recipient) to sell the collateral object directly. This process has the same execution power as a court decision that has permanent



legal force (Pasal 11 Undang-Undang Jaminan Fidusia). The proceeds from the sale of the object are used to pay off the debtor's debt, with the remaining proceeds, if any, returned to the debtor (Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019). The execution must follow legal procedures, including the existence of a default agreement between the creditor and the debtor or a valid court decision (Pasal 16 Undang-Undang Jaminan Fidusia). The fiduciary recipient is also required to notify the debtor of the execution plan and provide sufficient time to fulfill the obligation. If the debtor does not fulfill the obligation, the execution can be continued through an auction or direct sale according to the regulations. All execution actions must be transparent and fair, and any changes to the fiduciary collateral certificate must be registered at the Fiduciary Registration Office.

According to Law Number 42 of 1999 concerning Fiduciary Guarantees (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia), the execution procedure can be carried out through three mechanisms:

1. Execution Based on Fiduciary Guarantee Certificate: Fiduciary documents have the same executorial legal force as a permanent court decision, allowing for an execution request without litigation if the debtor is in default.
2. Independent Sale by Related Parties: The parties can sell the collateral object directly with transparency requirements and a fair market price.
3. Execution through Legal Channels: If a dispute occurs, settlement can be made through a civil lawsuit in court. In practice, the execution process generally goes through four stages:
4. Initial Monitoring: Creditors analyze payment reports to classify debtors who are potentially in default.
  - a. Warning: Creditors remind debtors of late payments via messages or calls, as well as agreed procedures and sanctions.
  - b. Issuance of a Warning Letter: A warning letter (SP) is given directly if the delay exceeds a certain time limit. SP1: For delays >4 days, contains details of the debt and a fine of 0.2% per day. SP2: For delays >14 days, contains details of debt, additional fines, and potential withdrawals. SP3: For delays >19 days, requires installment payments or return of units, with the option of voluntary surrender or forced execution.
  - c. Execution: Carried out if the debtor does not fulfill obligations after SP3. Employees (internal/external) are assigned to execute fiduciary objects by attaching evidence and related files. Execution can involve the district court or police if the object is transferred.

Execution exceptions or relief can be given through a payment restructuring scheme if the debtor experiences force majeure (eg natural disasters, war, disease outbreaks), the application of which will be decided by the financing provider (eg TAF). Field officers or collection and execution officers must have a legal collection professional certification. Each fiduciary collateral object is registered with the Ministry of Law and Human Rights to obtain a fiduciary certificate containing complete information about the party and its object.

The process of creating a fiduciary involves several stages: 1) Fiduciary Agreement: Initial agreement between the debtor and creditor regarding the object, value of the debt, and rights and obligations (Article 1 of Law No. 42 of 1999). 2) Making a Fiduciary Guarantee Deed: The agreement must be made in the form of a notarial deed for legal force [Article 4 of Law No. 42 of 1999]. 3) Registration of Fiduciary Guarantee: Creditors are required to register the guarantee with the Fiduciary Registration Office under the Ministry of Law and Human Rights for legal certainty, which results in a fiduciary guarantee certificate [Article 11 of Law No. 42 of 1999]. 4) Legality and Legal Protection: A fiduciary certificate provides execution rights equivalent to a court decision if the debtor defaults [Article 15 paragraph (2) of Law No. 42 of 1999]. 5) Execution of Fiduciary Guarantee: If the debtor fails to pay, the creditor has the right to execute the object, either under hand or through the court, according to the agreement and the decision of the Supreme Court of the Republic of Indonesia regarding the execution of fiduciary guarantees.

Fiduciary is very important because it provides legal certainty for creditors, facilitates access to credit for debtors (who can still use the collateral object), and guarantees the interests of creditors from the risk of default).

## **Obstacles and Solutions to Executing Fiduciary Guarantees Against Defaulting Debtors**

### **Obstacles to Executing Fiduciary Guarantees Against Defaulting Debtors.**



Obstacles in executing fiduciary guarantees against defaulting debtors in Indonesia often arise due to several main factors. Obstacles in the process of executing fiduciary guarantee objects against defaulting debtors are as follows:

### **Fiduciary Guarantee Objects Are Not in the Debtor's Hands**

Debtors often intentionally remove, embezzle, sell, or pawn fiduciary guarantee objects when they are about to be executed by the creditor. This is due to the debtor's lack of understanding regarding Article 23 of Law Number 42 of 1999 concerning Fiduciary Guarantees (Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia), which prohibits the transfer, pawning, or rental of fiduciary objects without written consent from the fiduciary recipient. This action can be subject to criminal sanctions under Article 372 of the Criminal Code (embezzlement) and Article 36 of the Fiduciary Law. This action is contrary to the principle of legal certainty because it violates a valid agreement. From the perspective of justice, it is necessary to evaluate the debtor's intentions, while from the perspective of benefits, fair law enforcement will increase trust in the fiduciary mechanism and support the lending ecosystem.

### **Intervention of Community Organizations (CBOs) or Non-Governmental Organizations (NGOs)**

CBOs/NGOs often intervene to protect or help debtors delay/prevent execution, on the grounds of good relations, reciprocal agreements, or even the desire to control the collateral object. In fact, the execution is carried out based on a court decision or a valid agreement, so that such intervention is unlawful. The involvement of CBOs/NGOs disrupts legal certainty for creditors. However, from the perspective of justice, CBOs/NGOs often act on the basis of social justice to protect parties considered weak, which needs to be balanced with the legal rights of creditors. From the perspective of benefits, allowing embezzlement on the grounds of protecting CBOs can damage trust in the fiduciary legal system. The role of CBOs/NGOs should be constructive and legal mediation.

### **Fiduciary Objects Are in the TNI / POLRI / Lawyer / Judge Environment**

Fiduciary objects are sometimes located in vital areas of the state that have limited access, making it difficult for creditors to access even if they bring complete documents. This obstacle creates a conflict between legal certainty (creditor execution rights) and practical obstacles. In terms of justice, it is necessary to balance creditor rights with the interests of the state in protecting vital areas. In terms of benefits, this situation is detrimental to creditors and reduces public trust, but ignoring access rules also poses a risk to national security.

### **Obstacles and Solutions for Fiduciary Guarantee Execution The solutions to obstacles or problems in the process of executing fiduciary guarantee objects against defaulting debtors are as follows.**

Solutions to overcome problems in the process of executing fiduciary guarantee objects against defaulting debtors are divided based on the type of obstacle:

#### **1) Obstacles of Fiduciary Guarantee Objects Not Being in the Debtor's Hands.**

##### **a. Increasing Debtor Understanding**

Continuous and intensive education for debtors regarding the provisions of the Fiduciary Guarantee Law, especially Article 23. This can be done through interactive socialization, seminars, workshops, personal assistance, and the provision of easy-to-understand educational materials (brochures, infographics, videos). Creditors must also explain the legal consequences, both criminal and civil, of the transfer of collateral objects without consent.

##### **b. Accurate and Detailed Recording.**

Implement an integrated digital recording system for all collateral information, utilize unique identification technology (serial numbers, RFID, fingerprints), integrate GPS tracking systems, conduct periodic data verification and validation, and improve data security (encryption, access control, routine backups).

##### **c. Strict Legal Action.**

Creditors must immediately report acts of embezzlement to the authorities and utilize civil and criminal legal channels optimally. The use of trusted and licensed debt collector services is also recommended, while still complying with applicable SOPs.

##### **d. Increased Supervision.**

Creditors need to increase supervision and periodic checks on collateral objects. This includes being more selective in providing loans by conducting strict credit analysis of prospective debtors.



Cooperation between creditors, debtors, and authorities is important to minimize the risk of loss of objects.

## **2) Obstacles to Intervention by Community Organizations (CBOs) or Non-Governmental Organizations (NGOs)**

### **a. Increasing Legal Understanding**

Educating CBOs/NGOs about the fiduciary guarantee execution process and the legal limitations of their intervention, emphasizing that obstructing a legitimate process is against the law.

### **b. Constructive Mediation and Negotiation.**

Encouraging CBOs/NGOs to act as mediators in disputes between debtors and creditors, facilitating communication, and seeking peaceful solutions that are fair and in accordance with applicable legal corridors.

### **c. Strict Law Enforcement.**

The law must be strictly enforced against CBOs/NGOs that obstruct the legitimate execution process.

### **d. Transparency and Accountability.**

Ensuring that the execution process is carried out transparently and accountably in accordance with legal procedures to minimize abuse of authority and conflict.

### **e. The Appropriate Role of Mass Organizations/NGOs. Encourag.**

Mass Organizations/NGOs to focus on the role of legal assistance and supervision of execution to ensure that there are no human rights violations, and to cooperate with creditors to facilitate vehicle withdrawals. It is important to maintain a balance between protecting debtors' rights and enforcing the law, and to distinguish between Mass Organizations/NGOs that sincerely help and those seeking personal gain.

## **3) Obstacles to Fiduciary Objects in the TNI/POLRI/Lawyer/Judge Environment**

### **a. The Appropriate Legal Approach.**

Creditors must take legal action by submitting an execution application through the court to obtain a valid execution warrant in order to access these locations. Ensure that all required documents are complete and valid.

### **b. Coordination with Authorities.**

Creditors need to coordinate with authorities in the TNI/POLRI/Court environment to obtain permits and assistance. Involve the police to ensure the security and smooth implementation of the execution.

### **c. Mediation and Negotiation.**

Before taking legal action, creditors can try mediation or negotiation with the debtor or party controlling the fiduciary object to find a peaceful solution, such as rescheduling payments or voluntary surrender.

### **d. Role of the Court**

The court has a crucial role in issuing a clear and firm execution order, and ordering the relevant parties to provide access to the creditor. The court must also provide legal protection.

### **e. Increased Supervision and Prevention.**

Creditors need to increase supervision of fiduciary collateral objects, especially if there are indications that they will be moved to a location that is difficult to access. Conduct regular checks, use tracking technology, and be more selective in granting credit. The execution process must be in accordance with legal procedures, good coordination with the authorities is very important, and mediation/negotiation can be an effective alternative.

## **CONCLUSION**

It can be concluded that the effectiveness of fiduciary guarantee enforcement depends heavily on the synergy between procedural compliance and persuasive communication. Execution efforts are not simply the forced seizure of assets, but rather a legal process that must prioritize the value of justice. The best solution to address obstacles in the field, whether in the form of transfer of assets or external intervention, is through a combination of litigation (court) and non-litigation (mediation) approaches. With solid coordination between creditors, law enforcement officials, and



an accurate recording system, legal certainty for fiduciary recipients can be maintained without violating the debtor's constitutional rights.

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