

ABSTRACT

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“Criminal Liability On The Object Of Fiduciary Security Transferred By The President Director Of The Limited Company (Case Study of Supreme Court Decision Number 1134/Pid.Sus/2020/PN.Jkt.Utr).”

(xii + 105 pages)

Cases of criminal violations of fiduciary guarantees occur very often, especially cases of criminal violations of fiduciary guarantees that occur very often, namely Article 23 of the Fiduciary Guarantee Law where in violation of Article 23 there are criminal sanctions as regulated in Article 36 of Law no. Fiduciary Law which states "Fiducia Giver who transfers, mortgages, or rents out objects that are the object of Fiduciary Guarantee as referred to in Article 23 paragraph (2) without prior written approval from the Fiduciary Recipient, shall be punished with imprisonment for a maximum of 2 (two) years and a maximum fine of Rp. 50,000,000.00 (fifty million rupiah). Although basically the goods that have been transferred belong to the debtor, the debtor has handed over his rights to the creditor as collateral in a fiduciary which of course has gone through a fiduciary guarantee. So the debtor in transferring the fiduciary collateral must be based on the approval of the fiduciary recipient. However, in case No.1134/Pid.Sus/2020/PN.Jkt.Utr, the President Director was declared unable to be held criminally responsible in terms of the transfer of fiduciary collateral objects, so the problem raised in this study is How to Arrange Criminal Liability of a Company's President Director Limited to Fiduciary Guarantee Objects that are Transferred from the Viewpoint of the Fiduciary Guarantee Act? How are the Judges Considering Case No. 1134/Pid.Sus/2020/PN.Jkt.Utr? This study uses legal research with a normative-empirical approach, the data used are based on primary, secondary and tertiary legal materials. Fiduciary criminal liability that violates Article 36 of the Fiduciary Guarantee Law as referred to in the case in this study is based on Decision Number 1134/Pid.Sus/2020/PN.Jkt.Utr based on the fault of the Defendant as the President Director who has transferred the fiduciary guarantee object without the approval of the fiduciary recipient, then for his actions the Defendant was charged with Article 36 of the Fiduciary Guarantee Act.

Keywords : Criminal Liability, Diversion, Fiduciary, Chief Criminal Liability

Reference: 58 (1945-2022)