ABSTRAK

TINJAUAN YURIDIS TERHADAP PENGAMBILALIHAN SEPIHAK BARANG DEBITUR OLEH KREDITUR DALAM PERJANJIAN UTANG PIUTANG BERDASARKAN PASAL 1238 KITAB UNDANG-UNDANG HUKUM PERDATA (STUDI KASUS DI KELURAHAN KARANGPANIMBAL KECAMATAN PURWAHARJA KOTA BANJAR)

Setiap orang boleh membuat perjanjian yang harus telebih dahulu memenuhi syarat sah perjanjian, sebagaimana diatur dalam Kitab Undang-Undang Hukum Perdata Pasal 1320 KUHPerdata. Seperti perjanjian utang piutang yang terjadi di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar yang telah memenuhi syarat sah perjanjian tersebut, namun dalam pelaksanaannya tidak berjalan dengan semestinya seperti yang telah disepakati bersama.

Adapun yang menjadi identifikasi masalahnya tentang perjanjian utang piutang di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar yang dihubungkan dengan Pasal 1238 Kitab Undang-Undang Hukum Perdata, kendala yang dihadapi dalam perjanjian utang piutang di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar yang dihubungkan dengan Pasal 1238 Kitab Undang-Undang Hukum Perdata, serta upaya dalam mengatasi kendala pelaksanaan dalam perjanjian utang piutang di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar yang dihubungkan dengan Pasal 1238 Kitab Undang-Undang Hukum Perdata.

Metode penelitian yang digunakan dalam penelitian ini adalah metode deskriptif analitis, yaitu metode yang digunakan untuk menggambarkan dan menganalisis permasalahan mengenai pengambilalihan barang oleh kreditur dalam perjanjian utang piutang yang terjadi di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar. Adapun metode pendekatan yang digunakan yaitu yuridis normatif, dengan mengkaji ketentuan hukum yang berlaku khususnya Kitab Undang-Undang Hukum Perdata Pasal 1238 KUHPerdata serta didukung oleh data hasil wawancara dan studi kepustakaan yang berkaitan dengan permasalahan penelitian.

Berdasarkan hasil pembahasan, perjanjian utang piutang di Kelurahan Karangpanimbal, Kecamatan Purwaharja, Kota Banjar, tidak berjalan sebagaimana mestinya. Adanya tindakan pengambilalihan barang yang dilakukan oleh pihak kreditur belum sepenuhnya sesuai dengan ketentuan Pasal 1238 KUHPerdata karena tidak didahului dengan somasi atau peringatan resmi kepada debitur mengenai tindakan pengambilalihan barang tersebut. Selain itu, kendala yang dihadapi dalam penyelesaian sengketa utang piutang ini dipengaruhi oleh faktor ekonomi debitur.

Berdasarkan hasil penelitian tersebut, penulis menyarankan agar masyarakat yang melakukan perjanjian utang piutang membuat perjanjian secara tertulis dan lebih rinci mengenai hak dan kewajiban para pihak serta langkah penyelesaian apabila terjadi wanprestasi. Selain itu, pihak kreditur sebaiknya tetap memperhatikan prosedur hukum sebagaimana diatur dalam Pasal 1238 KUHPerdata dengan memberikan somasi.

ABSTRACT

JURIDICAL REVIEW OF THE UNILATERAL TAKEOVER OF THE DEBTOR'S PROPERTY BY CREDITORS IN THE DEBT AND RECEIVABLES AGREEMENT BASED ON ARTICLE 1238 OF THE CIVIL CODE (CASE STUDY IN KARANGPANIMBAL VILLAGE, PURWAHARJA DISTRICT, BANJAR CITY)

Everyone may make an agreement that must first meet the legal requirements of the agreement, as stipulated in the Civil Code Article 1320 of the Civil Code. Such as the debt and receivables agreement that occurred in Karanghangimbal Village, Purwaharja District, Banjar City which has met the legal requirements of the agreement, but in its implementation it did not run properly as agreed upon.

The identification of the problem is about the debt and receivables agreement in Karanghangimbal Village, Purwaharja District, Banjar City which is connected to Article 1238 of the Civil Code, the obstacles faced in the debt and receivables agreement in Karanghangimbal Village, Purwaharja District, Banjar City which is connected to Article 1238 of the Civil Code, as well as efforts to overcome obstacles in the implementation of debt and receivables agreements in the Village Karangpanimbal, Purwaharja District, Banjar City which is connected to Article 1238 of the Civil Code.

The research method used in this study is an analytical descriptive method, which is a method used to describe and analyze problems regarding the takeover of goods by creditors in debt and receivables agreements that occurred in Karangpunmbal Village, Purwaharja District, Banjar City. The approach method used is normative juridical by examining the applicable legal provisions, especially the Civil Code Article 1238 of the Civil Code and supported by data from interviews and literature studies related to research problems.

Based on the results of the discussion, the debt and receivables agreement in Karanghangimbal Village, Purwaharja District, Banjar City, did not run as it should. The act of taking over goods carried out by the creditor is not fully in accordance with the provisions of Article 1238 of the Civil Code because it is not preceded by a summons or official warning to the debtor regarding the act of taking over the goods. In addition, the obstacles faced in resolving debt and receivables disputes are influenced by the debtor's economic factors.

Based on the results of the research, the author suggests that people who enter into debt and receivables agreements make a written and more detailed agreement regarding the rights and obligations of the parties as well as settlement steps in the event of default. In addition, creditors should continue to pay attention to legal procedures as stipulated in Article 1238 of the Civil Code by providing a summons.