

Legal Certainty on Prohibition of Transfer of Debtor's Rights and Obligations in Fiduciary Security Agreement

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KEYWORDS	ABSTRACT
Legal certainty, fiduciary guarantees, creditor protection, legal updates, prohibition of transfer of rights	This study aims to analyze the legal certainty regarding the prohibition of the transfer of debtors' rights and obligations in fiduciary guarantee agreements based on Article 36 of Law Number 42 of 1999. The research employs a normative legal method with a qualitative approach through case studies and analysis of court decisions. The results indicate that although the prohibition of transfer is explicitly regulated by law, its implementation still faces various challenges, primarily due to weak law enforcement, inconsistent application of sanctions, and the prevalence of violations that are not strictly addressed. The findings reveal that the practice of transferring fiduciary objects without creditor consent remains widespread, creating legal uncertainty and risks of loss for the parties involved. Based on an analysis of Gustav Radbruch's theory of legal certainty, Philipus M. Hadjon's theory of legal protection, and John Rawls' theory of justice, this study recommends the need for legal reform of fiduciary guarantees through digitization of the registration system, strengthening of monitoring mechanisms, inter-agency synergy, and improving public legal literacy. These reforms are expected to enhance legal certainty, the effectiveness of creditor protection, justice for debtors, and the protection of bona fide third parties proportionally in the fiduciary-based financing system in Indonesia.

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Introduction

Fiduciary agreements are a very important legal instrument in the national legal system, especially to provide protection for creditors and balance the interests of debtors in financing transactions (Simangunsong et al., 2025; Siregar et al., 2025). Regulated in Law Number 42 of 1999 concerning Fiduciary Guarantees, fiduciary allows creditors to obtain legal certainty with preferential rights to movable objects belonging to the debtor without transferring their physical ownership (Sihite & Widjaja, 2025; Yuniar et al., 2025). The registration of official fiduciary guarantees guarantees transparency and legal certainty for all related parties and reduces the risk of disputes with third parties (Prabowo, R. B. and Salam, A. 2019).

The prohibition of the transfer of rights and obligations by the debtor without the written consent of the creditor is a crucial aspect of the fiduciary agreement (Putro & Rahaditya, 2025; Siswanto et al., 2025). This provision prevents the transfer or transfer of the collateral object so as to ensure the continuity of creditor protection. It also encourages consistent legal certainty and risk control in fiduciary-backed financing practices (Hukumonline, 2022). However, in reality, violations of these prohibitions still occur and are often difficult to deal with effectively due to various obstacles in law enforcement and proving criminal elements in fiduciary disputes (Prabowo, R. B., and Salam, A. 2019).

Previous research such as by Wahyu et al. (2024) shows legal certainty in fiduciary guarantee agreements and finds that there is a gap between regulation and practice, especially related to the implementation of execution against defaulting debtors. The study of Prabowo and Salam (2019) examines the legal impact of the transfer of fiduciary objects without permission and emphasizes the need for certainty of a fair handling mechanism. Meanwhile, Darus Badruzaman (2021) focuses on the urgency of reforming fiduciary guarantee laws in response to economic dynamics and national law (Darus). This research is different because it highlights the aspect of prohibiting the transfer of the rights and obligations of the debtor, as a strategic part in creating legal certainty and protection of rights, while using a comprehensive legal theory analysis approach (Hakim, 2025; Porral, 2025).

As an analysis framework using the theory of legal certainty, Gustav Radbruch is the basis for understanding the need for clear, consistent, and predictable rules for their application so as to create legal stability (Nurhayati et al., 2025; Suwondo, 2025). Meanwhile, the theory of legal protection, Philipus M. Hadjon, emphasizes the importance of preventive and repressive protection in enforcing legal rights and obligations to ensure a sense of security for the community (Habib & Gilalo, 2025). John Rawls's theory of justice complements the analysis by emphasizing the principle of fairness that balances the interests of all parties, namely creditors, debtors, and third parties in good faith, in relation to legal norms (Sahda et al., 2025; Sari et al., 2025).

This study aims to examine in depth the implementation of the prohibition on the transfer of debtors' rights and obligations in fiduciary guarantee agreements and to analyze whether Legal Reforms can increase legal certainty against the prohibition of transfer of debtors' rights and obligations in fiduciary guarantees. The benefit of this research is to provide an academic contribution to the development of the theory of guarantee law, especially regarding the aspect of prohibiting the transfer of rights and obligations of debtors, as well as as a consideration for policymakers in reforming the Fiduciary Guarantee Law. In addition, this research is expected to serve as a reference for legal practitioners in handling fiduciary disputes and to increase public legal awareness regarding the importance of compliance with the provisions prohibiting the transfer of fiduciary guarantee objects.

Research Method

This study employed a normative legal research method with a qualitative approach to analyze the legal provisions and the implementation of the prohibition on the transfer of debtors' rights and obligations in fiduciary guarantee agreements. The method focused on library research by collecting, studying, and analyzing secondary and primary legal materials, such as laws and regulations, court decisions, academic literature, scientific journals, and related legal documents.

The study adopted a statute approach and a conceptual approach. Data collection involved reviewing relevant legal documents and previous research focusing on fiduciary guarantees, prohibitions on the transfer of rights and obligations, and recent legal developments. Data analysis was conducted using qualitative content analysis, which examined the substance of legal norms and their practical application, comparing them with existing legal theories.

Results and Discussion

Implementation of the prohibition on the transfer of the debtor's rights and obligations in the fiduciary guarantee agreement.

The prohibition of the transfer of debtors' rights and obligations in a fiduciary guarantee agreement is a form of legal protection for creditors as stipulated in Article 23 paragraph (2) and Article 36 of Law Number 42 of 1999 concerning Fiduciary Guarantees. The provision expressly prohibits the debtor or fiduciary from transferring, pawning, or renting the fiduciary collateral object without the written consent of the fiduciary (creditor). Violations of the prohibition are even qualified as criminal acts that can be threatened with imprisonment for a maximum of two years or a maximum fine of Rp50,000,000.00.

In practice, the implementation of this ban is often not effective. Although normatively it is clearly regulated in the law, in reality many debtors still transfer the object of fiduciary guarantee either through buying and selling, grants, or over-credit mechanisms, without the knowledge or consent of creditors. This condition creates legal uncertainty, lowers trust in the world of financing, and raises potential disputes between creditors, debtors, and third parties, as happened in several cases in table 1 as follows:

Table 1. Some Fiduciary Cases

Case Name	Description	Verdict	Legal Implications
Supreme Court Decision No.698 K/Pid.Sus/2023	The debtor transfers the fiduciary object of the dump truck through the credit over-credit without written permission from the creditor.	The Supreme Court rejected the debtor's appeal, affirming the violation of Article 36 and imposing criminal sanctions.	The prohibition on the transfer of fiduciary objects is strictly enforced, setting a precedent for firm law enforcement.

Case Name	Description	Verdict	Legal Implications
2025 Sentencing of the District Court	The debtor transfers the credit motorcycle that is being pledged without the permission of the financing company FIFGROUP.	A criminal sentence of 12 months in prison was handed down to the debtor.	Providing a deterrent effect of criminal law against violations of the prohibition on the transfer of rights in fiduciary agreements.
2019 Pekanbaru District Court Decision	The debtor was charged with diverting the vehicle of a fiduciary object without permission.	Free because the judge considers that the element of intentionality is not met.	Showing the difficulty of proving criminal elements in the case of transfer of fiduciary objects, it is a challenge for law enforcement.
Over Credit Practices in the Used Vehicle Market	The rise of motor vehicle over-credit transactions with the object of fiduciary guarantees without the creditor's permission, there is no serious legal follow-up.	Many parties consider this a civil matter and resolve it outside of the criminal process.	It indicates weak supervision and legal implementation in the practice of fiduciary guarantees.

Source: Data processed

Table 1 is described as follows:

1. Supreme Court Decision Number 698 K/Pid.Sus/2023

This case began with the action of a debtor who transferred the object of fiduciary guarantee in the form of a dump truck to another party through an over-credit mechanism, without written consent from the fiduciary (financing institution). In this case, the Supreme Court emphasized that the debtor's actions were a violation of Article 36 of the Fiduciary Guarantee Law, because they had transferred the fiduciary object without the legitimate permission of the creditor.

The Supreme Court in its decision rejected the debtor's appeal and upheld the previous court decision that stated the debtor was guilty of committing a criminal act. This decision emphasizes that the prohibition on the transfer of fiduciary objects is strict, and that the violation is not just a civil offense, but can be subject to criminal sanctions.

From a legal perspective, this decision reflects consistent enforcement of the law against the provisions of Article 36 of the Fiduciary Guarantee Law. The Supreme Court expressly positioned the actions of debtors who make transfers without permission as an unlawful act that causes losses to creditors. This ruling also sets an important precedent for law enforcement in the field of financing, especially in maintaining the trust and stability of the fiduciary guarantee system.

2. Decision of the Sukabumi District Court with case number 24/Pid.Sus/2025/PN Skb.

Another case occurred at the Sukabumi District Court in 2025, where a debtor was proven to have transferred a motorcycle that was still bound by a fiduciary agreement with FIFGROUP to another party without the creditor's consent. In this case, the panel of judges sentenced the debtor to 12 months in prison for violating Article 36 of the Fiduciary Guarantee Law.

This case shows that although the prohibition is explicitly regulated in the law, the practice of transferring fiduciary objects is still rampant. This act causes double losses, both for creditors who have lost their debt repayment guarantees, and for third parties who are in good faith but then harmed because the goods purchased are still the object of fiduciary guarantees.

From the point of view of law enforcement, this case confirms the importance of the preventive function of the application of criminal sanctions. The punishment imposed on debtors is expected to have a deterrent effect, as well as encourage increased compliance in the implementation of fiduciary agreements in the community.

3. Pekanbaru District Court Decision Number 853/Pid.Sus/2019/PN Pbr

In this Pekanbaru District Court decision, the defendant was acquitted of the charge of violating Article 36 of the Fiduciary Guarantee Law. The judge argued that the element of intentionality in the transfer of fiduciary objects was not met. Thus, even if there is a transfer of object, the act cannot be punished because it does not meet the subjective elements of the criminal act.

This ruling shows that there is an inconsistency in the application of the law at the judicial level. Indecisiveness in assessing the element of intentionality is often a loophole for the debtor to avoid legal responsibility. This condition has implications for weak legal certainty and creditor protection, because violators are not always sanctioned even though their actions are clearly contrary to the provisions of the law.

In addition to cases that reach the court, in daily practice there are many transfers of fiduciary objects without the creditor's permission that are not legally followed. This phenomenon is especially prevalent in the used vehicle market, where over-credit is carried out only by an under-handed agreement between the old debtor and the buyer, without involving a financing institution.

This condition raises serious problems. On the one hand, law enforcement officials often consider this kind of case as a purely civil dispute, not a criminal one, so no action is taken. On the other hand, financing institutions tend to opt for non-litigation settlements through direct withdrawal (field execution) against fiduciary objects, because criminal law proceedings are considered lengthy and expensive.

As a result, the effectiveness of Article 36 of the Fiduciary Guarantee Law has become weak. Legal provisions intended to provide protection for creditors do not function optimally,

because violations do not always lead to sanctions. This has the potential to cause injustice and reduce public trust in the fiduciary-based financing system.

From the various cases that the author has described, in the perspective of Gustav Radbruch's Theory of Legal Certainty, law must fulfill three basic values, namely legal certainty (Rechtssicherheit), justice (Gerechtigkeit), and utility (Zweckmäßigkeit). Legal certainty is the main foundation so that a norm can be implemented consistently and provide a sense of security for the community against the legal consequences of an act.

The legal certainty of the prohibition on the transfer of fiduciary objects has actually been clearly regulated in Article 36 of Law Number 42 of 1999 concerning Fiduciary Guarantees, which prohibits debtors from transferring, mortgaged, or renting out fiduciary objects without the consent of creditors. However, empirical facts show that these norms have not been implemented effectively in the field.

Cases such as the Supreme Court Decision Number 698 K/Pid.Sus/2023 and the Sukabumi District Court Decision in 2025 show that there are law enforcement efforts that provide certainty for creditors. However, on the other hand, the existence of decisions such as PN Pekanbaru Number 853/Pid.Sus/2019/PN Pbr and the practice of over-credit of motor vehicles without creditors' permission show inconsistencies in the application of the law.

This condition shows that the value of legal certainty has not been fully realized, because strict laws at the normative level have not been followed by consistent application by law enforcement officials. As a result, the creditor does not get a guarantee of full protection of his rights, while the debtor is still free to transfer the object of the guarantee.

Then in the perspective of the theory of Legal Protection Philipus M. Hadjon, that:

Legal protection has two forms:

- 1) Preventive protection, which aims to prevent rights violations, and
- 2) Repressive protection, which is provided after a violation through dispute resolution and law enforcement mechanisms.

The prohibition of the transfer of debtors' rights and obligations, preventive protection should be carried out through the mechanism of agreement and fiduciary supervision by creditors as well as the registration of fiduciary guarantees at the Ministry of Law. Meanwhile, repressive protection is realized through criminal sanctions for debtors who violate the provisions of Article 36 of the Fiduciary Guarantee Law.

However, in practice, preventive protection is often ignored due to weak supervision and low legal literacy of debtors. Meanwhile, repressive protection also does not run optimally because law enforcement officials often consider such violations as civil disputes, not criminal ones.

As a result, creditors often take shortcuts through forced withdrawals (field execution) against the object of the guarantee, which, while contractually valid, contains potential for violations of the law and causes social friction. Based on Hadjon's theory, this condition shows

that the legal protection system in fiduciary guarantees is not balanced between preventive and repressive aspects, so it has not been able to provide complete legal guarantees for the parties.

Furthermore, in the perspective of the theory of Justice according to John Rawls, known as "justice as fairness", it emphasizes the principle of equal distribution of rights and obligations among all individuals in society, including in the legal relationship between creditors, debtors, and third parties related to fiduciary guarantee agreements. Rawls developed two main principles: the principle of equal basic freedom, namely that everyone is entitled to fundamental rights without restriction from others, and the principle of difference, in which social and economic inequality is justified only to the extent that it can provide the greatest benefit to those most disadvantaged in that social structure. (Adyaksa Article, 2023)

This theory requires legal institutions to ensure that the prohibition on the transfer of the debtor's rights and obligations not only protects the creditor as a powerful party, but also takes into account the position and interests of the debtor and third parties who may be lawfully involved in or affected by the agreement. This fairness means that fiduciary guarantees must not create legal uncertainty or unilateral losses, especially for debtors who may find it difficult to meet their obligations due to unequal access to information and legal protection. Similarly, a third party in good faith should be protected if they purchase or acquire a fiduciary object without knowing its legal status.

Rawls emphasized that the reform of the fiduciary guarantee law must depart from the fulfillment of the principle of distributive justice, namely that all related policies and regulations, including the provision prohibiting the transfer of collateral objects, must be designed so that the benefits can be felt by all parties, not only protecting the interests of capital owners or financing institutions (creditors) but also providing sufficient space and protection for debtors and vulnerable third parties. Fair legal institutions must be able to correct injustices that arise due to unfair practices or non-transparent procedures, for example through open fiduciary registration mechanisms, easy access to legal information, and the enforcement of proportionate and non-discriminatory sanctions. (Damanhuri Fattah, 2023)

Overall, the results of the analysis based on these three theories show the importance of updating and strengthening the fiduciary guarantee legal system in order to achieve a balance between legal certainty, effective legal protection, and substantive justice for all parties involved in the fiduciary guarantee agreement.

The findings of this study show that although the prohibition on the transfer of debtors' rights and obligations in the fiduciary guarantee agreement is expressly regulated in Article 36 of Law Number 42 of 1999, its implementation is often ineffective. The practice of transferring fiduciary objects without creditors' permission is still widespread, law enforcement has not been consistent, and criminal sanctions are rarely applied firmly. This creates legal uncertainty and reduced protection for creditors as well as the risk of loss for well-meaning third parties. By integrating three legal theories, namely Gustav Radbruch's theory of legal certainty, Philipus M. Hadjon's theory of legal protection, and John Rawls' theory of justice, this study

emphasizes the need for a reform of fiduciary guarantee laws that are able to balance legal certainty, preventive and repressive protection, and substantive justice for all parties involved, so that the fiduciary legal system is more effective, fair, and trustworthy by economic actors.

Legal updates could increase legal certainty against prohibitions on the transfer of debtors' rights and obligations on fiduciary guarantees.

Legal reform can play a significant role in increasing legal certainty against the prohibition of the transfer of the rights and obligations of debtors on fiduciary guarantees by initiating comprehensive reforms both in normative aspects and implementation mechanisms.

The following are normative updates, literacy and law enforcement synergy, as well as protection for third parties in good faith, as follows:

Normative Updates and Implementation

Legal updates to Law Number 42 of 1999 concerning Fiduciary Guarantees are a must to respond to the dynamics of practice and the need for legal protection in society. Normatively, the revision of Law Number 42 of 1999 needs to be directed at strengthening an electronic-based fiduciary registration mechanism that is integrated and easily accessible to the wider community. The development of an electronic registration system will ensure that the status of fiduciary objects is known transparently by all interested parties. This openness serves to reduce the practice of transferring fiduciary objects without permission and prevent future legal disputes.

Synchronization of enforcement of execution is also an important point in the renewal of fiduciary guarantee laws. After the Constitutional Court Decision Number 18/PUU-XVII/2019, which resulted in the elimination of the unilateral fiduciary execution mechanism by creditors, the obligation to have a default agreement and court determination, greater protection for debtors from arbitrary creditors' actions and the addition of an execution procedure mechanism through the court, so that the potential burden of court cases increases.

In this regard, a clear, fast, and balanced procedure is needed between the interests of creditors and the protection of the rights of debtors and the rights of third parties. The supervisory mechanism of the fiduciary authority must be strengthened so that the implementation of the agreement and the execution of the object can run in an accountable and fair manner at all stages of the process, from registration, handover, to execution.

In the update of the Fiduciary Guarantee Law, the author proposes a new supervisory mechanism that can be implemented covering several aspects as shown in table 2 as follows:

Table 2. New Supervisory Mechanism in the Renewal of the Fiduciary Guarantee Law

Mechanism	Key Features	Strengthening Impact
Electronic registration	Digital registration, changes, deletions	Data transparency and fiduciary trail audits
Object locking and verification	Mandatory deletion/rouse for new registration	Preventing unauthorized transfers, protecting creditors
AHU Synergy Police Court	The execution decision must be made by the determination of a joint court/default	Protect debtors from unilateral execution, increasing certainty
Active Monitoring & Monitoring	Mandatory fiduciary removal after repayment/credit expires	Avoiding double objects, registration control
Serial non-serial object data	Reporting menu in the AHU app	Broader and more comprehensive monitoring activities
Proactive socialization	Education for economic actors and notaries	Increased literacy and compliance with fiduciary implementation

Source: Data processed

Table 2 is described as follows:

1. Integrated Electronic Fiduciary Registration System

Registration, amendments, and deletions of fiduciary certificates can be done digitally through the Ministry of Law's online fiduciary application. All data, whether regarding the status of objects, changes of ownership, or deletion (roya), must be recorded electronically, so that transparency, accessibility, and accountability are increased.

2. Automatically Lock and Verify Object Status

The digital system locks the fiduciary objects that are still registered actively, so that deletions or changes must be made by the old creditors before a new registration by the next creditor or debtor occurs. This prevents unauthorized transfers and ensures that there is no duplication or manipulation of fiduciary object data.

3. Inter-Agency Synergy: Directorate General of AHU, Police, and Courts

The government can emphasize strict synergy between fiduciary authorities, the police, and the district courts. The execution of fiduciary objects after the Constitutional Court Decision No. 18/PUU-XVII/2019 must be based on a joint default agreement or court determination, eliminating the practice of unilateral execution by creditors.

4. Roya Must Be Active After Repayment/Cancellation of Credit

Creditors are required to immediately carry out *roya* or elimination of fiduciary in the system after repayment or relinquishment. This prevents barriers to re-registration and avoids misuse of fiduciary objects whose status is still registered.

5. Guarantee Object Data Menu Without Serial Number for Monitoring

The new proposal is that the AHU system has a special reporting menu for fiduciary objects without serial numbers such as consumer goods, so that access to information and supervision is maintained for the general public.

6. Proactive Supervision and Education/Socialization

The Regional Office of the Ministry of Law is active in providing periodic socialization for financing companies, notaries, and economic actors, both in terms of registration mechanisms, amendments, and execution according to the latest Constitutional Court decision.

The purpose of the new oversight mechanism in the update of the Fiduciary Guarantee Act is to improve legal certainty and protection for all relevant parties, in particular creditors, debtors, and third parties in good faith. With a digital system and authority synergy, it is hoped that transparency, accountability, and accuracy of fiduciary data will be maintained so that it can prevent the practice of transferring or executing fiduciary objects without permission, speed up the administrative process, suppress disputes, and ensure the validity of every legal action. In addition, integrated education and reporting aims to build legal awareness, ensure access to information, and encourage compliance of economic actors with regulations, resulting in a healthy and reliable financing ecosystem.

Synergy Between Literacy and Law Enforcement

The public, both debtors and creditors, urgently need to improve legal literacy related to fiduciary agreements. Lack of understanding of rights and obligations as well as the legal consequences of violations are the main source of disputes and violations of the prohibition on the transfer of rights. Educational programs directed by the government and financing institutions are important so that economic actors are aware of the legal risks of unauthorized transfers and the importance of fiduciary registration. (Alifa Ahmad Wahyu, 2024)

This increase in legal literacy will also help law enforcement officials in carrying out their duties more professionally because the community is more cooperative and understands the legal process at hand. (Alifa Ahmad Wahyu, 2024)

The effectiveness of law enforcement is highly dependent on the quality of public literacy. When debtors and creditors know the rights and responsibilities in detail in the fiduciary agreement, the potential for disputes can be minimized and legal certainty is more guaranteed. The practice of restorative justice, mediation, and legal consultation can be integrated into law reform so that law enforcement runs proportionately and humanely, not just repressively.

Protection for Third Parties in Good Faith

Protection of third parties in good faith is a reflection of substantive justice and necessity in the renewal of fiduciary law. Some cases show that third parties are harmed due to ignorance of

the legal status of the fiduciary object they purchased from the debtor without the creditor's knowledge. Reform of the registration system, information transparency, and effective notification system are the main requirements for third parties to obtain certainty and legal protection for transactions made. (Heriawanto, D, 2024)

Optimal forms of legal protection should include the principle of notification of fiduciary object status in any transaction, comprehensive registration, and the placement of an objectively verifiable goodwill mechanism in court in the event of a dispute. (Sipahutar, et al., 2024). Case studies in several district court decisions show that there is still uncertainty in legal protection for third parties. Therefore, regulatory reform is needed so that the rights of third parties can be aligned with the interests of creditors without causing unilateral losses.

Legal reform of the Fiduciary Guarantee Law which includes the digitization of registration, the strengthening of verification mechanisms, and the synergy between authority agencies will bring fundamental changes from the perspective of legal certainty according to the Gustav Radbruch framework, the strengthening of normative mechanisms and the new supervisory system fully reflect the value of legal certainty because the status and transition of fiduciary objects become more transparent, easy to verify, and free from manipulation, So that the parties, both creditors and debtors, can carry out their rights and obligations consistently in accordance with applicable rules. (Wahyu, A. A., Fuad, F., & Machmud, A, 2024).

Meanwhile, from the perspective of legal protection, Philipus M. Hadjon, the integration between legal literacy and the optimization of authority enforcement as well as the reform of the supervisory mechanism provide preventive protection through education and transparency as well as repressive protection through more proportionate and fair enforcement of sanctions. The public is not only faced with the threat of sanctions, but also instructed constructively to understand the risks and legal consequences, which ultimately reduces the level of violations and strengthens the protection of the rights of the parties in real terms.

Then from the perspective of substantive justice in the framework of John Rawls, digitization, transparency of information, and legal protection to third parties in good faith are tangible manifestations of distributive justice. This reform ensures that fiduciary arrangements are not only on the side of creditors, but also provide a fair space for debtors and overcome unilateral losses that were previously often experienced by third parties, resulting in a balanced, safe, and fair financing ecosystem for all economic actors. Thus, the reform of the Fiduciary Guarantee law is the main pillar in ensuring that this legal instrument truly supports certainty, protection, and justice simultaneously in every dimension of fiduciary legal relations. (Damanhuri Fattah, 2023)

The results of the study show that legal updates to the Fiduciary Guarantee Law through digitalization, strengthening supervision, synergy between institutions, and improving legal literacy can increase legal certainty on the prohibition of transferring debtors' rights and obligations, integration of legal literacy and optimization of enforcement of authorities provide real preventive and repressive protection, substantive justice is achieved, because digitalization and transparency simultaneously provide security and justice Not only for creditors, but also debtors

and third parties in good faith, building a financing ecosystem that is balanced, with integrity, and does not cause unilateral losses. These reforms ultimately serve as an important foundation for an effective fiduciary legal system, protecting the rights of each party fairly and strengthening trust in financing instruments.

Thus, the findings of this study are that legal reform through the digitization of the fiduciary system, strengthening supervision mechanisms, and improving legal literacy and protection can significantly increase legal certainty against the prohibition of transferring the rights and obligations of debtors on fiduciary guarantees. Normative reforms and the implementation of new supervisory tools have proven to be able to close the loopholes in violations, reduce the risk of disputes, and protect the rights of creditors, debtors, and third parties in a more fair and accountable manner in fiduciary-based financing practices in Indonesia.

Conclusion

The implementation of the prohibition on the transfer of debtors' rights and obligations in fiduciary guarantee agreements in Indonesia has faced significant obstacles, including weak law enforcement, inconsistent sanction application, and the frequent treatment of violations as civil rather than criminal matters. Although Article 36 of Law Number 42 of 1999 strictly regulates this prohibition, many debtors have transferred fiduciary objects without creditor permission, resulting in legal uncertainty and risks for creditors and third parties in good faith. This research highlights the need for legal reform to optimize the fiduciary system, including strengthening integrated electronic registration, digital verification of fiduciary objects, institutional synergy, and improving legal socialization and public literacy. It also calls for stricter regulation to protect third parties in good faith. Recommendations include revising the Fiduciary Guarantee Law to emphasize digitization, active monitoring, coordination among institutions, enhanced legal protection for third parties, and stricter criminal law enforcement with simplified evidentiary procedures. Future research should explore the practical impacts of these reforms on fiduciary dispute resolution and stakeholder perceptions to further refine regulatory frameworks and ensure balanced protection for creditors, debtors, and third parties.

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