



## THE AUTHORITY OF THE INDONESIAN NATIONAL POLICE IN HANDLING CRIMES OF FIDUCIARY SECURITY CONTROLLED BY THIRD PARTIES

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**Abstract:** *This article aims to discuss the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties as well as obstacles related to the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties. The writing of this article uses a normative juridical approach, which is based on primary and secondary data. Methods of data analysis using qualitative analysis. The research shows that the Authority of the Indonesian National Police in Handling Crimes of Fiduciary Acts controlled by third parties has the authority to maintain public security and order, law enforcement, protection, protection, and community services. They also play a role in providing security assistance implementation of court decisions or execution of fiduciary security. However, in practice, there are obstacles encountered. The obstacles include internal and external constraints also efforts to overcome the authority of the Indonesian National Police in overcoming fiduciary crimes: a. There is still a lack of facilities and infrastructure, as well as an operational budget. b. There are no criminal sanctions against third parties or other parties who control the object of the fiduciary security. c. If a creditor carries out the title of executorial or droit de suit, the debtor often does not fulfill it following Article 30 of Law Number 42 of 1999. Thus the execution process is often cancelled due to rejection from the debtor or mobilizing family or masses. d. Creditors feel aggrieved by incomplete fiduciary collateral as before.*

**Keywords:** *Fiduciary, Authority of the Police, Crime.*

**Abstrak:** *Penulisan artikel ini bertujuan untuk membahas mengenai kewenangan Polri dalam menanggulangi kejahatan tindak pidana jaminan fidusia yang dikuasai oleh pihak ketiga serta kendala terkait kewenangan Polri dalam menanggulangi kejahatan tindak pidana jaminan fidusia yang dikuasai oleh pihak ketiga. Penulisan artikel ini menggunakan pendekatan yuridis normatif, yang berbasis pada data primer dan sekunder. Metode analisis data menggunakan analisis kualitatif. Dimana atas penelitian yang sudah dilakukan menunjukkan bahwa Kewenangan Polri Dalam Menanggulangi Kejahatan Tindak Pidana Fidusia Yang Dikuasai Pihak Ketiga adalah bahwa Polri memiliki kewenangan untuk memelihara keamanan dan ketertiban masyarakat, penegakan hukum, perlindungan, pengayoman, dan pelayanan kepada masyarakat, berperan pula untuk memberikan bantuan pengamanan pelaksanaan putusan pengadilan atau eksekusi jaminan fidusia. Namun dalam prakteknya terdapat kendala yang dihadapi adapun kendala tersebut meliputi kendala internal dan eksternal, dan upaya Kendala kewenangan Polri dalam menanggulangi kejahatan tindak pidana fidusia adalah : a. Masih minimnya sarana dan prasarana, dan juga anggaran operasional. b. Tidak ada sanksi pidana terhadap pihak ketiga atau pihak lain yang menguasai obyek jaminan fidusia tersebut. c. Apabila title eksekutorial atau droit de suit dilakukan oleh kreditur, debitur sering tidak memenuhinya sesuai Pasal 30 Undang-Undang Nomor 42 Tahun 1999, sehingga proses eksekusi sering batal karena adanya penolakan dari debitur atau dengan menggerakkan keluarga atau massa. d. Kreditur merasa dirugikan terhadap barang jaminan fidusia yang tidak lengkap seperti semula.*

**Kata Kunci:** *Fidusia, Kewenangan Polri, Tindak Pidana.*

## A. Introduction

Fiduciary security is a conventional product that is applied to protect creditors in particular. When the debtor defaults, the creditor can ask for compensation from the debtor by executing fiduciary security. Fiduciary registration and execution of collateral can be carried out immediately without waiting for a court decision. Such conditions make it easy for financial institutions to collect compensation from financing provided to customers. (Maksum, 2015)

One example of credit security for movable objects is a motorized vehicle. What is meant by motorized vehicles here are vehicles of various types and brands. (Hasanudin Rahman, 1998) This follows the definition provided by Law Number 22 of 2009 concerning Highway Traffic and Transportation, as amended by Law Number 11 of 2020 concerning Job Creation, which states that a motorized vehicle is any vehicle driven by technical equipment on or on the vehicle.

For vehicles (cars) submitted as credit collateral, the Bank must first see and know the type of vehicle, including passenger cars or public transportation, commercial cars, trucks, or private vehicles. This needs to be known because several types of vehicles are required to have special permits for their operation. For example, Passenger cars or buses or public transportation require a route permit, or trucks and other commercial cars are required to "kir" vehicles, all of which are issued by the competent authority. (Kumaladewi, 2015)

For the sake of binding motor vehicle fiduciary security, what the financing institution or creditors must request is proof of ownership book (BPKB) as collateral and other conditions that the debtor must meet.

The travel process often occurs even more likely to be very detrimental to the financing institution, with the occurrence of several cases that are not following the financing agreement note, namely the debtor does not continue his credit obligation or defaults and even transfers the object of fiduciary collateral to a third party without the consent of the fiduciary. The financing institution has anticipated this by registering with a notary for a certificate of fiduciary security and processing of obtaining a certificate of fiduciary security at the Ministry of Law and Human Rights. Thus, financing institutions can make law enforcement efforts against debtors who do not pay off their credit or default debtors, especially if the object of fiduciary collateral has been transferred to a third party. In this case, the debtor can be processed for a criminal act following Article 36 of Law Number 42 of 1999 concerning Fiduciary Security. The question is, in Law Number 42 of 1999, there are no articles that can trap a third party who controls the object of fiduciary security in a way that is not following the legal procedures regulated in this Law on the Crime of Fiduciary Security.

The transfer of ownership rights here has been explained in article 1 paragraph 1 of Law Number 4 of 1999 concerning Fiduciary Security, namely *"transfer of ownership rights to an object based on belief provided that the object whose ownership right is transferred remains under the control of the owner of the object"*. So if the fiduciary (the debtor) transfers, pawns, or leases the object of the fiduciary security to a third party without the written consent of the fiduciary recipient (the creditor), it is a criminal act, in which fiduciary cases may be subject to criminal provisions in Article 36 Law Number 42 of 1999 concerning Fiduciary Security which reads:

*"Giver of Fiduciary who transfers, pawns, or leases objects that are the object of Fiduciary security as referred to in Article 23 paragraph (2) without prior written*

*approval from the Fiduciary Recipient, shall be punished with imprisonment of 2 (two) years and a maximum fine IDR 50,000,000 (fifty million rupiahs)."*

The requirement to determine fiduciary security is based on the Regulation of the Minister of Finance Number 130/PMK.010/2012 concerning Registration of Fiduciary Security. This regulation obliges finance companies conducting consumer financing for motor vehicles to determine the imposition of fiduciary security. The fiduciary security must be registered at the Fiduciary Registration Office no later than 30 calendar days from the date of the consumer financing agreement. If the finance company does not carry out a fiduciary registration, then the withdrawal of the motor vehicle from the customer is not justified. (Alfian, n.d.)

The fiduciary regulation in Law Number 42 of 1999 concerning Fiduciary Security still leaves problems. According to Diah Sulistyani, these problems, among others are; the time period for registering a fiduciary deed is not regulated, it is prone to re-fiduciary action, and the potential for conflict because there is no registration period, there are no strict sanctions against the binding of fiduciary security which are carried out underhand, there are no strict sanctions against the use of "selling power" which is clearly contrary to the methods of execution in accordance with the Law Number 42 of 1999 concerning Fiduciary Security so that it has the potential not to provide a sense of justice for debtors, The rampant use of the power of security privately has the potential for conflict also considering the validity of the signature in the power of attorney, unless legalized by a Notary or made a notarial power of attorney, the Fiduciary Security Registration Office has not been opened to remote areas of Indonesia, and there is no uniformity in the use of the Database at the Fiduciary Security Registration Office so that it is prone to Re-Fiduciary. (Diah Sulistyani, 2012)

In the criminal act of transferring ownership rights, the community assumes that the fiduciary security is related to civil law, not criminal law, because according to the community, if you transfer or mortgage or lease the object of the fiduciary security without written consent with the creditor, according to him, it can be resolved in a civil scope. Still, in reality, it is included in the realm of criminal law because the act he committed is already a criminal act. (Candra Surya Kurniawan, 2014)

In the reporting process of a criminal act of fiduciary security controlled by a third party, the reporter has committed, in this case, the creditor. At the Central Java Regional Police, crimes of fiduciary security controlled by a third party are handled by the Central Java Regional Police's Ditreskrimsus (Special Criminal Investigation Directorate investigators).

The existence of the Decision of the Constitutional Court Number 18/PUU-XVII/2019 occurs 3 (three) conditions stipulated that Article 15 paragraph (2) and (3) and the explanation of Article 15 paragraph (2) of Law Number 42 of 1999 concerning Fiduciary Security applies conditionally unconstitutional that are:

1. The terms of default/breach of contract must be agreed upon between the Creditor and the Debtor.
2. If the Debtor defaults on his promises, the Debtor must voluntarily submit his security.
3. If the Debtor objected to voluntarily handing over the object of the Fiduciary Security, the execution of the Fiduciary Security Certificate cannot be forced. Still, it must go through a lawsuit to the District Court, and the creditor can no longer carry out the execution immediately when the promise of a gross breach occurs with a gross acte. "For the sake of justice is based on God."

Based on the above background, the police have the authority to carry out investigations in the case. Although solving the case is not as easy as in the existing theory, the investigator also has several obstacles in uncovering the case of transferring the object of fiduciary security. However, the police have a legal basis to be able to carry out investigations, namely in Article 36 of Law Number 42 of 1999 concerning Fiduciary Security. With the above cases, the Police have the right to carry out investigations into the Transfer of Fiduciary Objects. So from this, the author wants to raise the title of research that discusses "The Authority of the Indonesian National Police in Handling Crimes of Fiduciary Security Controlled by Third Parties".

Based on the title above, the writing of this article aims to analyze the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties. Also, to analyze obstacles related to the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties.

## **B. Formulation of the Problems**

1. How is the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties?
2. What are the obstacles related to the authority of the Indonesian National Police in overcoming crimes of fiduciary security controlled by third parties?

## **C. Research Method**

This study uses a normative juridical research method, using an approach to the law and the law's effectiveness. The research specification used in this research is descriptive-analytical, which describes the state of the object under study and several factors that influence the data obtained and then collected, compiled, explained, and analyzed according to the Laws and Regulations that regulate and relate to the legal theories and the practice of implementation in positive law concerning the problem. Descriptive research is research that aims to describe something in a particular area and at a specific time. (Ronny Hanitijo Soemitro, 1990) Sources of data used in this study are primary data and secondary data.

## **D. Discussion**

### **1. The Authority of the Indonesian National Police in Handling Crimes of Fiduciary Security Controlled by Third Parties**

As a state instrument whose task and role are to maintain public security and order, law enforcement, protection, protection, and services to the community, the Police of the Republic of Indonesia has the authority to assist in securing the implementation of court decisions or executing fiduciary security. The execution of the Fiduciary Security has the same binding legal force as a court decision that has permanent legal force, so it requires security from the Police. Therefore, the Republic of Indonesia National Police Chief Regulation Number 8 of 2011 concerning Safeguarding the Execution of Fiduciary Security was formed. (Guntur, 2017)

As a state instrument whose duty and role is to maintain security and public order, law enforcement, protection, protection, and service to the community, the Indonesian National Police also assists in securing the implementation of court decisions or the execution of fiduciary security (Satriya Nugraha, 2018). Article 15, paragraph 2 of the

JF Law states that a fiduciary security certificate has the same executorial power as a court decision with permanent legal force, requiring security from the Police. Therefore, the Republic of Indonesia National Police Chief Regulation Number 8 of 2011 concerning Safeguarding the Execution of Fiduciary Security was formed.

According to Article 1234 of the Civil Code, the form of achievement is giving something, doing something, and not doing something. Sometimes the debtor cannot perform the achievement properly. This is because:

- a. Due to a debtor's fault, whether on purpose or negligence, it is called default
- b. Due to a compelling situation beyond the debtor's ability, it is also called an overmacht.

In Article 4 of the JF Law, debtors and creditors in a fiduciary agreement must fulfill achievements. In a contrario, it can be said that if a debtor or creditor does not fulfill the obligation to perform performance, then one of the parties can be said to be in default. The main concern is the issue of the Fiduciary Security as a default of the debtor. In the law of agreement, if a debtor does not fulfill the agreement's contents or does not do the things promised, then the debtor has defaulted with all the legal consequences.

If in an agreement the debtor does not carry out what was agreed upon because of his mistake, it can be said that the debtor has defaulted. These mistakes can be in the form of deliberate and underachieving, negligent or broken promises, or even breaking the agreement by doing something that is prohibited or not allowed to do. This has legal consequences. Namely, the injured party can demand the implementation of the achievements or other consequences stipulated in the agreement (compensation). (Di et al., 2018)

Default acts that debtors often carry out are doing something that should not be done according to the agreement, namely by transferring the object of Fiduciary Security, which is not an object of inventory, to a third party without written approval from the creditor. If the debtor does not fulfill its obligations or defaults, the creditor can withdraw the Fiduciary Security for sale to cover the debtor's debt. This action is not a legal act contrary to the JF Law; even the debtor should submit the Fiduciary Security object to the creditor so that it can be sold. (Migfar & Purnawan, 2018)

In granting credit by the Bank, the creditor allows or entrusts the debtor to continue to use the collateral to be used following its function. However, while using the collateral, the debtor is required to maintain it as well as possible. This is in line with one of the principles adopted in the JF Law, namely, the principle of good faith. In this principle, the fiduciary security provider who remains in control of the collateral object must have good faith (*te goeder troow, in good faith*). The principle of good faith here has a subjective meaning as honesty, not an objective meaning as propriety as in contract law. With this principle, it is expected that the fiduciary security provider is obliged to maintain the collateral object, not to transfer, rent and pawn it to other parties. In addition, the JF Law stipulates that debtors are also prohibited from transferring objects of Fiduciary Security which are not inventory items, to third parties without the approval of the creditor.

According to JF Law in Article 23 paragraph (2), the fiduciary giver is prohibited from transferring, mortgaging, or leasing to other parties objects that are the object of the Fiduciary Security, not inventory objects except prior written approval from the fiduciary recipient. Suppose the debtor transfers the object of the Fiduciary Security, which is not an object of inventory, to a third party without written approval. In that

case, the legal consequences will be in default and criminal sanctions as regulated in Article 36 of the JF Law. (Sahputra, 2020)

In practice, debtors often continue to transfer the object of the Fiduciary Security, which is not an object of inventory, to a third party without the creditor's approval. One of the factors that cause it is because debtors need funds to pay credit installments every month. The legal consequences related to the transfer of the object of the Fiduciary Security in the Bank's credit agreement cannot be separated from paying attention to the characteristics of the Fiduciary Security as material rights as regulated in the JF Law. According to Sri Soedewi Masjchoen Sofyan, material rights are absolute rights to an object where that right gives direct power over an object and can be defended against anyone.

The *droit de suite* principle is part of the Indonesian laws and regulations concerning absolute property rights. Fiduciary Security has a *droit de suite* nature, meaning that the Fiduciary Security follows the object that is the object of the Fiduciary Security in the hands of whoever the object is. However, this property is excluded from Fiduciary Security objects in the form of inventory objects. The nature of the *droit de suite* can be exemplified, the object of the Fiduciary Security is in the form of a car, bus, or truck which the owner of the object resells to another party, then with the nature of *droit de suite* if the debtor is in default, the creditor as the fiduciary recipient can still execute the car, truck or bus collateral even though the debtor has sold it and is controlled by another party or a third party. So the object owner's sale of the object of the Fiduciary Security does not eliminate the creditor's right to exclude the object of the Fiduciary Security.

The acknowledgment of the *droit de suite* principle that fiduciary security rights follow the object in the hands of whoever the object is providing legal certainty for creditors to obtain debt repayment from the sale of the fiduciary security object if the debtor defaults. So, legal certainty over these rights is not only when the object of the Fiduciary Security is still in the debtor's control but also when the object of the Fiduciary Security has been transferred or is in the power of a third party.

So based on the material rights attached to the Fiduciary Security and the *droit de suite* principle where the right continues to follow the object in the hands of whoever the object is, if the debtor transfers the object of the Fiduciary Security to a third party, a legal consequence will arise where the creditor has the right or coercive power to withdraw the object of the fiduciary security from a third party by executing it.

The execution of Fiduciary Security is regulated in articles 29-34 of the JF Law. What is meant by the execution of the Fiduciary Security is the confiscation and sale of objects that are the object of the Fiduciary Security due to the debtor breaking his promise or not fulfilling his achievements on time to the creditor. In the JF Law, it has been determined that the way to execute the Fiduciary Security is by carrying out the executorial title, parate execution, and selling the Fiduciary Security object privately made. If the collateral object is sold privately, the Law provides that it is carried out after one month has passed since it has been notified in writing by the giver and or recipient of the fiduciary to interested parties and announced in newspapers circulating in the area concerned.

In the implementation of the executorial title by the fiduciary recipient, what is meant by the executorial title (the basis of the right of execution), is writing that contains equality with the implementation of court decisions, which provides the basis for confiscation and auction of *executorial verkoop* confiscations without the

intermediary of judges. Based on article 15 paragraphs (1) and (2) of the JF Law, which states that the Fiduciary Security Certificate has the same executorial power as the court decision that has obtained permanent legal force, the creditor as the fiduciary recipient has the right to exercise an executive title on the Fiduciary Security object by using the Fiduciary Security Certificate if the debtor defaults or is in breach of contract. The creditor also has the right to sell objects that are the object of the Fiduciary Security with the approval of the fiduciary giver or with the assistance of a district court.

Parate execution is an execution carried out by the holder of the security right without going through the assistance or intervention of the court. The procedure is more straightforward with the aim that creditors can get their receivables repaid faster. This is also based on Article 15, paragraph (3) of the JF Law, which states that if the debtor breaks his promise, the creditor as a fiduciary recipient has the right to sell objects that are the object of the Fiduciary Security on his power. The right to sell the object of the Fiduciary Security on its power is the embodiment of the Fiduciary Security Certificate, which has the same executorial power as a court decision which has permanent legal force and binds the parties to implement the stipulation.

The provisions regarding criminal sanctions in Law No. 42 of 1999 concerning Fiduciary Security contained in Article 36, determine as follows:

*The granting of a fiduciary that transfers, mortgages, or leases objects that become the object of a fiduciary as referred to in Article 23 paragraph (2), which is carried out without prior written approval from the fiduciary recipient, shall be punished with imprisonment for a maximum of 2 (two) years and a fine of a maximum of IDR 50,000,000 (fifty million rupiahs).*

*Article 23 paragraph (2) contains a prohibition for the fiduciary giver to transfer, pledge or lease to other parties' objects that are objects of fiduciary security which are not inventory items, except with prior written approval from the fiduciary recipient.*

## **2. Obstacles Related to the Authority of the Police in Overcoming Crimes of Fiduciary Security Controlled by Third Parties**

In the early semester of 2020, there were several diversion cases he handled. From the diversion cases described, there were several different cases in their resolution. Some were successful at the investigator level, and some were successful at the court level. The purpose of diversion is a form of restorative justice, not retaliation for a child's actions. In the implementation of diversion, usually, the first to file for diversion is from the investigator who asks for social research from the penitentiary to find out whether the case can be diverted if the case of the child is under 7 (seven) years old and is not a repeat of the crime then diversion can be carried out. Still, if it is above 7 (seven) years, diversion cannot be carried out.

Obstacles to the authority of the Police in tackling fiduciary crimes are:

- a. The lack of facilities and infrastructure, as well as the operational budget.
- b. There are no criminal sanctions against third parties or other parties who control the object of the fiduciary security.
- c. Suppose the creditor carries out the executorial title or droit de suit. In that case, the debtor often does not fulfill it according to Article 30 of Law Number 42 of 1999. The execution process is often canceled due to refusal from the debtor or by moving the family or the masses.
- d. Creditors feel aggrieved against insufficient fiduciary collateral as before.

Based on the theory of legal protection, according to Satjipto Rahardjo, that legal protection is to protect human rights that are harmed by others. That protection is given to the community so that they can enjoy all the rights granted by law. (Satjipto Rahardjo, 2000) Therefore, the state must protect the community or its citizens. The state's form of legal protection is realized through the relevant laws and regulations, in this case, the JF Law.

Based on what is meant by Fiduciary Security in Article 1 paragraph (2) of the JF Law, the fiduciary giver (the debtor) should be able to keep the collateral object within his control. However, in reality, it is possible that the object of the Fiduciary Security changes hands or transfers its control to a third party because the debtor transfers it. Thus the fiduciary recipient (the creditor) will be in an unfavorable position because the object of the fiduciary security is no longer in the control of the debtor. Of course, this incident will harm the creditor in paying off his receivables, especially if there will be an execution of the collateral object.

The absence of a security object in the debtor's control, one of which can be due to being traded again. About this, the creditor does not get the fulfillment of the settlement of his receivables. Based on article 23 paragraph (2) of the JF Law, it can be said that the debtor's act of transferring the object of the Fiduciary Security without written approval from the creditor is unlawful and is prohibited by the JF Law.

Forms of legal protection that can be given to creditors based on preventive legal protection are:

#### 1. By Fiduciary Security Registration System

Fiduciary security gives rights to the fiduciary recipient (the debtor) the right to keep control of the object that is the object of the fiduciary security based on trust. Therefore, to provide legal certainty, especially for fiduciary givers (creditors), based on Article 11 of the JF Law, it is obligatory for objects burdened with Fiduciary Security to be registered at the Fiduciary Registration Office. Registration of fiduciary security is an embodiment of the principles of publicity and legal certainty because registration of fiduciary security is expected to provide legal certainty to fiduciary givers and recipients, and third parties. In addition to being the embodiment of the principle of publicity and providing legal certainty, registration of fiduciary security also gives priority to fiduciary recipients over other creditors.

#### 2. By Insuring the Object of Fiduciary Security

Each security should be insured according to the nature of the security. This is intended to protect the risk in the event of things that are not desirable. One way to overcome risk is by risk transfer. Risk transfer is a way of transferring risk to another party where the other party is willing to take over the risk. And those who are willing to take over the risk are insurance companies. According to the risk transfer theory, the insured realizes a threat of danger to his property or his life. If the danger occurs to him, the loss he suffers is too significant to be borne by himself. To reduce or eliminate the risk of the risk, the insured party seeks to transfer the risk of danger to another party willing and pays a counter-performance called a premium.

Insurance or coverage implies an understanding of a risk that occurs before it can be ascertained and the delegation of responsibility to bear the burden of risk from the party who has the risk burden to another party who can take over. As a counter achievement from the other party who delegates this responsibility, who is obliged to



pay a certain amount of money to the party who accepts the responsibility. (Prodjodikoro Wirjono, 1986)

## **E. Closing**

### **1. Conclusion**

The authority of the Indonesian National Police in Handling Fiduciary Crimes Controlled by Third Parties is that the Indonesian National Police has the authority to maintain security and public order, law enforcement, protection, protection, and service to the community, also has a role in assisting in securing the implementation of court decisions or the execution of fiduciary security. Article 15, paragraph 2 of the JF Law explains that a fiduciary security certificate has the same executorial power as a court decision with permanent legal force, requiring security from the Police. Therefore, the Regulation of the Head of the Indonesian National Police Number 8 of 2011 concerning Security of Execution of Fiduciary Security was established. Obstacles to the Police's authority in tackling fiduciary crimes are:

- a) The lack of facilities and infrastructure, as well as the operational budget.
- b) There are no criminal sanctions against third parties or other parties who control the object of the fiduciary security.
- c) If the creditor carries out the executorial title or *droit de suit*, the debtor often does not fulfill it according to Article 30 of Law Number 42 of 1999, so that the execution process is often canceled due to refusal from the debtor or by moving the family or the masses.
- d) Creditors feel aggrieved against insufficient fiduciary collateral as before.

### **2. Suggestion**

To prevent the risk of significant losses, creditors can transfer or at least reduce the risks that may arise in granting credit. One way is to transfer the risk to another party, namely insurance. Several things are considered for insurance or coverage that must be carried out by the creditor, both for the life of the debtor (individual) or for credit security controlled by the creditor. An essential consideration is regarding the return of credit that the creditor has given to the debtor. In addition, although the sum insured received is not proportional to the consequences, at least the sum insured received can ease the burden of compensation.

There is a need for strict laws and must be socialized because without socialization which has an impact on cultural change and law enforcement, especially socialization regarding legal consequences if problems arise or lawsuits due to errors (intentional or unintentional) from the debtor due to the use of the Fiduciary Security object which results in the transfer of the Fiduciary Security object then the creditor or fiduciary recipient is freed from responsibility, so the one who is fully responsible is the debtor or fiduciary giver. This is confirmed in article 24 of the JF Law, which states that the fiduciary recipient does not bear any liability for the consequences of the fiduciary giver's actions or omissions either arising from a contractual relationship or arising from unlawful acts in connection with the use and transfer of objects that are the object of the fiduciary security.

With the increasing number of debtors defaulting and committing criminal acts of fiduciary security as referred to in Article 36 of Law Number 42 of 1999, namely transferring the object of fiduciary security to third parties or other parties without the

approval of the creditor, it is necessary to add articles in Law Number 42 of 1999 concerning criminal sanctions against third parties or other parties who control the object of fiduciary security whose acquisition is suspected to be irrelevant to the current favorable legal rules. By looking at article 22 of this Law that "the buyer has paid in full the sale price of the object following the market price." This quote is felt to be an inspiration for the following article, which regulates the "purchase of movable objects by a third party," which is already bound by fiduciary security and does not match the market price, subject to criminal sanctions.

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