

Legal Consequences For The Guarantee Agreement Of The Warehouse Receipt Made With The Deed

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Abstrak

In the legislation concerning the Warehouse receipt system in Indonesia, there is no explanation of the form of the agreement to impose security rights on warehouse receipts. As a result, the agreement is made under private a deed. The purpose of this study is to find out related provisions to legal consequences of the agreement to impose security rights on warehouse receipts made with the deed under hand. The research method used in this study is normative juridical method with statute approach. The data of the study were collecting by examining primary legal materials, namely legislation and secondary legal material in the form of doctrines or theories obtained from legal literature and scientific research. Results of the study show that the conditions that must be fulfilled in preparing the agreement to impose the guarantee rights on the Warehouse receipt encompass the validity of the ownership of the Warehouse receipt, the validity of the agreement based on Article 1320 of Indonesian BW. The agreement to impose the guarantee right on the Warehouse receipt is made with an authentic deed, and notification to the registration center or BAPPEBTI. The legal consequence of the agreement to impose the guarantee right on the warehouse receipt made under the deed of hand is that it does not have perfect verification power in the event that one party can still deny the signature in the deed under hand, and another supporting evidence is required in the court to prove the truth of the deed under the hand. It is different from an authentic deed made by a general official who has perfect verification power (volledig) and is binding (blindende).

Keywords: Deed under Hand; Guarantee Rights Limitation Agreement; Legal Impact; Warehouse Receipt

1. INTRODUCTION

There is a broad literature on moral economy, business ethics, corporate social responsibility and ethical trade in relation to agriculture (Bryant & Garnham, 2014). There is still limited knowledge about rural area actor-specific dynamics that can either favor or hinder sustainable agricultural development (Medina & dos Santos, 2017). Systems Dynamics-based analysis can be very useful when planning the production of agrifood systems (Ferreira, Batalha, & Domingos, 2016).

Agribusiness supply chains involve more sources of uncertainty than typical manufacturing supply chains due to attributes such as long supply lead-times, seasonality, and perishability (Behzadi, O'Sullivan, Olsen, Scrimgeour, & Zhang, 2017). Appropriate forecasting models could change planning and decision making in a variety of circumstances, where the human decision becomes difficult due to the large number of variables related to the problem (Puchalsky, Ribeiro, da Veiga, Freire, & Santos Coelho, 2018). Agribusiness seeks

to insert the country in the path of agricultural modernization—typified by high capital investments, production of monocultures over large acreages, and the use of advanced technology—by reproducing capitalist relations of production (using as few people as necessary) to accumulate and reproduce transnational capital (Córdoba, Selfa, Abrams, & Sombra, 2018).

The problem that often arises in agribusiness in Indonesia that afflicts small farmers is the fall in prices during the harvest season (Hariyani, Iswi, & Serfianto, 2010). It mostly happens to rice farmers, in this case, rice farmers tend to have a simultaneously cropping schedule, so that the time to harvest is at the same time (Hariyani, Iswi, & Serfianto, 2010). The rice cropping pattern that is carried out simultaneously aims to make all rice planted can obtain sufficient water quota and minimize pest or disease attacks so that the rice harvest tends to coincide which results in a sharp drop in the selling price of grain (Hariyani, Iswi, & Serfianto, 2010). Rice farmers are not able to store longer crops because they have run out of costs and do not have adequate storage. Thus, in conditions when there is an excess supply that results in falling market prices and detrimental to producers, namely farmers.

As it comes to Indonesia, to realize development in the economic field, in particular, the smooth production and distribution of goods in the trade system is directed at the efforts to promote public welfare that is socially equitable based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Society is the leading actor of development and the government is obliged to direct, guide, protect, and foster a conducive atmosphere. Trade efficiency can be achieved if it is supported by a conducive business climate with the availability and arrangement of a trade finance system that can be accessed by every business actor promptly based on the explanatory provisions of Law No. 9 of 2006

concerning the Warehouse Receipt System, General Provisions of Paragraph 1.

Regarding the increasingly fierce competition in the globalization era, it is necessary to be prepared to face very rapid changes in the economy, especially trade. One of the efforts to face this competition is the need for an instrument in structuring an effective and efficient trading system, which causes the price of the goods offered to compete in the global market. The trade finance system must be accessible at all times by every business actor, especially small-scale businessmen and small-scale farmers, who have been hindered by capital problems and limited credit guarantees.

Since the existence of Law No. 9 of 2006 concerning the Warehouse Receipt System (SRG Law) was enacted, the fall of the prices of agribusiness commodities during the harvest season could be overcome and could support the realization of the smooth production and distribution of goods. The Warehouse Receipt System is one of the important and effective instruments in the trade finance system. The Warehouse Receipt System can facilitate the provision of credit to the business world with collateral inventory or goods stored in a warehouse. The Warehouse Receipt System is also useful in stabilizing market prices by facilitating ways of selling that can be done throughout the year. Also, the Warehouse Receipt System can be used by the Government to control national prices and supplies. Such a Warehouse Receipt (the document of title) can be used as collateral because it is guaranteed by certain commodities under the supervision of the Warehouse Manager. In the warehouse receipt system there is a security guarantee for banks because all data on warehouse receipt administration is centralized in the Registration Center and supervised by the Supervisory Board (BAPPEBTI), and there is quality assurance for the owner of the goods and the prospective owner of the goods because

the goods are stored and managed properly by the manager the warehouse and the previous quality test is carried out by an independent conformity assessment institution that has been certified by KAN and approved by BAPPEBTI (Purnamasari, 2011). Agribusiness entrepreneurs, through the warehouse receipt system, are easier to conduct trade transactions without having to carry goods here and there, but merely show a replacement document called Warehouse Receipt. Warehouse receipt documents can be transferred, traded and used as collateral for credit and can be used as evidence of taking goods in a warehouse. The warehouse receipt system is the result of further development of the fiduciary guarantee system, especially about the object of movable property guarantees in the form of stocks of agricultural, plantation and fishery products (Purnamasari, 2011). In the provisions of Article 1 number 2 of the SRG Law, the Warehouse Receipt is a document of proof of ownership of goods stored in a warehouse issued by the Warehouse Manager. Based on this understanding, the Warehouse Receipt is a letter or proof of ownership of an item delivered and stored in a warehouse issued by the Warehouse Manager. This Warehouse Receipt is the document of title of goods stored in the Warehouse issued by the Warehouse Manager.

The benefits of the Warehouse Receipt System are comprehensive not only in the field of law but also in the economic area, as well as in the social sphere in the form of empowering small communities in the countryside. The application of the warehouse receipt system in Indonesia, according to the Commodity Futures Trading Supervisory Agency (Bappebti), can be beneficial for farmers, businesses, banks, and the government. These benefits include the following:

- Control and stability of commodity prices. This system is useful in stabilizing market prices, through sales facilitation throughout the year

(all year long).

- Guaranteed production capital. Commodity holders have the business capital for sustainable production because of financing from financial institutions.
- The flexibility of lending to the bank. The national banking world has benefited from the formation of a market for bank credit distribution: the Warehouse Receipt System in many countries is considered a risk-free credit guarantee instrument.
- Productivity assurance. The guarantee of commodity production becomes more specific because of the guarantee of business capital for producers/farmers.
- National stock preparation. This system supports the establishment of the government's ability to monitor and maintain stock resilience, through integrated data and information networks built by the Warehouse Receipt System.
- Monitoring of product/commodity traffic. This system builds the capacity of the Government at the central and regional levels to improve the quality of commodities, consumer protection efforts, ecosystem control (nuisance species), control of illegal commodity product traffic, etc.
- Industrial raw material safety. The Warehouse Receipt System is an uninterrupted part of the marketing system and industrial system developed by the country. The Warehouse Receipt System has proven to be able to improve the efficiency of the agribusiness and agro-industry sectors because both producers and related commercial sectors can change the status of raw and semi-finished materials to become products that can be widely traded:
- Logistics and distribution efficiency.

As securities, Warehouse Receipts can be transferred or traded by Warehouse Receipt Holders to third parties, either in organized markets (exchanges) or outside the exchange. With the transfer of the Warehouse Receipt, the new Warehouse Receipt Holder is given the right to take the item in accordance with the description contained in it. Thus a more efficient trading system will be created by eliminating the cost of moving goods;

- Fiscal contribution. Through Warehouse Receipt transactions, the Government obtains fiscal benefits that have been potential (Purnamasari, 2011).

The purpose of this warehouse receipt system is stated in the consideration of Law No.09 of 2006 concerning the Warehouse Receipt System in the weighing section, namely:

- that the development of the economic sector, especially the smooth production and distribution of goods in the trading system, is directed at efforts to promote the general welfare which is social justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia;
- that to support the realization of the smooth production and distribution of goods, it is necessary to have a Warehouse Receipt System as one of the financing instruments;
- that so that the implementation of the Warehouse Receipt System can run smoothly, orderly, and regularly and provide legal certainty for those who carry out activities in the Warehouse Receipt System, a strong legal basis is needed;

The existence of this warehouse receipt system is intended to provide legal certainty, guarantee, and protect the interests of the community, smooth flow of goods, efficient distribution of goods costs,

and able to create a business climate that can further drive the pace of national development (Purnamasari, 2011). To support this idea, a synergy is needed between the Central Government, Regional Governments and related sectors that support the warehouse receipt system, as well as commodity auction markets, to realize the objectives of the Warehouse Receipt System.

In the banking environment when they want to disburse loan funds to people in need, it is mandatory to uphold the precautionary principle as stipulated in the Banking Act (Moch, 2016). Farmers who need capital or funds are not accessible, because they have to meet the requirements set by the bank. One of the most important requirements for obtaining credit facilities is the availability of collateral or collateral. Bearing in mind that development or guarantee is one of the elements in lending and as a means of protection for the security of creditors for a certainty of repayment of debtor debts, or for the implementation of an achievement by the debtor or by the debtor guarantor, then based on other elements, confidence has been obtained. the ability of the debtor to repay the debt, additional collateral or collateral is still requested by the bank (Hasan, 1996).

Banking as an intermediation institution has special business characteristics, and is different from other business activities, namely it works with capital, which is mostly sourced from public funds. In order to maintain the mandate people who deposit funds in banks, the banks always apply the Prudential Principles in every activity, including credit.

Juridically the basis of the Warehouse Receipt used in banking practice as collateral is regulated in Bank Indonesia Regulation Number 14/15/PBI/2012 concerning Asset Quality Rating for Commercial Banks. Article 46 of Bank Indonesia Regulation Number 14/15/PBI /2012 is as follows: "Collateral which can be calculated as a deduction in the establishment of PPA is determined as

follows:

- Securities and shares that are actively traded on a stock exchange in Indonesia or have an investment rating and are tied in pledge;
- Land, buildings and residences tied to mortgage;
- Machines that are one unit with the land and bound by mortgages;
- Aircraft or ships with a size above 20 cubic meters tied to a mortgage;
- Motorized vehicles and supplies tied fiduciary; and or;
- Warehouse receipts tied with collateral rights to warehouse receipts.

Warehouse Receipt is a security as proof of ownership of a commodity stored in a warehouse. As for the commodity stored in the warehouse, the type is not required, but only provides criteria, that a commodity is a movable object which is listened to in a particular time (minimum storage capacity of three months), meets certain quality standards, and there are provisions regarding the minimum amount of commodity that can be stored. Thus, based on the nature of the Warehouse Receipt that is easily moved, the Warehouse Receipt is categorized as a moving object. Then as securities, Warehouse Receipts are categorized as tangible movable objects. As an object, the Warehouse Receipt is an object that has material properties. The intended material properties are that they can be traded, can be transferred, and even pledged as collateral because they have economic value. With the Warehouse Receipt system that facilitates commodity, crops can be stored in warehouses and Warehouse Receipts that can be used as collateral, the commodity owners do not need to rush to sell their crops. Commodity-owners holding a Warehouse Receipt can install their receipts to obtain short-term credit as working capital before selling their crops. Thus, the financing constraints that have often been faced by

commodity owners can be overcome, with loans from banks with Warehouse Receipt collateral.

At the stage of agreeing to impose security rights on warehouse receipt according to the provisions of article 14 paragraph (1) SRG Act "Imposing a Guarantee Right on a Warehouse Receipt is made with a Deed of Guarantee Rights Agreement." In the elucidation of article 14 paragraph (1) this provision is intended to protect better and provide legal force for the parties and can be used as one perfect proof in the settlement of any disputes that arise in the future. So that the purpose of article 14 of the SRG Law is that the agreement is made with an authentic deed that has one perfect proof, in which the definition of an authentic deed is according to Article 1868 Burgerlijk Wetboek (hereinafter referred to as BW) namely "An authentic deed is a deed in the form which is determined by law, made by or in front of general employees who are in power for that in the place where the deed is made ". An authentic deed is a deed whose proof strength is perfect because the deed is made by an authorized official (H, Salim., H, Abdulah., & Wayuningsih, 2006). Whereas in Article 19 paragraph (1) of Government Regulation No.36 of 2007 concerning Implementing SRG Law (from now on referred to as PP SRG) "The imposition of security rights against warehouse receipts is made with a guarantee rights agreement." Provisions in Article 19 of the SRG PP do not further confirm the provisions of article 14 paragraph (1) of the SRG Law, but it raises the possibility for an agreement to impose security rights on warehouse receipts to be made by deed under hand.

Based on the description above, the writer is interested in conducting a research which is stated in a journal entitled "Legal Due to the Warranty Rights Loan Agreement for Warehouse Receipts Made with Action under the Hands". Thus, specifically, this study examines the validity of the agreement to impose

security rights on warehouse receipts and the legal consequences of the agreement to impose security rights on warehouse receipts made by private deed.

2. METHOD

The research method used in this study is normative juridical with the statute approach. According to Fajar and Achmad, normative legal research is legal research that puts law as a norm system building. The norm system in question is about the principles, norms, rules of the law, court decisions, agreements and doctrines (teachings) (Fajar & Yulianto, 2010). The data were collected by examining primary legal materials, namely legislation and secondary legal material in the form of doctrines or theories obtained from legal literature and scientific research. Furthermore, they were related to the issues that discussed, namely the legal consequences of the agreement to impose security rights on warehouse receipts made with deed under hand.

3. RESULT AND DISCUSSION

The validity of the agreement to impose security rights on a Warehouse receipt

As it is known that in the case of agreeing to impose security rights on a Warehouse receipt, the matters that must be considered consist of;

Validity of Warehouse Receipt Ownership

The owner of an object not only has the authority to sell but also has the authority to guarantee the object in question. Even the adage in the Guarantee Law states that the authority to guarantee an object is the owner (Moch, 2016). Based on article 570 BW, the owner can use the object he owns in full and freely, so that the legal action that can be carried out on his property becomes very free, resulting in the person being authorized to alienate the object (Moch, 2016).

The validity of the Warehouse receipt document is regulated in Article 4 paragraph 1 of Regulation Article 4

paragraph (1) of Government Regulation Number 70 of 2013 concerning Amendment to Government Regulation Number 36 of 2007 concerning Implementation of Law Number 9 of 2006 concerning Warehouse Receipt System (PP SRG), Legal Warehouse Receipt Document when loading:

- Caption of Warehouse Receipt;
- Kinds of Warehouse Receipt;
- Name and Address goods-owner;
- Warehouse Location for goods storage;
- Bill Date;
- Bill Date Number;
- Due Date of Storing Goods;
- Goods Description;
- Storing Cost;
- Removed;
- Security Code;
- Warehouse Manager letterhead; AND
- Goods-owner and Warehouse manager Signature.

From the provisions in Article 4 paragraph (1) PP SRG, it can be known that if it does not meet the above conditions, the Warehouse Receipt document issued by the Warehouse Manager becomes invalid or not a Warehouse Receipt document. Ownership of Warehouse Receipts or goods stored in the Warehouse can be seen in the Warehouse receipt document in point 3 of article 4 paragraph (1) which contains the Name and Address of the owner of the goods so that the ownership of the valid Warehouse receipt is known.

The issuance of Warehouse Receipt is regulated in Article 6 of Law No. 09 of 2006 concerning the Warehouse Receipt System which states:

Every owner of goods who store goods in the warehouse is entitled to receive a warehouse receipt.

The Warehouse Manager issues a Warehouse Receipt for every storage of

goods after the goods owner hands over the goods.

Besides that, the provisions in Article 6 of the SRG Law are further emphasized by article 2 of PP No. 36 of 2007 which states:

- Warehouse Receipts can only be issued by Warehouse Managers who have obtained approval from the Supervisory Board.
- Warehouse Receipts can be issued in script or scripless form.
- Warehouse Receipt in the form of Clearing Items consists of Warehouse Receipt on behalf and Warehouse Receipt on orders.
- The Warehouse Manager issues a Warehouse Receipt for every storage of goods after the goods owner hands over the goods and the Warehouse Manager registers them to the Registration Center to obtain a security code.
- Each Warehouse Receipt issued as referred to in paragraph (1) is administered by the Registration Center.
- The Warehouse Receipt issued as referred to in paragraph (1) can be issued Warehouse Receipt Derivatives.
- Each Warehouse Receipt Derivative issued as referred to in paragraph (6) must be registered by the Warehouse Receipt Derivative Issuer to be administered to the Registration Center

From the above mentioned provisions, briefly the procedure for issuing warehouse receipts is as follows: First, the owner of the goods hands over the goods to the warehouse manager; second, the warehouse manager who has obtained approval from the Supervisory Board issues a warehouse receipt for each storage of goods; third the Warehouse Manager registers it to the Registration Center to obtain a security code; and the last is the registration center manages the

warehouse receipt registration.

Meeting the legal requirements of the agreement based on Article 1320 BW.

As it is known in the agreement or contract, there is no formal requirement or a specific format. In the Law, there are no provisions that explicitly determine a proper format. To obtain the right agreement and meet legal requirements, so that difficulties that arise in the future can be avoided, then many things that need to be considered in the making of the agreement include the following:

Legality of an agreement Based on the applicable legal provisions as stated in Article 1320 Burgerlijk Wetboek (BW), an agreement is declared valid if it has fulfilled four conditions, namely:

- Agree those who bind themselves;
- Ability to act in making an agreement;
- The existence of an object or a specific thing; and
- A lawful reason

Furthermore, regarding the legal requirements of the above agreement, it will be explained further as follows:

Agree those who bind themselves.

A logical requirement, because in the agreement there are at least two people who face each other and have a mutual will (Satrio, 1999). It means that an agreement was born because of an agreement between the parties that agreed. The deal is the conformity of the statement of will between one person and more with the other party. What one party wants then the two must also be the same as the other one wants or they want something the same reciprocally, so the agreement is something that is needed in the agreement.

If the agreement to impose the guarantee right on the Warehouse receipt between the owner of the goods (the guarantor) and the creditor as the bank (the collateral recipient) must have an agreement to bind him/herself in an

agreement to be made jointly.

Ability to act to make an agreement.

Acting skills are skills or ability to perform legal actions. Legal actions are actions that will cause legal consequences (Salim, 2003). People who will agree must be capable people and have the authority to carry out legal reforms, as determined by law. The skills referred to in article 1320 condition 2 are the ability to carry out legal actions, which means as a possibility to carry out legal acts independently that bind themselves without being contested. The ability to perform legal acts is generally measured by the following standards.

- Person, measured by the standard age of maturity;
- Rechtspersoon, measured from the aspect of authority (bevoegheid)

In connection with the agreement to impose guarantee rights on warehouse receipts, the agreement to impose security rights on Warehouse receipts only has legal and binding legal force if the agreement is signed by the authorized owner or can make an agreement. The goods stored in the warehouse must be commodities that are legally owned by the owner of the goods and handed over to the warehouse manager, the warehouse manager which means both his own property and that of another person who is storing, maintaining and supervising the goods stored by the owner and having the right to issue warehouse receipts.

The existence of an object or a certain thing.

That which is the object of the agreement is an achievement (principal agreement). An achievement is the obligation of the debtor and the creditor's right. Achievement can be an obligation to give up something, do something, or not do something (Satrio, 1999). The achievement must be certain, or at least the type can be determined, which must be agreed. Understanding that achievement must be certain or can be

determined, the point is to determine the rights and obligations of both parties, if a dispute arises in the execution of the agreement.

A permissible reason

The validity or failure of an agreement is determined when the agreement is made. The legal consequences of an agreement without a cause/reason that is permitted are that the agreement is null and void (Void/Null) unless otherwise stipulated by law. The existence of causes that are allowed is one of the objectives of the parties (Windari, 2014). A cause is said to be allowed as stipulated in Article 1337 BW namely the agreement

- Does not conflict with Law;
- Not contrary to public order;
- Not against morality.

The terms of agreement and capability in Article 1320 Burgerlijk Wetboek relate closely to the "legal subjects" who act as contracts, therefore the two conditions in the contract domain are classified as "subjective elements." If the subjective element is not fulfilled properly by the parties, the result is that the agreement made will be canceled (vernietigbaar) not null and void (meeting). Terms of a particular thing and a causa that is allowed to be classified as an objective condition which if not fulfilled then the agreement results in null and void.

Terms of the Agreement Form for Guarantee Rights for Warehouse Receipt

In article 1338 BW contains an implicit principle, which is named as the principle of freedom of contract to parties to make a contract or agreement. The principle of freedom of contract is a principle that gives freedom to parties (1) to make or not make agreements, (2) enter into agreements with anyone, (3) determine the contents of the agreement, implementation and requirements; and (4) determine agreements that are written or oral (Salim, Abdulah, & Wayuningsih, 2006). There is the widest freedom that the law gives to the public to enter into

agreements about anything, provided that it does not conflict with the law, decency, and public order. Freedom of contract is important in supporting the interests of economic actors (Simamora, 2017). Sutan Remi Sjahdeini stated some of the scopes of the principle of freedom of contract as follows (Sjahdeini, 1993).

- Freedom to make or not make an agreement
- Freedom to choose parties with whom he wants to make an agreement,
- Freedom to determine or choose power from the agreement that will be made,
- Freedom to determine the object of the agreement,
- Freedom to determine the form of an agreement,
- Freedom to accept or deviate the provisions of laws that are optional (anvullend, opsional).

The SRG Law does not explicitly mention the form of the agreement to impose security rights on Warehouse receipts. But only mentioning in article 14 paragraph (1) UUSRG "The assignment of guarantee rights to the warehouse receipt is made with the Deed of Guarantee Rights" In the explanation of article 14 paragraph (1) this provision is intended to protect better and provide legal force for the parties and can be used as one of the perfect evidence in resolving any disputes that arise later on. Whereas in Article 19 paragraph (1) PP SRG "Imposition of Guarantee Rights to the Warehouse Receipt is made with a Guarantee Rights Agreement." Therefore, if you look at the contents of the elucidation of article 14 paragraph (1) of the UUSRG which states that to have one of the proofs is perfect, so that the form of the agreement to impose security rights on the Warehouse receipt made with an authentic deed made by an authorized official, is regulated in Article 1868 BW. There are three evidentiary strengths of authentic deeds,

namely:

The strength of proof born is that the deed itself can prove itself as an authentic deed, as stipulated in article 1875 BW.

The power of formal proof, in the formal sense of the deed, proves the truth of what is witnessed, namely what is seen, heard, and also done by a notary as a general officer in carrying out his position. In a formal sense guaranteed:

- The truth of the date of the deed;
- The truth contained in the deed;
- The truth of the identity of the people present; and
- The truth of the place where the deed was made.

The power of material proof, the contents of the deed are considered true to everyone. The power of proof is what is meant in Article 1870, Article 1871, and Article 1875 BW. The contents of the information contained in the deed apply as true between the parties and the heirs and the recipients of their rights (Salim, Abdulah, & Wayuningsih, 2006).

In the Attachment to the Regulation of the Head of BAPPEBTI Number 09/Bappebti/PER-SRG/7/2008 concerning Technical Guidelines for Warehouse Receipt Guarantee in the procedures for loading and notifying the issuance of security rights in point 4 states "The giver of guaranteed rights and the recipient of the guarantee rights signs the Upper Guarantee Rights Imposition Agreement Warehouse Receipt, which is a follow-up agreement of the main agreement, which is a loan and loan agreement. The signing of the Agreement on the Imposition of a Guarantee Right on the Warehouse Receipt can be carried out under the hand or before a notary official. The form and content of the agreement to impose guarantee rights on Warehouse receipts are by the SRG-OPR Number Form Model 14." With the issuance of this regulation, BAPPEBTI accepts the form of agreement to impose security rights on warehouse receipts with a Private Deed. So that there

is a horizontal norm conflict between Article 14 paragraph (1) UUSRG on the Regulation of the Head of BAPPEBTI Number 09/Bappebti/PER-SRG/7/2008 concerning Technical Guidelines for Warehouse Receipt Guarantee in the procedures for loading and notification of the imposition of collateral rights. So to resolve this horizontal norm conflict, the principle of preference applies, namely the principle of *Lex superior derogate legi inferiori*, namely that higher laws and regulations will cripple lower legislation. So the applicable provisions are Article 14 paragraph (1) of the SRG Law.

Therefore, the agreement to impose security rights on Warehouse receipts is made with an authentic deed that has perfect verification power by the explanation of article 14 paragraph (1) of the SRG Law. In addition to the agreement on the imposition of collateral rights on Warehouse Receipt under the provisions of article 14 paragraph (2) of the SRG Law (2) the Guarantee Rights Agreement as referred to in paragraph (1) shall at least contain:

- Identity of the grantor and recipient of the Security Right;
- principal agreement data guaranteed by the guarantee right;
- Warehouse Receipt specifications are collateralized;
- value of debt guarantees; and
- The value of the item is based on the market price when the goods are put into the warehouse.

Requirements for Notification of Security Assignment upon Warehouse receipt

After an agreement to impose the guarantee right on the warehouse receipt is made at the latest one day after the date of the agreement to impose the guarantee right on the receipt of the warehouse of the second party, that is the party receiving the guarantee right must notify the Warehouse Receipt System Registration Center so that it is recorded in

the Book of Registration of Guarantee Rights on Receipt Warehouse. Then the Registration Center will issue a Proof of Confirmation of the notification of the Security Right that has been received and has been recorded. This is done so as not to double guarantee and monitor the circulation of Warehouse Receipts and provide legal certainty about the parties entitled to the goods in the event of a promise of injury. In accordance with the provisions of article 13 of Law 9 of 2006 concerning the Warehouse Receipt System "The Security Right Recipient must notify the agreement of the Warehouse Receipt as a Guarantee Right to the Warehouse Registration and Management Center.

Based on article 16 paragraph (2) PP SRG that "The right of guarantee as referred to in paragraph (1) gives the position to be prioritized for the recipient of security rights to other creditors". If the Guaranteed Right Recipient does not notify the Registration Center, the Recipient of the Guarantee Rights (creditor) is not domiciled as the preferred creditor and the Property Rights holder. The meaning "notifying" the assignment of guarantee rights to the Warehouse Registration and Management Center can be interpreted as the meaning of the birth of material rights. The birth of a material right that gives a guarantee there is a difference, this depends on the type of object that is burdened by the guarantee institution.

At the guarantee right, the warehouse receipt system is the birth of a material right which is not strictly regulated, but as previously stated that after the guarantee agreement before the notary, the guarantee recipient notifies the Registration Center and Warehouse Manager as stated in the explanation of Article 13 of the Warehouse Receipt system that notification carried out in order to prevent the existence of multiple guarantees and breach of contract, then the notification contained in the Warehouse Receipt Act is a sign of the birth of the Property Rights.

In measuring the validity of the

agreement to impose security rights on Warehouse receipt, it will be returned to the provisions of the Elucidation of Article 14 paragraph (1) of the UUSRG as a binding provision, so that the agreement to impose security rights on the Warehouse receipt for its validity must be made with an authentic deed that has perfect verification value. If the loading agreement is not made with an Authentic Deed, then the agreement is threatened invalid.

The legal consequence of the agreement to impose security rights on Warehouse receipts made by Private Deed

According to R. Soeroso the result of an agreement made legally is as follows:

Valid as a law for those who make it (Article 1338 paragraph (1) BW), the principle of promise is binding.

An agreement only applies between the party that made it (article 1340 BW) and the agreement can bind a third party if it has been agreed in advance (1317 BW).

Consequently, the parties to the agreement do not unilaterally withdraw from the consequences of the agreements made by them (article 1338 paragraph 2 BW)

The agreement can be terminated unilaterally if there are reasons stated by the law to be sufficient for that (article 1338 paragraph 2 BW), namely as contained in article 1571, article 1572, article 1649, article 1813 BW.

In the implementation of an agreement must be carried out in good faith (article 1338 paragraph (3) BW).

An agreement other than binding for the agreed matters also binds the following matters:

Everything according to the nature of the agreement is required by propriety, custom, or law (Article 1339 BW)

Things that are customarily approved are forever to be secretly included in the agreement (article 1347 BW).

In applying the enhancing elements

that determine the contents of the agreement, general restrictions must be considered, namely the addition of new elements, if the nature of the agreement does require additions and those added must be in accordance with the nature of the agreement to be added (article 1339 BW).

Thus, determining the contents of an agreement is:

Laws that are compelling, because the agreement cannot be contradictory to a law that is compelling, then such laws can affect the contents of the agreement

Words in the agreement concerned

Promises that are always promised

Laws that add/manage;

Habit

Compliance.

Laws that force mean to parties who make agreements not given the opportunity to choose to use or override the provisions in question.

Laws that are adding or regulating means to the parties that make the agreement the provisions in question may be explicitly removed, but if the parties remain silent, then the regulating provisions automatically fill the vacancy made by the agreement.

Consequently, if the law is compelling to be accompanied by the parties in agreeing, then all or certain parts of the contents of the agreement that is contrary to the laws that force it to be null and void.

The contents of the agreement, one of which is determined by the customs according to the law, there are two forms, namely:

Habit according to article 1339 BW, namely an event that repeatedly occurs in a relationship that is kind of valid in an area;

Habit according to article 1347 BW, namely a certain stipulation/promise that is agreed repeatedly in certain types of agreements (promises that are always

agreed) (R, 2011).

The legal consequence of the agreement to impose the guarantee right on the warehouse receipt made under the deed of hand is that it does not have perfect verification power in the event that one party can still deny the signature in the deed under hand, another supporting evidence is needed in the court to prove the truth of the deed under the hand it is different from an authentic deed made by a general official who has perfect verification power (volledig) and is binding (blindende). Thus, the under-hand deed does not fulfill the explanation of article 14 paragraph (1) of the SRG Law which requires that it must be a perfect proof of evidence so that the under-hand certificate cannot be accepted by the registration center and causes the birthright is not born. Therefore, the creditor does not have the position of preferential creditor but is a concurrent creditor.

The agreement to impose security rights on warehouse receipts which are carried out hands is not of providing legal protection for the interests of the Bank as the creditor, which is caused; In its form as a deed under hand it often contains vulnerability and uncertainty, In addition to having the potential to be denied, thus losing its certainty and security as a deed and accurate evidence. The position of the Bank as Creditors is only as concurrent Creditors who do not have the precedence in fulfilling their debt payments so that the situation does not guarantee the repayment of their receivables, because they must compete with other concurrent creditors who have the same rights.

4. CONCLUSION

Based on the discussion described above, it can be concluded as follows;

In order to guarantee the validity of the Guarantee Rights Imposition Agreement on Warehouse receipt, the parties must fulfill the conditions in the making of the guarantee right on the Warehouse receipt which consists of the validity of Warehouse receipt ownership, the validity of the

agreement based on Article 1320 BW, the agreement to impose guarantee rights on Warehouse receipt made with an authentic deed, and notifies the imposition of a guarantee right on the Warehouse receipt to the registration center or BAPPEBTI.

The legal consequence of the agreement to impose the guarantee right on the warehouse receipt made under the deed of hand is that it does not have perfect verification power in the event that one party can still deny the signature in the deed under hand, another supporting evidence is needed in the court to prove the truth of the deed under the hand it is different from an authentic deed made by a general official who has perfect verification power (volledig) and is binding (blindende).

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