

ABSTRACT

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LEGAL PROTECTION OF THE SECOND RANK MORTGAGE RIGHT HOLDERS IN TERMS OF MORTGAGE EXECUTION

(xi + 92 pages)

In globalization era, the development of Indonesian law starts to grow rapidly in line with the economic growth. According to that, the need of society is also increasing. To fulfill it, many people choose financial institution, particularly bank, to raise their funding through loan. Moreover, they seek funding from more than one bank at the same time. In disbursing loan to potential debtor, banks will use the prudential banking principles by using 5C approach (Character, Capacity, Capital, Condition of Economy, and Collateral). In collateral analysis, bank will analyze the economic value of the collateral from debtor to creditor. Such value of the collateral should be sufficient to cover the loan amount. In this final paper, the author focuses on creditor's position as the second rank mortgage right holders in case of uncertainty in debt repayment. When the debtor fails to repay the loan, the collateral would be executed by the creditor based on its rank. To address this, there are some legal protections in general such as Article 1131 and 1132 of Civil Code, specifically in Article 11 (2), Article 19 (3), Article 20 (2), Article 20 (3) the Law No. 4 of 1996 on Mortgage Right and Article 138 the Law No. 37 of 2004 on Bankruptcy. This final paper concludes that the most beneficial execution for the second rank mortgage right holders is voluntary sale, which could give the highest selling value for each creditor and all parties.

Reference: 21 (1986-2016)

Keyword: Mortgage, Credit, Second Rank.