



Analysis of the Effectiveness of the Execution of Mortgage Rights from the Perspective of the Principle of Good Faith and Balance of Interests

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Article Info	Abstract
Article History Received: 2025-08-25 Revised: 2025-08-29 Published: 2025-09-10 Keywords: <i>Parate Execution, Good Faith, Legal Inequality</i>	<p>Parate execution of mortgage rights is a legal instrument that grants extraordinary authority to creditors to auction collateral objects without going through the courts, as stipulated in Article 6 and Article 14 paragraph (2) of Law Number 4 of 1996 concerning Mortgage Rights. This mechanism is normatively claimed as a form of efficiency and legal certainty in resolving problem loans. However, in practice, the implementation of parate execution is fraught with inequality and potential violations of the principle of justice, especially for debtors. Many debtors are forced to lose assets through public auctions conducted unilaterally, without room for negotiation, without adequate supervision, even at auction prices that do not reflect fair market value. As a result, instead of settling their debts, debtors are trapped in the trap of remaining debt after execution. This proves that the law has been used to perpetuate the economic domination of creditors and ignore the basic rights of debtors.</p> <p>This research shows that the concept of parate execution in the UUHT does not fully reflect the principles of good faith and balance of interests as mandated in Article 1338 paragraph (3) of the Civil Code and the decisions of the Constitutional Court. The imbalance in bargaining position between creditors and debtors is not compensated by adequate legal protection. Therefore, it is necessary to reformulate the norms, including limiting the right of unilateral execution, strengthening the space for negotiation, and developing alternative auction mechanisms that are fairer and more transparent. Without fundamental corrections, parate execution will continue to be a tool for legalizing structural inequalities that harm social justice and negate the spirit of the law as a guardian of the human rights of every citizen.</p>

I. INTRODUCTION

In the Indonesian legal system, a mortgage on land is a form of material security that provides a special position to creditors to collect their receivables if the debtor fails to fulfill their obligations.(Fathiyah, nd)One of the specific features of this mechanism is the authority for creditors to carry out parate execution, namely selling the collateral directly through a public auction without the need to go through the court process first. This mechanism is normatively guaranteed in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT), and is widely applied in the banking sector as a legal instrument that is considered fast, efficient, and provides legal certainty for creditors in resolving problem loans.(Amalia 2023)

Article 6 of the UUHT states:

If the debtor defaults, the first Mortgage Right holder has the right to sell the Mortgage Right object at his own discretion through a public auction and to take payment of his receivables from the proceeds of the sale.

Furthermore, this mechanism is strengthened by provisions regarding the executorial power of mortgage certificates, which have the same legal standing as a final and binding court decision. These certificates even include the terms commonly used in court decisions, emphasizing their immediate executory power without a court order.

Article 14 paragraph (2) of the UUHT states:

The Mortgage Certificate has the same executive power as a court decision that has

obtained permanent legal force and is valid as a substitute for the grosse aktat.

In practice, this provision provides considerable flexibility to banks or other financial institutions acting as creditors. In the event of a debtor's default, the bank need not file a lawsuit; it can simply submit an auction request to the KPKNL, which will auction off the collateral and collect payment from the proceeds.(SARAGIH 2024)In the modern banking system, this mechanism is considered capable of supporting the efficiency of the problem credit recovery process, particularly in maintaining financial stability and mitigating the risk of default.

However, this convenience also gives rise to various quite complex legal issues, particularly those related to the principles of justice, protection of debtors, and the application of fundamental principles in civil law, such as good faith and balance of interests.(Aspan 2017)There are quite a few cases that show that the implementation of parate execution in practice actually gives rise to new conflicts between creditors and debtors, whether in the form of disputes regarding the validity of the execution, objections to auction prices that are too low, or protests regarding the implementation of the execution that is considered unilateral.(ADIYANSAH 2025)

In Indonesian civil law, there is a universal principle that underpins every private legal relationship: the principle of good faith. This principle requires that each party in a legal relationship act honestly, openly, and proportionally in exercising their rights and obligations. In the context of banking relationships, this principle applies reciprocally. Debtors are required not to intentionally default, while creditors are required not to abuse their legally superior position.

Article 1338 paragraph (3) of the Civil Code states: "Agreements must be carried out in good faith."

However, in the practice of parate execution, this principle is often ignored. For example, in a number of cases, banks directly submit auction requests to the KPKNL without first communicating properly with the debtor or offering restructuring.(Raynaldi 2023)There are even auction practices that are carried out under conditions where the collateral has not been fairly assessed by an independent appraiser, or is even sold at a price that does not reflect fair market value.(Aspan et al. 2023)As a result, the debtor not only loses his assets, but is also burdened with

the remaining debt that arises because the auction proceeds are insufficient.

One case that garnered attention was a case between a customer in Medan and Bank Mandiri. The debtor challenged the bank's auction process, claiming the price was too low and communication was inadequate. The debtor stated that he was willing to pay off his debt if given a grace period or the option to reschedule.(Sawhani 2025)However, the bank proceeded with the auction. A similar situation occurred in the 2022 case of Bank BCA KCU Asia, where two debtor assets were auctioned at prices significantly below market value. As a result, in addition to the loss of assets, the debtor was still burdened with debts exceeding IDR 4 billion. These two cases demonstrate that the practice of parate execution can have serious social and legal repercussions if not governed by principles of justice.

In several of its decisions, the Supreme Court has tended to strengthen the position of banks as mortgage holders, as long as the execution of parate execution is carried out according to procedure. In a case decided through Supreme Court Decision No. 2558 K/Pdt/2010, the Court stated that the execution of parate execution is legally valid if carried out in accordance with the provisions of the UUHT. This demonstrates that, from a formal legal perspective, the Indonesian legal system provides strong legitimacy to creditors.

However, from a constitutional protection perspective, a judicial review of Article 6 of the UUHT was filed with the Constitutional Court. In Constitutional Court Decision No. 70/PUU-VIII/2010, the Court rejected the judicial review and stated that parate execution is constitutionally valid, as long as its implementation meets the principles of justice, transparency, and does not harm the debtor's fundamental rights. Although the petition was rejected, the Court's considerations convey an important message: that execution without trial must still fairly consider the interests of both parties.(SON 2024)

Furthermore, the Constitutional Court, through Decision No. 18/PUU-XVII/2019 concerning fiduciary guarantees, emphasized that out-of-court execution can only be carried out if the debtor acknowledges default and voluntarily surrenders the collateral. Otherwise, the creditor must file a lawsuit. Although this decision concerns fiduciary obligations, its spirit can be adopted as a general principle for the

implementation of all forms of material guarantees, including mortgages.

The main problem arising from the practice of parate execution is the imbalance in the legal relationship between the bank, as the rights holder, and the customer, as the secured party. When the law only emphasizes procedural validity, while ignoring the substantive aspects of good faith and a balance of interests, true justice may not be achieved. Debtors, even in default, remain parties whose basic rights must be protected, especially when the default occurs due to external factors such as an economic crisis or a non-natural disaster like a pandemic.

In such situations, a purely formal and procedural legal approach is insufficient. It requires the application of moral legal principles, which require legal actors, in this case banks and auction institutions, to act in a spirit of justice and equality. This means that the execution of the parate execution must be transparent, communicative, provide room for restructuring, and set the auction price based on a fair, objective assessment.

The urgency of this research lies in the need for a comprehensive evaluation of the effectiveness of parate execution in the context of banking law, considering not only how quickly execution can be carried out but also how fair and balanced its implementation is. If parate execution is implemented without control over potential deviations, it risks becoming a tool of coercion of economic power that is inconsistent with the principles of a just rule of law. Therefore, an in-depth study is needed to determine whether the positive legal provisions governing parate execution reflect the values of good faith and a balance of interests.

Based on several problems that the author has outlined above, the author has formulated the problems in this research as follows:

1. How is the parate execution of mortgage rights regulated in the Indonesian legal system?
2. Are the principles of good faith and balance of interests reflected in the concept of parate execution normatively?

II. RESEARCH METHODS

This research uses a normative legal research approach, namely research that starts from an analysis of positive legal norms, legal principles, and legal doctrine, with the main focus on the

content of statutory regulations and legal principles without being oriented towards empirical phenomena.(Hasibuan et al. 2021)The type of research used is normative legal research conducted through a literature study of secondary legal materials with a statute approach, namely analyzing various regulations such as Law Number 4 of 1996 concerning Mortgage Rights, the Civil Code, Law Number 10 of 1998 concerning Banking, Supreme Court Regulations, decisions of the Supreme Court and the Constitutional Court, as well as implementing regulations from the Financial Services Authority (OJK), the Ministry of ATR/BPN, and the KPKNL; and also used a conceptual approach to examine relevant legal theories such as John Rawls' theory of justice and Nonet and Selznick's responsive legal theory. Data sources in this study consist of primary legal materials (statutes, the Civil Code, court decisions), secondary legal materials (textbooks, scientific journals, articles, academic reports), and tertiary legal materials (legal dictionaries, legal encyclopedias, decision directories, and official government portals). The data collection technique is carried out through library research by searching legal documents, legal literature, scientific journals, and court decision databases using certain keywords such as "parate execution of mortgage rights", "debtor protection", or "good faith in civil law" through official sites such as regulation.bpk.go.id, jdih.atrbpn.go.id, verdict3.mahkamahagung.go.id, mkri.id, and ojk.go.id. Furthermore, the legal material analysis technique is carried out qualitatively by reviewing and interpreting relevant legal norms, assessing their consistency and applicability in the practice of parate execution in the banking sector, through systematic interpretation of interrelated regulations, review of legal principles such as justice and good faith, and analysis of practices through case studies or court decisions, in order to assess the suitability of the implementation of parate execution with legal principles and the principle of justice for the parties.

III. RESULTS AND DISCUSSION

A. Regulation of Parate Execution of Mortgage Rights in the Indonesian Legal System

In the Indonesian civil law system, a mortgage on land is a form of material security

that arises from a credit or financing agreement between a creditor and a debtor, which gives the creditor a preferential position to receive payment of his receivables first from the proceeds from the sale of the collateral object in the event of default.(Atyanto 2022) This special position is guaranteed through legal provisions in Law Number 4 of 1996 concerning Mortgage Rights on Land and Land-Related Objects (UUHT). One important feature of the UUHT is the existence of a parate execution mechanism, namely the right of the creditor holding the first mortgage right to sell the collateral object themselves through a public auction without having to first file a lawsuit in court. This mechanism is normatively designed as a form of protection for creditors in obtaining legal certainty and efficiency in the debt settlement process.(Rahmadina 2024)

Article 6 of the Mortgage Law states that, "If the debtor defaults, the first Mortgage Right holder has the right to sell the Mortgage Right object at his own power through a public auction and take payment of his receivables from the proceeds of the sale." The formulation of this article contains the understanding that the parate execution mechanism gives direct authority to the creditor, without court intermediary, to execute the mortgage object if the debtor defaults. This is a form of parate executie known in Continental European civil law doctrine and adopted in the Indonesian legal system. The philosophy of this provision is to avoid lengthy and expensive litigation procedures, and provide a quick solution for creditors in dealing with debtors who break their promises.(ELVIZA 2022)

This privilege is further emphasized in Article 14 paragraph (2) of the UUHT which states that a mortgage certificate has the same executorial power as a court decision that has permanent legal force and is valid as a substitute for a *grosse akta*. This is reinforced by the inclusion of the *irah-irah* "For the Sake of Justice Based on the One Almighty God" in the mortgage certificate, which confirms its status as an executorial evidence that can be executed without first needing to be converted into a court decision. In the doctrine of civil procedural law, this kind of executorial title can in principle be the basis for carrying out an auction of the collateral object with a direct application to the State Assets and Auction Service Office (KPKNL), without going through a judge's decision.(Priyatna, Zarzani, and Aspan 2022)

Furthermore, UUHT in Article 20 paragraph (1) explicitly stipulates that the execution of mortgage rights can be carried out in three ways,

namely: first, through parate execution as referred to in Article 6; second, through the implementation of executorial title based on Article 14 paragraph (2); and third, through private sale if agreed by the parties and is beneficial to all parties. This provision confirms that Indonesian positive law provides flexibility for creditors in determining the execution route, while still considering effectiveness and agreement with the debtor.(Fatmawati, Johan, and Nerin 2025)

The parate execution mechanism is essentially a legacy of Dutch legal practice that still influences the Indonesian legal system. Dutch law recognizes the principle of parate executie, which grants creditors the right to sell collateral without a court process, provided there is an executorial clause in the guarantee agreement or deed. This principle is seen as aligned with the principle of *lex commissoria*, which allows creditors to directly exercise collateral as a form of execution. Therefore, in the Indonesian context, parate execution represents an adoption of this principle, institutionalized in the UUHT (Property Law) with the aim of avoiding stagnation in the resolution of problem loans.(ALSY 2025)

However, the parate execution mechanism is not without criticism. In practice, various issues arise related to its implementation, which often ignores fundamental private law principles, such as good faith and balancing the interests of the parties. Parate execution is often perceived as focusing solely on protecting creditors' rights, while neglecting the debtor's rights, including the right to information, the right to defend themselves, and the right to obtain a fair sale price from the auction of collateral. This situation has triggered various lawsuits from debtors who feel disadvantaged by the unilateral execution by banks or financing institutions.

For example, in Supreme Court Decision No. 2558 K/Pdt/2010, the Court strengthened the legal position of banks executing parate executions of mortgaged property as long as they comply with the procedures established by the Mortgage Law. However, the Court also emphasized the importance of notification and transparency to debtors to prevent clandestine executions that harm either party. This view demonstrates that while the law legitimizes parate executions, their implementation must remain within a framework of balanced legal protection.

Normatively, Indonesian civil law recognizes the principle of good faith as a fundamental

principle in the implementation of agreements, as stated in Article 1338 paragraph (3) of the Civil Code which states: "Agreements must be implemented in good faith." This principle means that the parties to an agreement, including in a creditor-debtor relationship, are obliged to act honestly, openly, and not abuse their rights to harm other parties. In the context of parate execution, the principle of good faith should require that the bank as creditor does not immediately carry out execution simply because of a default, but must first provide a warning, an opportunity for restructuring, or negotiate a settlement to the debtor.

Furthermore, the Constitutional Court in Decision Number 70/PUU-VIII/2010 affirmed that the provisions of Article 6 of the UUHT are constitutional as long as their implementation does not violate the principle of justice and does not harm the debtor's basic rights. In the decision, the Court stated that parate execution as a form of execution without court intermediaries must still comply with the principles of fair law, including: adequate communication, transparency of the object's value, and the opportunity for the debtor to defend themselves. Thus, although the UUHT grants direct authority to creditors, the principles of substantial justice remain a pillar that must not be ignored.(Amen 2024)

Constitutional Court Decision No. 18/PUU-XVII/2019, which reviewed the provisions on the execution of fiduciary guarantees, also established an important precedent. In the ruling, the Court stated that the execution of fiduciary guarantees outside of court can only be carried out if the debtor acknowledges the breach of contract and is willing to voluntarily surrender the collateral. Otherwise, the creditor is obliged to take legal action.(Amen 2024)Although this decision does not directly regulate mortgage rights, its spirit can be used as a normative reference that the implementation of collateral execution must still respect the position of the debtor as a legal subject who has basic rights protected by the constitution.

Technical provisions regarding the implementation of auctions as a means of parate execution are further regulated in Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Guidelines. This regulation governs the procedures for submitting auction applications, assessing price limits, publishing auctions, and determining winners. In this context, the KPKNL is obligated to ensure that the auction process is conducted

transparently, fairly, and takes into account the fair value of the auctioned object. Therefore, if the auction is conducted below market value or there are indications of price manipulation, the debtor has a legal basis to file an objection or lawsuit.(Jakarta 2023)

In practice, various problems arise when the execution of parate execution is not carried out in good faith. For example, there are cases where banks immediately submit auction requests without providing sufficient warnings to debtors, or without considering the debtor's economic situation, which is currently experiencing difficulties due to force majeure such as the pandemic. There are even allegations that some assets are auctioned at very low limit values, potentially harming debtors because the auction proceeds are insufficient to repay the entire debt, leaving the debtor with an additional debt burden.

Situations like this demonstrate that positive legal regulations regarding parate execution must be understood contextually and not merely formally. The exercise of the right of execution by creditors must be subject to the principle of substantive justice, which not only assesses the validity of the procedure but also prioritizes the protection of parties who are weaker in legal and economic positions. The responsive legal doctrine developed by Philippe Nonet and Philip Selznick emphasizes that law should not be merely an instrument of power but should also be a means to balance social interests, protect individual rights, and create sustainable justice.

Thus, the regulation of parate execution of mortgage rights in the Indonesian legal system must be viewed holistically. On the one hand, it guarantees legal certainty and effectiveness for creditors in resolving problem loans. However, on the other hand, the law also has a duty to protect the interests of debtors from becoming victims of excessive economic power. Therefore, a reinterpretation and strengthening of legal moral principles in the implementation of parate execution are needed, including good faith, prudence, proportionality, and information transparency.

B. The Principle of Good Faith and Balance of Interests Has Been Reflected in the Normative Concept of Parate Execution

In the Indonesian civil law system, the relationship between creditors and debtors is a private legal relationship which is essentially based on the principle of freedom of contract as

regulated in Article 1338 paragraph (1) of the Civil Code (KUHPerdata). (Alwi 2020) However, freedom of contract is not absolute, limitless freedom. This freedom is limited by the principles of good faith and the principle of balance of interests, which must characterize the entire implementation of the agreement, especially in the practice of providing credit accompanied by material collateral in the form of mortgage rights. In this context, the mechanism of parate execution as regulated in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT) needs to be critically examined: to what extent the concept normatively reflects the principles of good faith and balance of interests between creditors and debtors.

Article 6 of the UUHT authorizes the first mortgage holder to directly sell the collateral object if the debtor defaults, through a public auction mechanism. This provision is a form of parate executie, namely the execution of the collateral object without going through a court decision, simply by submitting an auction application to the State Assets and Auction Services Office (KPKNL). Furthermore, Article 14 paragraph (2) of the UUHT provides executorial legitimacy to the mortgage certificate, stating that the certificate has the same legal force as a court decision with permanent legal force. In banking practice, this provision is the basis for banks to directly auction collateral without litigation. (Anantio 2023)

However, this norm has sparked legal controversy because it is considered to potentially disregard debtors' rights protected by fundamental principles of contract law, particularly the principle of *pacta sunt servanda* and the principle of good faith. The unequal position between banks and customers, particularly in the case of retail or MSME loans, demonstrates that credit and collateral agreements are not always formed on equal bargaining power. Banks tend to offer standard contracts that prospective debtors must accept without negotiation. In such situations, agreements that appear formally valid can contain substantially unequal clauses, ultimately opening the door to unilateral parate executory actions. (Muhammad and Al Arif 2023)

The principle of good faith in the implementation of contracts is a very central principle in civil law, as emphasized in Article 1338 paragraph (3) of the Civil Code: "Agreements must be implemented in good faith." Good faith here does not only mean not

committing fraud or embezzlement, but more broadly, namely acting honestly, fairly, openly, and paying attention to the legitimate interests of other parties. In creditor-debtor relations, good faith requires that creditors do not merely use their execution rights in an authoritarian manner, but also consider the objective conditions of the debtor, the potential for restructuring, and alternative efforts before issuing an execution.

In practice, this principle is often ignored. Many cases involve debtors being denied the opportunity to negotiate or even being properly notified that their collateral will be auctioned. In fact, auctions are often conducted at a very low limit (floor price), below fair market value, resulting in the debtor's assets being sold at a low price and the proceeds being insufficient to repay the entire debt. As a result, the debtor loses their assets, but their debt remains unpaid and is still burdened with the obligation to pay the remaining balance. This situation clearly violates the principle of balance of interests and undermines the principle of fairness in contracts. (ZAKI AZIZUL 2021)

The problem is further complicated by the fact that the Indonesian legal system has not explicitly regulated private auction or underhand sale mechanisms that are freely accessible to both debtors and creditors with adequate oversight. Article 20 paragraph (2) of the Mortgage Law does stipulate that mortgage objects can be sold underhand if agreed by both parties and are beneficial to all parties, but in practice, this provision is almost never used due to the lack of adequate technical regulations, including objective assessment and oversight mechanisms. As a result, public auctions through the KPKNL have become the only primary route for implementing parate execution, which in practice is more controlled by creditors and provides less access to protection for debtors.

Criticism of Article 6 of the UUHT has come not only from academics and practitioners, but has also reached the Constitutional Court. In Constitutional Court Decision Number 70/PUU-VIII/2010, the applicant filed a judicial review of Article 6 of the UUHT, arguing that the parate execution mechanism violates the debtor's constitutional rights by denying access to defense in court (due process of law). Although the Court rejected the petition, the Court emphasized that the implementation of parate execution is only valid if it is conducted fairly, transparently, and does not harm the debtor's fundamental rights. The Court even stated that parate execution, as a

form of non-litigation execution, may not be carried out arbitrarily and must remain subject to the principles of justice in a state governed by the rule of law.(Manurung 2024)

Furthermore, the Constitutional Court, through Decision No. 18/PUU-XVII/2019 concerning fiduciary guarantees, provides a crucial guideline that can be interpreted as a general principle: that the execution of collateral outside of court is only valid if the debtor acknowledges default and voluntarily surrenders the collateral. Otherwise, the creditor must file a petition with the court. This decision demonstrates that the principle of due process is an integral part of the principle of justice in a state based on the rule of law.(Manurung 2024)Although the ruling does not directly apply to mortgage rights, its spirit sends a strong message that unilateral execution without a defense process must be limited.

From this precedent, it is clear that the concept of parate execution in the UUHT still leaves room for normative imbalance between the legal positions of creditors and debtors. Protection for debtors in the event of default should not be viewed solely from a procedural perspective (such as notification or auction announcement), but also from a substantive perspective: was there good faith in offering an amicable solution? Was the auction limit price determined fairly and based on independent assessment? Was the debtor given reasonable time to recover its assets through an independent sale?

Many practices demonstrate that the implementation of parate execution does not reflect the principle of fairness. For example, in the case of a debtor's asset auction by Bank BCA KCU Asia in Medan (2022), the collateral, a luxury home, was auctioned for only around 50% of the market value determined by an independent appraiser. As a result, the debtor not only lost the valuable property but was also burdened with a remaining debt of over IDR 4 billion. A similar situation occurred in the Bank Mandiri case in Medan, where the debtor sued the auction process because he was not given room to negotiate and felt that his assets were sold at an unfair price. These two cases demonstrate the importance of the principle of balancing interests in the implementation of collateral execution.(FUAD, nd)

In the responsive legal theory put forward by Nonet and Selznick, law should not only be a tool of power for the dominant party (in this case

banks or financial institutions), but should be an instrument of protection and social justice.(Daulay, Rafianti, and Fitrianto 2024)Therefore, the provisions on execution parate in the UUHT need to be reviewed to ensure that they not only fulfill legal formalities, but also realize substantive justice. Normative revisions that can be considered include: (1) the implementation of the obligation to offer restructuring before execution, (2) explicit regulations on private auctions or direct sales with supervision by notaries and independent appraisers, and (3) strengthening the debtor's right to file administrative objections before the auction is held.

Furthermore, it is necessary to stipulate that the proceeds from the auction of the mortgaged object should extinguish all debtor obligations, or at least provide a protection scheme in the form of debt discharge if it is proven that the object was auctioned at an unreasonable price or there was a procedural error. Currently, the absence of provisions regarding the write-off of remaining debt after the auction has resulted in many debtors experiencing double losses: the loss of assets and the continued obligation to pay the remaining debt. This clearly contradicts the principle of proportionality in civil law and does not reflect protection for the vulnerable party.(Fite, Jamil, and Cahyani 2022)

From the above description, it can be concluded that normatively, the concept of parate execution as stipulated in the UUHT does have the potential for effectiveness, but does not fully reflect the principles of good faith and a balance of interests. Therefore, regulatory reformation, harmonization with constitutional principles, and the development of technical regulations that guarantee a fair, transparent, and balanced process are necessary. In this context, the roles of the Supreme Court, the Ministry of Finance (through the KPKNL), and the Financial Services Authority are crucial in establishing a more humane mechanism for parate execution that does not subject debtors to systemic injustice.

While the concept of parate execution, as a norm, provides efficiency for creditors in collecting their rights, practice in the field shows that this mechanism has created numerous systemic justice issues, particularly for small and middle-class debtors who are actually trying to improve their standard of living through productive loans. Ironically, many of them are caught in a double loss: losing assets due to disproportionate auctions and remaining

burdened with significant remaining debt. This situation is exacerbated by minimal oversight of the auction process and the weakness of the credit restructuring mechanism that should act as a bridge before execution.

In practice, many executions involve private auction houses, particularly for land and buildings. Unfortunately, there are no technical or procedural regulations explicitly governing the accountability of auctions conducted through these private houses. The auction process is often conducted behind closed doors, lacking transparency, and favoring creditors. As a result, auction limits are often set far below market prices, while debtors are not provided with sufficient information to fairly seek to recover their assets.

Even more worrying, many parate executions run smoothly legally and formally because they are based on Article 6 and Article 14 paragraph (2) of the Mortgage Rights Law, but substantially cause major losses for debtors. Therefore, it is very relevant to encourage the Government and the House of Representatives to revise the Mortgage Rights Law Number 4 of 1996. This revision should be directed at re-arranging the parameters of justice in the implementation of parate execution, especially regarding procedures, restructuring stages, and the debtor's right to object.

One important idea that should be included in the revised UUHT is the requirement for three stages of restructuring to be offered to debtors before an auction or execution process is initiated. These stages are not merely an administrative formality but must be accompanied by a transparent and participatory negotiation process. Furthermore, this process must be documented and reported to supervisory institutions such as Bank Indonesia and the Financial Services Authority (OJK), as part of the control and evaluation of credit distribution policies. To date, restructuring has often been carried out unilaterally only once or twice by banks without procedural clarity and without proper reporting to the relevant authorities.

The absence of this reporting requirement creates a significant loophole in the system, allowing collateral execution to proceed without adequate supervision, despite its far-reaching impact on the people's economic well-being. Therefore, the new regulations should make the restructuring stage an absolute requirement before collateral auctions, with measurable oversight and reporting. This is crucial to ensure

that collateral execution laws do not become a tool of unilateral power, but rather remain within the boundaries of social justice, proportionality, and protection of the vulnerable.

IV. CONCLUSIONS AND RECOMMENDATIONS

Parate execution under Law No. 4 of 1996 concerning Mortgage Rights does provide efficiency and legal certainty for creditors, but in practice it often becomes a legal instrument that sacrifices the principles of substantive justice and good faith. Execution without a court process, coupled with weak oversight of auction mechanisms and the lack of space for fair restructuring negotiations, has created legal inequalities that are detrimental to debtors. In many cases, parate execution has become an act of coercion disguised as legality, with devastating socio-economic impacts, especially for vulnerable communities.

This situation demonstrates that Indonesia's positive legal system, particularly in the implementation of mortgage rights, has failed to ensure a balance of interests. Therefore, revising the Mortgage Law is an urgent need, not merely an option. The state can no longer turn a blind eye to legal practices that undermine justice. Legislative intervention is necessary to regulate mandatory restructuring stages, open up the option of private auctions with strict oversight, and prioritize debtor protection as a primary principle in every execution process. Without these reforms, the law will continue to be a one-way weapon, favoring only capital owners.

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