

ABSTRACT

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**LEGAL PROTECTION FOR DEBTORS IN
FIDUCIARY GUARANTEE AGREEMENTS AGAINST
PIRATE EXECUTION CARRIED OUT BY CREDITORS
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A fiduciary guarantee is a special kind of trust-based security that allows the debtor to keep using the guaranteed asset while still being answerable to the creditor. This arrangement strikes a careful balance between protecting the interests of the creditors and permitting economic activity to continue unhindered. The creditor gains the right to seize and auction the asset in order to recoup the amount due if the debtor defaults on their responsibilities or fails to make instalment payments. A crucial ruling by the Constitutional Court, however, has placed severe restrictions on this procedure in an effort to create a fair balance between the rights of the two parties. According to this historic ruling, pirate execution—the creditor's immediate seizure and sale of the asset—can only take place once the debtor voluntarily turns over the asset and both parties have mutually agreed to acknowledge the breach of contract. Such consent promotes fairness by guaranteeing that the procedure stays open and jointly agreed upon. To further uphold procedural integrity, if this agreement is not reached, the creditor must ask the court to step in and start the execution procedure. This research uses an empirical normative research method by combining literature studies and case studies to analyze the suitability of legal norms and their application. In the event that a creditor behaves arbitrarily when performing pirate execution, the harmed debtor has the legal right to sue for illegal actions. This clause is intended to protect the debtor's rights within the larger judicial system and make sure that no one abuses their influence. The requirement for court intervention serves as an essential protection, guaranteeing that the execution procedure is carried out in a fair and just way and avoiding any possible abuse of power by the creditor. By putting these policies in place, the legal system hopes to strike a balance between the accountability and trust dynamics included in fiduciary promises, eventually advancing justice and safeguarding the interests of all parties.

References: 16 (1986-2022)

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