

COMPENSATION FOR THE TRANSFER OF MORTGAGE LOAN (KPR) BY THE DEBTOR WITHOUT THE BANK'S KNOWLEDGE

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Abstract

Transferring mortgage credit to a third party without the bank's knowledge can cause losses between the bank and the third party. This process requires approval from the bank as the creditor and is marked by an authentic deed to confirm this agreement. Therefore, this article aims to determine the validity of the under-hand agreement for the transfer of homeowner credit without the knowledge of the bank, as well as the legal consequences of compensation for ownership of the mortgage object after the agreement under the hand of the debtor is executed. The research method used is normative juridical, which refers to legal norms in national laws with a statutory research approach. The results of this research show that in the event of a mortgage loan (KPR) transfer to a third party without the knowledge of the bank, it is null and void or invalid, and the legal consequences resulting from this action, the creditor or third party can sue and ask for compensation from the debtor because they have committed a default. Then, the third party who has received the KPR transfer does not get the title transfer.

Keywords: Compensation; Mortgage; Underhand Agreement; Debtor; Bank

INTRODUCTION

Every individual has the desire to have their own dream home. However, to have the house you want requires effort, desire and the opportunity to make it happen. In this case, the house is a base for shelter for the family, a place to relieve fatigue after doing work or other activities outside; the house becomes a symbol of someone who has succeeded in living life and is a symbol of success. Article 1 point 7 of Law Number 1 of 2011 concerning Housing and Settlement Areas explains that: " A house is a building, a building that functions as a habitable residence, a medium for family development, a reflection of the dignity of its occupants, as well as wealth for its owner."

In this case, the government creates a program, namely national development, to

achieve state goals, one of which is advancing general welfare based on social justice. To achieve national development, banks must provide funds in the form of financing so that residents can get houses. One type of financing that banks develop is home ownership credit (KPR). According to Law no. 10 of 1998 concerning Amendments to Law no. 7 of 1992 concerning Banking, credit is defined as: " *Credit is the provision of money or equivalent bills, based on an agreement or loan agreement between the bank and another party. In this case, the borrower must pay off the debt within a certain period with additional interest. This credit is a distribution of funds from conventional banks to customers or debtors.* "

Meanwhile, no standard explanation defines Home Ownership Credit (KPR). Some define KPR as a financial product



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to support homeownership for the community, which is used to distribute costs to the community; this is done for Bank Tabungan Negara (BTN). The process by which buyers purchase housing using credit provided through the Home Ownership Credit (KPR) program involves ownership of the land and the house built on it by the debtor. (Santoso, 2017). Some define a Home Ownership Credit (KPR) as a loan a bank provides to a debtor to buy a house and the land rights built by a housing developer. The debtor returns the loan to the bank within a certain period with additional interest. (Kurniasari, Abas, and Dewi 2021) .

For residents who do not have funds, home ownership loans offered by banks are an influential option for owning land and buildings. Apart from that, the creation of mortgage space is the same as the need for houses as high-rise residences unless, on the other hand, the people's capacity or people's purchasing power is minimal. In providing credit to the public, the bank will analyse potential buyers (debtors) based on the principle of prudence (Prudential) so as not to result in something undesirable for the bank as a creditor and potential buyers as debtors. (Slamet Ristanto, 2008).

As a result, before a bank provides a credit loan to a debtor, the bank will conduct a feasibility evaluation based on each banking policy. This indicates that there is a possibility that the bank will reject credit if it does not meet the specified criteria. The credit granting program is one of the products from several banks where it is easy for problems to arise in the credit agreement process, especially in the form of delays in monthly payments made by buyers

resulting in bad credit, the process of taking over the house by a third party can be an option taken by debtors who are facing the possibility of foreclosure. House due to default. This process involves selling the house to a third party with payment of the agreed price and any remaining payments. In this context, debtors buy and sell houses under their hands before the Home Ownership Credit (KPR) is paid off without notifying the bank as the credit provider. (Agustini, 2018) .

One of the cases was transferring KPR objects through a private agreement, which occurred with decision number 227/Pdt.G/2013/PN.Cbn. The beginning of this case arose when defendant I (one), as the first debtor, namely Subaidi, had purchased land/house BTN Type 21, which was located at Kartika Sejahtera Housing J 10-04, Sasak Panjang Bojonggede Village, Bogor Regency. In this case, the seller/transferred the KPR facility by transferring credit 3 (three) times, namely on December 11 1996, the BPN KPR house and land were sold/*over-credited* to defendant II (two) as the second debtor, namely Suroso HS and Djuma'atin (husband and wife). Then, on July 4 2002, the house and land of KPR BTN were sold/credited again by defendant II (two) as the second debtor and defendant III (three) as the third debtor, namely Lasmini. However, not long after, on July 9 2002, the house and land of KPR BTN were sold/*over-credited* to the plaintiff, NY. Sumi. After this transfer, the buyer continues to pay the instalments until they are paid in full. After payment, the buyer intends to take the house documents in the name of the seller/debtor, but PT. Bank Tabungan

Negara objected to handing over the certificate because the certificate had to be taken by the credit holder. However, until this lawsuit was filed at the Cibinong District Court and the trial decision was made, the debtor's whereabouts and absence were unknown. The debtor's actions are detrimental to the buyer because even though he controls the land's physical aspects and construction, the house's ownership is still in the debtor's name.

The transfer of debtors mentioned above could give rise to complex legal problems in the future because it relates to legal certainty regarding home ownership. A common problem often arises when the old debtor disappears or runs away, so the bank cannot collect the debt.

Debtors usually transfer ownership of land and buildings obtained through Home Ownership Credit (KPR) for the following reasons: (Desi Yayi Tarina et al. 2023)

- a. Old debtors are no longer able to pay Home Ownership Credit (KPR) instalments due to financing problems;
- b. The old debtor changes residence;
- c. The debtor has evil intentions towards the other party because he cannot pay. For example, when selling a Home Owner's Credit (KPR) to several other buyers in an informal way, only provide a photocopy to the new debtor.

The legal action of this transformation is if the bank is reluctant to allow credit transformation to new debtors. This transfer was carried out without the bank's knowledge; the new debtor had no power over the bank. Both refer to certificates and credit agreements because the bank

still believes that the house certificate is still in the name of the old debtor. This results in a lack of legal certainty or power for third parties who obtain the right to transfer home ownership credit objects.

One effort to ensure the smooth provision of mortgage finance is to provide loans specified in the credit contract. A credit contract is a principal agreement with a fundamental nature, meaning that it is determined by the money handed over from the bank to the debtor (Hermansyah, 2020).

Based on the description above, further research regarding buying and selling houses using an *over-credit* hand is considered necessary, as described in a legal article titled Compensation for the Transfer of Mortgage Home Credit by Debtors Without the Knowledge of the Bank. Therefore, the problem contained in this article is regarding the validity of the private agreement regarding the transfer of the homeowner's credit by the debtor without the knowledge of the bank and the legal consequences of compensation for ownership of the mortgage object after the agreement under the transfer of the debtor is executed.

RESEARCH METHODS

Based on the problems studied, the research in this article is based on normative juridical. Normative juridical is a scientific discipline that studies the legal norms of the national legal system (Ateng Karsono, 2021) using a statutory approach, where researchers must understand the hierarchy and fundamental principles in statutory regulations. (Peter Mahmud Marzuki, 2023).

The nature of the research is descriptive, analytical, and juridical. This

approach is used to research and analyse secondary data information related to research materials, such as primary and secondary legal documents. The focus is on collecting secondary data, which involves research and evaluation of legal principles and statutory regulations, which can positively contribute to library sources, including relevant laws and legal provisions.

In this research, the data source used is secondary data. Secondary data collection was carried out through a literature study using primary legal data as a reference and explanation. Secondary legal data is divided into two types. Primary legal data used in this research include Civil Code, Law Number 1 of 2011 concerning Housing and Settlement Areas, Government Regulation Number 24 of 1997 concerning Land Registration, Law Number 10 of 1998 concerning Amendments to Law Number 7 1992 concerning Banking, Decision Number 227/Pdt.G/2013.PN.Cbn, while secondary legal materials are documents that explain primary legal documents, including books, articles, journals and various other mass media.

RESULTS AND DISCUSSION

Financial limitations always arise to fulfil the need to own a house because not everyone can and feels safe to set aside only a portion of their income. Therefore, there are 2 (two) options to get the function of a house, namely renting or buying. Renting a house is one of the quick and effective ways to get a house to function as a place to live, and this method is a practical choice for the short term. Renting is also cheaper than buying. Apart from that, there is the freedom to

move around at will. However, for long-term benefits, people must get the function of a house by buying it. This way, more benefits can be obtained (Herutomo, Agung 2013).

As the regulator, Bank Indonesia includes home loans as a consumption credit type intended for consumption, not as working capital. KPR is included in the consumer credit category but does not have a consumptive element. Compared to other consumer loans, such as car loans and multi-purpose loans, mortgages have their advantages. KPR has a collateral value that continues to increase, so the property's value is guaranteed over time. It will continue to increase rapidly compared to motor vehicle loans, which will experience depreciation according to the vehicle's economic life, ranging from 3 (three) to 5 (five) years.

The mortgage home purchase process can begin with an agreement between the consumer and the bank. This contract is intended to limit the rights and responsibilities between creditors and debtors and, as evidence, between the two. Then, the creditor, who may be represented by an investor (developer), submits the KPR application. (Nero, Amir, Puspawati 2014) . In general, there are several conditions required when applying for a subsidised KPR, namely:

- a. Indonesian citizens;
- b. Be at least 21 years old, married, and meet the requirements of being legally competent;
- c. The applicant's age is not more than 65 years when the loan matures. Especially for ASABRI participants who receive recommendations from YKPP, the applicant's age must not

- exceed 80 years at the time the loan matures
- d. Basic salary/income does not exceed:
 1. IDR 4 million for Rumah Sejahtera Tapak
 2. IDR 7 million for the Prosperous Flats
 - e. Have an e-KTP and be registered with Dukcapil
 - f. Have an NPWP and Annual Personal Income Tax SPT by applicable laws.

The requirements for submitting a Non-Subsidized KPR application differ from those for the Non-Subsidized KPR Program (Regular KPR) from BTN, where the loan amount and interest rate are determined based on bank policy.

Based on the requirements above, KPR is helpful because it allows people to own a house even though the purchase uses credit, not cash. In general, the principle of a mortgage is that the costs of purchasing or building a house are financed first and then paid in instalments. Many KPR customers fail to pay their loans but take action by transferring ownership of their KPR home to someone else. This transfer of ownership is often referred to as private credit, which occurs privately between the old debtor and the new debtor without the bank's knowledge.

RESULTS AND DISCUSSION

1. The Validity of Underhand Agreements on the Transfer of Home Ownership Credit by Debtors Without Bank's Knowledge

People often assume that the land rights transfer can only be done with a payment receipt as proof of the transaction. They believe that with this receipt, they can process the title transfer

to the buyer's name. A problem often encountered in the community is when a land buyer wants to get a title transfer document to his name. The Land Office rejected the application because he only had a receipt for the payment. The buyer is then advised to make a Sale and Purchase Deed before the Land Deed Making Officer. However, the problem is that the seller's whereabouts are unknown when the buyer wants to make the Deed of Sale and Purchase.

Discussing debt transfer, there are differences in terminology between economic technical and juridical technicalities regarding the meaning of debt transfer. In legal science, this is called the *takeover assumption of subrogation, cessie and novation* institutions. However, along with the development of terminology in the banking world, there are definitions for *a balance transfer, asset purchase, take over and buyback guarantee*, which legally include credit or transfer. (Supriyanto, Edy 2018).

The transfer of land and buildings obtained through a mortgage can be referred to as novation or debt renewal. Novation is considered to have occurred when the following conditions are met: (Sugara, Birih 2018) .

- a. Done firmly;
- b. There is a valid debt;
- c. There is a change of debt (objective novation), a change of debtor (passive subjective novation), or a change of creditor (active subjective novation);
- d. Fulfill the requirements for the validity of a contract as regulated in Article 1320 of the Civil Code;
- e. Delegation alone does not cause novation.

According to Article 1320 of the Civil Code, contracts are considered valid and have legal force binding the parties entering the contract. The provisions of this article regulate four conditions for the validity of an agreement, namely:

- a. There is an agreement between the parties entering into a contractual agreement (*toestemming*);
- b. The parties to the contractual agreement must be legally competent (*bekwaamheid*);
- c. The existence of particular objects that constitute the agreement (*bepaalde onderwerp*), and
- d. There is a halal reason for agreeing (*causa*).

In the case that has been decided in the debtor transfer agreement, number 227/Pdt.G/2013/PN.Cbn, the legal requirements for the first agreement are regarding the existence of an obligation, such as an agreement in the sale and purchase agreement for land and buildings obtained with a private mortgage. , has been fulfilled. Apart from that, the land and building sales agreement does not contain any element of coercion between the two parties. This can be seen from the agreement on the sale and purchase price of land and buildings obtained through KPR between the old debtor and the new debtor, supported by payment receipts (receipts) and agreements regarding instalment payments and physical control of the land and buildings.

It can be concluded that the legal requirements for the second agreement, namely the ability to agree, have been fulfilled. This legal competence is proven by accepting old debtors as customers who receive KPR facilities from BTN Bank, indicating that the old debtors are

over 21 years old or married. The new debtor can also be considered old enough and not under guardianship, reflected in his ability to enter into land and building sale and purchase agreements and pay the remaining mortgage instalments on the land and buildings he has acquired.

The third condition regarding land and buildings obtained through KPR has been fulfilled. However, the fourth requirement regarding a valid reason is not fulfilled in the land and building sale and purchase agreement, which was made privately. This is because a debtor transfer agreement exists between the old debtor and the new debtor without the creditor's knowledge, which provides mortgage financing facilities for the land and building.

Based on Law Number 1 of 2011 concerning Housing and Settlements, specifically Article 55 paragraph 2, if there is a transfer of ownership rights as described in paragraph 1 letters b and c, the transfer must be carried out through an agency appointed directly by the government.

Other rules governing transfer methods are regulated in Government Regulation Number 24 of 1997 concerning Land Registration. Specifically, Article 37 paragraph (1) of this regulation states that: "*Transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, grant, entry into the company, and other legal acts of transfer of rights, except transfer "rights through auction can only be registered if proven by a deed made by the authorised PPAT according to the provisions of the applicable laws and regulations."*

According to Article 1320 of the Civil Code, the debtor's transfer of land and buildings obtained through a KPR by the debtor privately fulfils the subjective requirements of a valid agreement so that the agreement cannot be cancelled. However, because the objective requirements of a valid agreement, namely the existence of a valid cause, are not fulfilled in the debtor transfer agreement, the debtor transfer agreement can be said to be null and void. Based on Article 1417 and Article 1420 of the Civil Code, the debtor transfer agreement made as part of novation (debt renewal) is invalid because the creditor does not know and does not expressly state that he is releasing the old debtor from all his obligations.

Credit transfers carried out without written approval from the bank can harm the debtor receiving the transfer. Bank BTN, for example, does not recognise the recipient of the credit transfer as the owner of the KPR house, which can have an impact on the KPR house certificate that the bank will issue; this is due to a default. (Suharna and Pascasarjana 2006) . Default is regulated in Article 1243 of the Civil Code, which states that: *"Compensation for costs, losses and interest due to failure to fulfil an obligation begins to be required, if the debtor, even though he has been declared negligent, still fails to fulfil the obligation, or if something that must be given or done is only can be given or carried out within a time that exceeds the time specified."*

This default arises because the old debtor cannot fulfil the obligation to pay mortgage instalments and decides to transfer credit (*over credit*) for land and

building ownership rights to the new debtor. (Mahmudy 2016) .

However, if the default occurs due to the old debtor's inability, will the new debtor who buys the house privately get legal protection? Buyers who transfer credit or "underhand credit" can still get legal protection, but there are several things you need to pay attention to. Buyers can make clear and legally strong sales and purchase agreements to regulate the rights and obligations of both parties. This agreement must include details about the responsibility for paying mortgage instalments, property maintenance, and other important clauses. Then, to increase legal security, it is recommended that the agreement be made before a notary. Although this does not replace recognition from the bank, it can provide better legal protection for both parties.

Based on the previous description, it can be concluded that Law Number 1 of 2011 concerning Housing and Settlement Areas and Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration violate the rules regarding the transfer of debtors carried out by old debtors. From these two provisions, it can be concluded that the debtor's transfer of land and buildings obtained through Home Ownership Credit (KPR) from the old debtor to the new debtor must be carried out through a deed issued by the Land Deed Making Officer (PPAT). Therefore, sale and purchase agreements that occur without involving PPAT and without the knowledge of creditors and institutions appointed by the government are considered invalid or deemed not to have occurred.

2. Legal Consequences of Compensation for Ownership of Mortgage Objects After the Agreement is Executed Under the Hand of the Debtor Transfer

In banking law, some regulations require banks as credit providers to ensure that customers have the ability and ability to repay the credit provided. Therefore, banks need to carry out credit analysis first. This credit analysis is a study carried out to assess the creditworthiness of a credit. Through this analysis, the bank can assess whether the customer's business is feasible, marketable, profitable and capable of being repaid on time.

Based on the Elucidation of Article 8 of the Banking Law, credit analysis carried out by banks includes the following assessments:

- a. Character assessment
- b. Ability assessment
(*capacity*)
- c. Valuation of capital
(*capital*)
- d. Valuation of collateral
(*collateral*)
- e. Assessment of debtor customers' business prospects
(*condition of economy*)

However, in this case, the debtor does not follow the assessment in the abovementioned regulations. The transfer of debtors under the hand is based on mutual trust because trust not based on applicable law can be detrimental to the recipient of the debtor transfer. These losses can appear in the form of default. In this default situation, the replacement debtor does not have the authority to take the certificate, which the bank still uses as collateral.

To obtain legal ownership, this is explained in the second part of Chapter III of the Civil Code: "*The right to freely enjoy an object and be free to do something with the object, as long as it does not conflict with the law or other general regulations.*" Article 584 of the Civil Code states, "*Ownership rights to an object can be obtained by ownership, attachment, expiration, inheritance and appointment or delivery based on a civil event to transfer ownership rights.*" This appointment or handover must be carried out through a legally valid buying and selling transaction, not just based on trust alone. (Nikmah, Disemadi, Purwanti 2020)

Based on Law Number 1 of 2011 concerning Housing and Residential Areas, article 55, paragraph (2) states that the transfer of debtors (*over credit*) for land and buildings obtained through Home Ownership Credit (KPR) must be carried out through an institution appointed by the government. Making an informal debtor transfer agreement for land and buildings obtained through a KPR will violate the provisions of this regulation. The government gives the authority to transfer land and buildings obtained through KPR to banks, so the old debtor and the new debtor should go to BTN bank to obtain approval for the debtor transfer. After obtaining approval, the debtor must pay off the remaining debt instalments.

Talking about the illegal transfer of debtors between the old debtor and the new debtor, without the bank's knowledge, it can be assumed that the old debtor has committed an act that violates the law. Article 1365 of the Civil Code confirms that every action contrary to the

law and causes loss to another person is obliged to compensate for the loss. Thus, unlawful acts generally involve the following elements:

- a. Some acts violate the law
- b. There was an error when carrying out this action
- c. There are losses incurred as a result of these actions
- d. There is a cause-and-effect relationship between unlawful actions and the losses incurred.

In this case, the element of error was also fulfilled because the old debtor deliberately and knowingly transferred the land and buildings obtained through KPR to the new debtor without any valid reason. This contradicts the requirement that the transfer of debtors can only be carried out with the creditor's approval. Apart from that, the element of loss was also fulfilled because the unlawful actions carried out by Subaidi and Suroso HS/Djuma'atin (Husband and Wife) and Lasmini caused losses to the bank as creditors and Mrs Sumi as the new debtor. As is known, land and buildings obtained through KPR are used as collateral for the debtor's debt to the bank that provided the loan. In this context, the causal relationship between the action and the loss can be considered fulfilled. This is because by the debtor's act of selling or transferring the land and buildings he obtained through a KPR to a new debtor, the land and buildings, which previously served as collateral for the debtor's debt to the creditor, are now physically controlled by the new debtor without the knowledge of the creditor.

Based on the provisions in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land

Registration, the transfer of ownership of land and buildings obtained through Home Ownership Credit (KPR) must be carried out by making an authentic deed by an authorised Land Deed Making Officer (PPAT). Without an authentic deed, the old debtor's actions in selling or providing credit for the land and building will still be considered ownership of the old debtor from a legal perspective unless proven otherwise through a valid deed issued by the PPAT.

The importance of an authentic deed is basically that the deed formally contains the truth conveyed by the parties to the notary. The notary must ensure that what the parties communicate can be clearly understood in the notarial deed's text by reading the deed's contents expressly. This lets parties understand the information and comply with applicable laws and regulations. Thus, the parties have the freedom to determine and agree on the contents of the deed they will sign (Pramono, Dedy 2015).

The strength of authentic deeds and notarial deeds arises from the duties given to notaries by legal regulations. In a legal context, authentic legal evidence is needed that can be used as evidence by the party providing it. If the information is recorded in a notarial deed, then the deed will have a solid legal force. (Rosadi 2020) .

Law Number 30 of 2004 concerning Notaries emphasises that authentic deeds have a significant role in all aspects of legal relations in human life. As the most substantial evidence, authentic deeds fulfil the need for legal certainty in various contexts, including business, banking activities, land and other social fields. The demand for written proof

through authentic deeds has also increased along with the need for legal certainty in economic and social interactions at the local, regional and global levels.

In the context of the transfer of ownership of a house obtained through a KPR, it is necessary to emphasise the principles of *pacta sunt servanda* as regulated in Article 1388 paragraph (1) of the Civil Code, which states that: "*All agreements made legally apply as law for those who make them.*". This means that agreements, including transfer of credit (*over credit*), must be respected and adhered to by the parties involved. Furthermore, article 1388 paragraph (2) of the Civil Code states that: "*These agreements cannot be withdrawn except by agreement of both parties or based on reasons that according to the law are sufficient for that purpose.*" This means that the credit transfer that has been agreed upon between the seller (debtor who transfers) and the buyer (debtor who receives the transfer) cannot be cancelled unilaterally by either party. The parties must act in good faith and respect each other when implementing the sale and purchase agreement.

According to the author of the sale and purchase letter signed by the old debtor and the new debtor, it has the same force as a written document, which functions as complete evidence, like an authentic deed. This is according to the provisions in Article 1875 of the Civil Code, which permits using a sale and purchase deed as proof that land and building sales transactions via KPR between the old debtor and the new debtor have been carried out legally. Therefore, new debtors as buyers must

have their rights protected, which can be done by requesting protection from the Cibinong District Court. The Cibinong District Court, which has the authority to examine and decide on this case, has decided that the sale and purchase are valid and have legal force. The land and buildings that are the object of the lawsuit belong to the new debtor. The Cibinong District Court also ordered the creditor to give a certificate in the cibinong of the old debtor to the new debtor, and the new debtor was permitted to act as both seller and buyer to carry out sale and purchase transactions for land and buildings obtained through KPR.

The Cibinong District Court gave its decision by considering that there had been a sale and purchase transaction, which was supported by a sale and purchase letter signed by both parties, together with payment receipts showing that the new debtor had paid the price to the old debtor for the land and buildings obtained through KPR. Another consideration is that private buying and selling is expected in the community, and there is no objection to the transfer of ownership by the new debtor. The panel of judges also considered that the old debtor could not be contacted, so the new debtor had no other option but to carry out the transaction independently without involving the Land Deed Drafting Officer (PPAT) to make the Sale and Purchase Deed (AJB).

From this situation, the consequences of default (negligence) have a severe impact, so it is necessary to ascertain whether the party who owes the debt has defaulted. If the party denies this, it must be proven before a judge. Sometimes, it is difficult to determine whether someone is

considered negligent because there is often no precise time set for carrying out promised obligations. As a consequence of a default, the debtor must:

- a. The debtor must be responsible for compensating for losses arising from negligence in carrying out his obligations;
- b. The object that is the object of the agreement becomes the debtor's responsibility to fulfil its obligations from that moment on;
- c. In a reciprocal agreement, the creditor has the right to demand termination or cancellation of the agreement if negligence is involved in its implementation.

Apart from demanding accountability from debtors, what can a creditor do when faced with a debtor who is defaulting other than holding the debtor accountable? Creditors can demand one of five options as follows:

- a. Creditors can request cancellation or termination of the agreement.
- b. Creditors can request that debtors fulfil their obligations according to the agreement.
- c. Creditors can ask for compensation for losses arising from the debtor's default.

Legislation regarding KPR (Home Ownership Credit) in Indonesia generally does not explicitly regulate KPR issues that occur under the hands. However, several relevant legal aspects can help in resolving this problem :

- a. Civil Law and contracts
Civil law in Indonesia regulates agreements and contracts. If the mortgage is done privately, the agreement may be invalid or have

legal deficiencies. Civil law will regulate how disputes related to this agreement are resolved through court or mediation.

- b. Registration and Certificate of Ownership:
Land Law, such as Law No. 5 of 1960 concerning Agrarian Principles, regulates land registration and property rights certificates. If the property involved in the mortgage is not registered correctly, the registration process must be carried out, and applicable regulations must legalise the property documents.
- c. Mortgage and Financial Institutions Regulations:
Financial institutions that provide mortgage credit generally comply with Bank Indonesia and OJK (Financial Services Authority) regulations. If the mortgage is done privately, the financial institution may not be directly involved, but this issue may require legal resolution to clarify existing rights and obligations.

CONCLUSION

The validity of a debtor transfer agreement must involve the approval of all parties involved, including the bank as creditor and must be registered through a notary or authorised official. Suppose the debtor's transfer agreement for land and buildings obtained through a KPR is carried out illegally by the debtor without following legally determined procedures. In that case, the agreement is considered unlawful and, therefore, void according to law.

The legal consequences of the debtor transfer agreement are carried out informally in a private process where losses are caused by the old debtor to the

new debtor as the buyer and the bank as the creditor. The transfer of ownership of land and buildings obtained through Home Ownership Credit (KPR) must be carried out by making an authentic deed by an authorised Land Deed Making Officer (PPAT). However, in this case, the new debtor could not obtain new changes regarding authentic data because the old debtor had never appeared in court, so the final step taken was to resolve this problem through the Cibinong District Court to obtain legal certainty.

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