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LEGAL CONSEQUENCES ON THE TERMINATION OF BUILDING UTILIZATION RIGHTS WITH THE APPLICATION OF GOVERNMENT REGULATION NUMBER 18 OF 2021 REGARDING MANAGEMENT RIGHTS, LAND RIGHTS, FLAT HOUSING UNITS, AND LAND REGISTRATION

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Abstract: The extension of the Building Use Rights which has expired causes the land rights to be nullified, therefore it is necessary to renew the rights and the imposition of new Mortgage Rights because the Building Use Rights which are used as objects of Mortgage guarantees have a limited time, so of course it will cause legal problems of its own. which will be the subject of discussion in the writing of this thesis. Based on these things, the problems that will be examined in this research are 1. The legal consequences with the expiration of Building Use Rights on mortgages since the enactment of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration 2 .How the debtor settles his obligations to the right to use the building which has expired to the creditor (bank). 3. What efforts are made by debtors (Banks) to creditors whose guarantees for the Right to Build Certificate have expired. The approach method used is a normative juridical research method where the results of the study can be concluded that. The legal consequences with the expiration of Building Use Rights on mortgages since the enactment of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and SHGB Land Registrations which expire or HGB expires, change the status of land that was previously attached to the HGB holder to switch to the rightful party in accordance with the initial land status prior to the existence of the Building Use Right, either to the State or to the Management Holder or to the Ownership Right holder. as well as submitting an application for renewal of HGB where with the results of research at the Notary's Office, in the process there must be a letter of approval from the bank where if later the issuance of the SHGB has been completed, the encumbrance of the Mortgage Rights will be immediately submitted. How the Debtor settles his obligations to the right to use the building which has expired to the creditor (Bank). This is by 1. Paying off the debt, increasing land rights by managing the debtor. What efforts are made by debtors (Banks) to creditors whose guarantees for Building Use Rights Certificates have expired can be done in 3 ways, namely: 1. Non-legitimacy a) Rescheduling (re-scheduling) b) Reconditioning (requirements back), c) Restructuring (Rearrangement), 2. Replacement Guarantee 3. Litigation

Keywords: SHGB, Mortgage, Settlement

1. Introduction

In Article 4 paragraph (1) of the UUPA it is stated that on the basis of the state's right to control as referred to in Article 2 of the UUPA, it is determined that there are various rights to the surface of the earth, called land, which can be given to and owned by people.

, either alone or together with other people and legal entities, as referred to in Article 16 paragraph (1) of the UUPA which states that land rights as referred to in Article 4 paragraph (1) of the UUPA are:

a. Right of ownership
b. Cultivation Rights
c. Building rights
d. usufructuary rights
e. Lease rights
f. Land clearing rights
g. Other rights that are not included in the matters mentioned above, which will be determined by law as well as rights that are temporary in nature, as mentioned in Article 53 (Pledge Rights, Production Sharing Business Rights, Overlapping Rights, Land Lease Rights Agriculture).

Among the land rights regulated in the UUPA, one of them is the right to build, while the building use rights in the UUPA are specifically regulated in Articles 35 to 40, which states that the right to build is the right to establish and own buildings on land that are not their own, with a maximum period of 30 years.

At the request of the rights holder, taking into account the needs and condition of the buildings, this period can be extended for a maximum of 20 years. In addition, building use rights can be transferred and transferred to other parties and can be used as collateral for debts burdened with mortgage rights.

In addition, according to Government Regulation of the Republic of Indonesia Number 18 of 2021 Concerning Management Rights, Land Rights, Flats Units, and Land Registration Paragraph 3 concerning Periods of Building Use Rights Article 37 and article 41. article 37 reads:

(1) Building use rights over State Land and Management Right Land are granted for a maximum period of 30 (thirty) years, extended for a maximum period of 20 (twenty) years, and renewed for a maximum period of 30 (three twenty) years.

(2) The building use rights over land ownership rights are granted for a maximum period of 30 (thirty) years and can be renewed with a deed of granting building use rights over property rights.

(3) After the period for granting, extending and renewing as referred to in paragraph (1) ends, the land with building use rights returns to become land directly controlled by the state or land with management rights.

Article 41 reads:

(1) An application for an extension of the term of the building use rights can be submitted after the land has been used and utilized in accordance with the purpose for which the rights were granted or at the latest before the expiration of the building use rights period.

(2) Application for renewal of building use rights shall be filed no later than 2 (two) years after the expiration of the building use rights period.

Whereas regarding the arrangements for Encumbrance, Transfer, Release, and changes to Building Use Rights regulated in Government Regulation of the Republic of

Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration are regulated in Paragraph 6 of Article 45 which reads:

(1) The building use right can be used as collateral for a debt burdened with a mortgage right.

(2) The right to use a building can be transferred, assigned, or released to another party and the right can be changed.

(3) Relinquishment of building use rights as referred to in paragraph (2) is made by and before the authorized official and reported to the Minister.

The legal subject in the granting of Mortgage Rights is the granting of Mortgage Rights and the Mortgage holders. Article 8 Law no. 4 of 1996 the Mortgage Law stipulates that the mortgagee is an individual or legal entity that has the authority to take legal action against the object of the mortgage in question. Article 9 of Law no. 4 of 1996 the Mortgage Law states that the holder of the Mortgage is an individual or legal entity who is domiciled as a debtor.

Because the building use right which is used as the object of collateral for the mortgage has a limited time, then of course it will cause its own legal problems. In Article 8 paragraph (1) of Law Number. 4 of 1996 which states that "the mortgage giver is an individual or legal entity that has the authority to take legal action against the object of the mortgage in question". This means that with the expiration of the building use rights period which is used as the object of collateral for the mortgage, the mortgage rights are automatically deleted and the mortgage object becomes state land.

Consequently, with the abolition of the Mortgage, the Creditor is only a concurrent Creditor, no longer the Creditor as Preference, so that the receivables are no longer the legal protection of the Mortgage. In practice, when the time period expires, a Power of Attorney for Imposing Mortgage Rights (SKMHT) is made, but this becomes a problem.
Regarding the installation of the Mortgage as usual in practice, the Mortgage Giver (Debtor) usually gives the power of attorney to charge the Mortgage to the Creditor. This was taken because at the time the credit agreement was followed up by disbursement of the loan by the Creditor, the Mortgage Granting Deed had not been signed, so to facilitate the installation of Mortgage Rights the Creditor took the road, before the credit agreement was carried out, the debtor made an SKMHT to the Creditor. Likewise with the process of extending the Building Use Rights whose term has expired and is burdened with Mortgage Rights, in practice the debtor must make an SKMHT to the creditor.

From the description above, the author is interested in writing and analyzing legal consequences for the expiration of building use rights on mortgage rights with the enactment of Government Regulation (PP) Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration

From the description of the background above, the authors formulate the problem as follows:

1. What are the legal consequences of the expiration of Building Use Rights on mortgage rights since the enactment of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration?
2. How does the Debtor settle his obligations to the creditor (Bank) whose validity period has expired?

3. What efforts are made by creditors (Banks) against debtors whose collateral for Building Use Rights Certificates has expired?

2. Method

The research method is a way of thinking and doing that is well prepared to carry out research and to achieve a research goal[1]This research is normative legal research, namely: Library legal research is a method or method used in legal research that is carried out by examining existing library materials[2] The sources of legal materials used in this study consist of primary legal materials, secondary legal materials and tertiary legal materials[3]which is described as follows:

1. Primary legal materials, namely binding legal materials, in the form of statutory regulations relating to the issues to be studied, consisting of:
   1) The 1945 Constitution of the Republic of Indonesia
   2) Civil Code (KUH Perdata)
   3) Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA)
   4) Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (Act on Mortgage Rights)
   5) Government Regulation Number 24 of 1997 concerning Land Registration
   6) Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Provisions for the Implementation of PP No.24 of 1997.
   7) Government Regulation (PP) Number 18 of 2021 Concerning Management Rights, Land Rights, Flats Units, and Land Registration
2. Secondary legal materials are legal materials obtained from textbooks, scientific journals, opinions of scholars, legal cases, symposiums conducted by experts related to the object of study of this legal research. Newspapers, magazines and the internet can also be materials for this research as long as they contain information that is relevant to the object of study of this legal research[4]

The materials needed are used for various things in terms of explaining the meanings of words from secondary legal materials and primary legal materials. This study uses description techniques and legal discovery techniques (Rechtsvinding). The description technique is describing the existence of a condition or position from legal or non-legal propositions.[5] Legal discovery according to Sudikno Mertokusumo is the process of finding law by judges or other law enforcement officials assigned to apply general law regulations to concrete events.

3. Legal Consequences With the Expiration of Building Use Rights on Mortgage Rights Since the Enactment of Government Regulation (PP)

[1] Kartini Kartono, Introduction to Social Research Methodology, Alumni, Bandung, 2005. p.15.

[2] Soerjono Soekanto and Sri Mamudji, Normative Legal Research A Brief Overview, 11th Edition. Jakarta, PT Raja Grafindo Persada, 2009, p. 13–14.

[3] Bambang Waluyo, Legal Research in Practice, Jakarta, Sinar Graphic Publisher, 2004, p. 18.

[4] Johannes Ibrahim. 2004, Thorough Review of Commercial and Consumptive Credit in Bank Credit Agreements (Legal and Economic Perspectives). Bandung, Mandar Maju, p. 392.

[5] Jay A. Sieglar and Benjamin R. Beede, The Legal Souyrces of Public Policy,, Lexington Books, Massachusetts, Toronto, 2007, p. 23.

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Number 18 of 2021 Concerning Management Rights, Land Rights, Flats Units, and Land Registration

Hak Guna-Building ("HGB") is the right to construct and own buildings on land that is not one's own, with a maximum period of 30 years. At the request of the HGB holder and taking into account the needs and condition of the buildings, this period can be extended for a maximum of 20 years. This is as regulated in Article 35 of Law Number 5 of 1960 concerning Basic Agrarian Regulations.

HGB is given to the community to empower land in the form of constructing buildings or other needs within a certain period of time. In this regard, Special Staff and Spokesperson for the Minister of Agrarian Affairs and Spatial Planning (ATR) / BPN Teuku Taufiqulhadi[6] said that HGB does not always exist on state land, but can also exist on land with management rights and land with ownership rights. Thus, if the HGB certificate period expires and has not been extended, the status of the land will return to being owned by the state or the company. "So if it is not extended it will return to the owner, if state property returns to the state if the company returns to the company. This is in accordance with Government Regulation (PP) of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration Article 35, HGB holders who no longer meet the requirements must release or transfer the HGB to other parties who meet the requirements within one year. However, if within that period the rights are not relinquished or transferred, then these rights will be null and void due to law. Therefore, all HGB holders must pay attention to the validity period of the HGB and the time to extend the certificate. HGB is granted for a maximum period of 30 years, extended for a maximum period of 20 years and renewed for a maximum period of 30 years.

HGB on freehold land is given for a maximum period of 30 years and can be renewed by deed of granting HGB on freehold. "But the extension will be seen in the context of its designation, whether it is in accordance with the spatial plan and whether it is used correctly or not," added Taufiq[7] While in the PP, it is written that HGB is given priority to former right-holders by taking into account: The land is still being cultivated and utilized properly in accordance with the circumstances, nature and purpose of granting rights, The conditions for granting rights are fulfilled properly by the right-holders, The right-holders still meet the requirements as rights holder, the land is still in accordance with the spatial plan, and is not being used and/or planned for the public interest. HGB extension applications can be made at the local land office no later than two years before the expiration of the HGB extension period.

Then the Period of Building Use Rights in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration Paragraph 3 Article 37

(1) Building use rights over State Land and Management Right Land are granted for a maximum period of 30 (thirty) years, extended for a maximum period of 20 (twenty) years, and renewed for a maximum period of 30 (three) years. twenty) years.

[6] https://www.kompas.com/properti/read/2022/02/21/130000721/hgb-tak-diperpanjang-tanah-bakal-balik-jadi-milik-negara. . accessed on 02 November 2022 at 22.00 WIB.

[7] https://www.kompas.com/properti/read/2022/02/21/130000721/hgb-tak-diperpanjang-tanah-bakal-balik-jadi-milik-negara. . accessed on 02 November 2022 at 22.00 WIB.

(2) The building use rights over land ownership rights are granted for a maximum period of 30 (thirty) years and can be renewed with a deed of granting building use rights over property rights.
(3) After the period for granting, extending and renewing as referred to in paragraph (1) ends, the land with building use rights returns to become land directly controlled by the state or land with management rights.

Regarding the erasure of objects related to the land, for example buildings, of course it is related to the term of land rights where the building is located. So if the right to the land becomes null and void, in this case the HGB which has expired which results in the HGB land becoming state land, then of course the building also falls to the state. Article 37 and Article 38 PP No. 40/1996 stipulates the consequences for former HGB holders for the annihilation of HGB, namely:

1. If the HGB on State land is erased and is not extended or renewed, then the former HGB holder must dismantle the building and objects on it and hand over the land to the state in a vacant state no later than 1 (one) year after the HGB was annulled. ;
2. In the event that the buildings and objects are still needed, then the former HGB holders will be given compensation, the form and amount of which will be further regulated by a Presidential Decree;
3. The demolition of the buildings and objects is carried out at the expense of the former HGB holders;
4. If the former HGB holder is negligent in fulfilling his obligations, then the building and objects on the former HGB land will be demolished by the government at the expense of the former HGB holder;

(4)If the HGB on HPL land or on Freehold land is erased, then the former HGB holder must hand over his land to the HPL holder or Freehold Right holder and fulfill the conditions agreed in the HGB grant agreement on Freehold land.

Given the consequences mentioned above, it is hoped that creditors holding Mortgage Rights where the land rights that are pledged as collateral are HGB which also includes buildings and other objects related to the land to be more careful and pay attention to the HGB period, because if the HGB which is a land right that has a limited period of time is deleted, it will be very detrimental to the creditor holding the Mortgage Right because besides the land right (in this case HGB) being deleted, buildings and other objects related to the land are also deleted. This is of course avoided by creditors, because the Mortgage is a material guarantee that functions as a means of security against the distribution of funds by creditors to debtors.

Mentioned in Article 18 paragraph (1) letter d, one of the causes for the abolition of Mortgage Rights is the abolition of land rights burdened with Mortgage Rights. In the implementation of provisions in the land sector, land rights often become null and void. For example, the Government does not extend HGB that has expired for 30 years. The government's reason for not extending the HGB was, for example, because the city spatial plan had changed so that its designation was not in accordance with the new city spatial plan. In this case, if it is not extended, the HGB will be deleted. If the HGB land is placed as a Mortgage for the benefit of the creditor, then the Mortgage is also deleted.

Based on the description in Article 11 paragraph (2) of the UUHT, it is known that the promises in that article contain clauses regarding the granting of power of attorney from the Mortgage giver to the Mortgage holder. These promises, among others, in Article 11 paragraph (2) letter d which gives authority to the Mortgage holder to save the Mortgage object at the expense of the Mortgage provider, if this is necessary for execution or to prevent the abolition or cancellation of the encumbrance. the object of the Mortgage Right because it is not fulfilled or the provisions of the law are violated. For example taking care of the extension of land rights (object of Mortgage) and preventing the erasure of Mortgage, because land rights which are the object of Mortgage are not extended. For example the insured HGB, of course this land right needs to be extended to prevent the land in question from becoming State Land. With the existence of a clause as in Article 11 paragraph (2) letter d of the UUHT which has been printed on the APHT blank, now by itself, as long as it is not agreed otherwise, the power to request an extension and renewal of the Mortgage object is included in the APHT.

Extending or renewing land rights requires a lot of money. Even though Article 11 paragraph (2) letter d UUHT does not mention who will bear the necessary costs, the cost of extension and renewal should be borne by the mortgagee, because the obligation to pay for the extension of land rights is basically the responsibility of the land owner concerned.

Thus the term of the building use rights which are used as collateral for the debt burdened by the mortgage rights expires, causing the mortgage rights burdening them to also end, so that the creditor loses the preferential right to the collateral object in the form of said building use rights (article 18 paragraph 2 letter (d) However, the abolition of the Mortgage due to the abolition of land rights burdened with the Mortgage does not result in the abolition of the guaranteed debt as stated in (article 18 paragraph (4) UUHT).

In addition, the abolition of the Mortgage as a material agreement has legal consequences, namely changing the position of the creditor, who was originally positioned as a preferred creditor who has material rights, then has the position as a concurrent creditor who has individual rights. Individual rights are rights that arise from general guarantees or guarantees that are born from laws, as stated in Article 1131 of the Civil Code.

4. The debtor has completed his obligations to the creditor (Bank) whose validity period has expired.

In principle, the application for an extension or change of land rights including building use rights is the holder of land rights, unless authorized by another party. However, the object of the Mortgage Right in the form of a Building Use Right is in accordance with the provisions of the UUHT article 11 paragraph (2) letter d concerning promises that give authority to the Mortgage holder to save the Mortgage object, if it is necessary for execution or to prevent the abolition or cancellation of the right. which becomes the object of the Mortgage because the provisions of the Law are not fulfilled or violated.

This means that the extension or renewal of building use rights that are burdened with mortgage rights can be carried out by the mortgage holder (creditor), especially if there is a special agreement to extend or renew the mortgage object.

In addition, there is a creditor's promise to return a certificate of land rights that has been affixed with a note on the imposition of mortgage rights, which has never been carried out, because in this case the creditor has chosen a different agreement, and this is very possible because it is regulated in Article 11 paragraph (2) letter k. Except for that, there is an obligation from the creditor to save the object of the Mortgage Right from the erasure of the right due to the provisions of the law.

Thus, guided by the provisions above, it is more likely to extend or renew the Mortgage object in the form of a Building Use Right, which is the creditor, because the certificate of Land Rights is already in the hands of the debtor, under these conditions the creditor loses the opportunity to charge more than 1 Mortgage Right one) the debtor considering that the certificate of Land Rights belongs to the first debtor. What becomes an obstacle if the extension or renewal is carried out by the creditor are the costs arising from the process of the extension or renewal, even though at the time of disbursing the credit the cost of the extension or renewal has been calculated, but if in fact the cost of managing the extension or renewal is insufficient this will become an obstacle in its management .

However, in practice so far those who carry out extensions or renewal of HGB burdened with Mortgage are debtors or holders of Land Rights, because it is guided by the Regulation of the Minister of Agrarian Affairs/KBPN Number 5 of 1998 concerning changes to HGB or HP on land for residential houses burdened with Rights. Dependents become Property Rights. In this provision it is explained that the change in rights referred to is carried out by the holder of Land Rights, with the condition that in submitting an application for said right, he must first ask for written permission from the creditor. Even though in fact the extension or renewal of the Building Use Rights from the abolition of these rights is the responsibility and interest of both parties.

However, in reality the extension or renewal is carried out by the debtor, because things like this are deliberately avoided by creditors in connection with financing problems that arise as a result of the extension or renewal of the building use rights.
An extension of a right is an addition to the validity period of something without changing the conditions for granting that right. Meanwhile, renewal of rights is the same granting to holders of land rights that they already own with Building Use Rights after the term of the right expires or the extension expires (Article 1 point 6 and number 7 of Government Regulation Number 40 of 1996).

In the event that the encumbered land right expires and is then extended, the related Mortgage is not deleted because by extending the land right, it is only the term of the land right (Building Use Right) that is extended. Conversely, if the land rights in question are renewed, it means that the original land rights (Building Use Rights) have expired and with the expiration of the Building Use Rights period, the land rights are nullified, while the abolition of land rights causes Mortgage Rights to be deleted as well. Even though the holder of the original Hak Guna Bangunan, through a renewal of rights, was given a certificate of Hak Guna Bangunan for the same land, the new certificate number of Hak Guna Bangunan is definitely different from the certificate number of the old Hak Guna Bangunan (the term of which has expired). If the object was originally to be used as collateral, then the rights must be imposed.

The extension or renewal of Building Use Rights is carried out by referring to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights. Efforts to protect the law carried out by banks when they receive Building Use Rights whose term expires before the credit is due, then before granting credit, the prospective debtor must fill out a complete credit application on the form provided by the bank, attached with data which is then analyzed and evaluated , while taking into account the 5C (character, capacity, capital, collateral, and condition of economy), 3P (purpose, prospects, and payment) factors, and 3R (returns, repayment, and risk bearing ability).

Specifically regarding loans granted by the Bank, the bank receives collateral for land with the status of Hak Guna Bangunan or Hak Guna Bangunan (Hak Guna Bangunan) status because according to the provisions of the Law on Mortgages, Hak Guna Bangunan is a land right that can be burdened with a Mortgage which makes the holder the preferred creditor.

The bank in receiving the Building Use Rights as collateral for credit, will still pay attention to the characteristics and the Building Use Rights. The bank will be very selective in accepting the Right to Build which will be used as collateral for credit, while taking into account the expiry of the Right to Build. With the credit period given, it is hoped that there will be no disappointment later, which of course will be detrimental to the bank.

In this study, the authors describe a case where the object of the building use rights has expired, but the credit has not yet matured and cannot be extended. The object of the building use rights is a shophouse. This case occurs, for example, in 2022, and for the settlement, the bank provides relief for repaying the debt and interest, given a certain period of time.

Talking about legal protection for creditors in the context of Mortgage rights, of course, cannot be separated from legal protection for debtors or collateral owners and other related parties. The law does not only pay attention to the interests of creditors.

According to Article 18 paragraph (1) letter d of the UUPA, it is stated that the Mortgage is erased by the abolition of the land rights burdened with the Mortgage. While land rights in the form of Building Use Rights can be erased due to the expiration of the term of the land rights (Article 40 of the BAL). With the expiration of the building use rights period, the rights to the land are nullified, and the abolition of the building use rights results in the abolition of the encumbrance right that is burdening them.

However, the erasure of the Mortgage of course does not cause the debt guaranteed by the Mortgage to be erased. So, since the erasure of Mortgage, receivables and creditors are no longer guaranteed by Mortgage. The creditor henceforth does not have a position as a preferred creditor, but as a concurrent creditor (Article 1131 of the Civil Code). The existence of the possibility of the abolition of Mortgage Rights with the abolition of the encumbered land rights, raises problems and objections in practice, especially creditors.

Thus the author is of the opinion that in this case there is no zaaksgevolg, the Building Use Rights whose term expires returns to the state, whereas according to the UUPA system that the state is not the owner of the land, but controls the land.

From the explanation above, with the expiry of the validity period of the building use right certificate even though according to the laws and regulations the SHGB has expired, it does not erase the debtor's obligation to pay debts to the bank as a form of debtor's responsibility and obligations to creditors.

Thus the Debtor completes his obligations to the building use rights that have expired to the creditor (Bank) by:

(1) Pay off his obligations (pay off his debts)

(2) Asking for a shorter credit period than the maturity of the Building Use Right;

(3) Extending the rights to the Building Use Rights simultaneously at the beginning of the credit agreement, as well as at the time of extending the credit. In this case the debtor authorizes the bank to extend the right, and all costs incurred for this process become the debtor's burden;

(4) Changing rights from Building Use Rights to Property Rights;

(5) Provide replacement guarantees or additional guarantees.

The reimbursement of Mortgage Rights over the Land of Building Use Rights whose term has expired and has been renewed in the credit period (before the credit is due) is still carried out in 2 (two) stages, namely:

1) The stage of granting the Mortgage Right, namely by making APHT before the PPAT, it's just that there is no need to make a new loan agreement (credit agreement), it is enough to make an additional agreement which becomes an integral part of the previous credit agreement;

2) The stage of registration by the Land Office, which determines the birth of the Mortgage imposed.

5. What measures are taken by creditors (banks) against debtors whose collateral for building use rights certificates has expired.

Obtaining legal protection is the hope of every legal subject in an agreement. Legal protection is the protection of one's rights and obligations. The definition of legal protection is a protection given to legal subjects in the form of legal instruments both preventive and repressive in nature.

As a preventive effort, creditors must also carry out credit supervision, whereby the bank must monitor the use of credit, whether the use of credit is in accordance with the provisions, in addition, periodic visits are also held, as well as warnings if the credit disbursed has problems, supervision must also be carried out over a period of time. from the guarantee of Building Use Rights so that it does not expire before the term the timing of the credit, at the monitoring stage it can be seen the quality of the credit or what is commonly referred to as the quality of productive assets. There are early symptoms of problem loans which can be in the form of deviations from the terms of the credit agreement, and also a decrease in the cooperative attitude of the Debtor in the sense that the Debtor commits a default[8] thus causing the credit to be problematic, as an effort to fulfill the rights of creditors against debtors whose SHGB has expired, handling can be carried out with 3 alternatives, namely litigation (credit settlement) and requests for additional guarantees and non-litigation (credit rescue) with the following explanation :

1. Non Litigation

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The settlement process through this channel is carried out through negotiation or renegotiation between the Creditor and the Debtor by providing the conditions in the credit agreement. In general, in the banking world, the criteria for credit that are handled through non-litigation are types of credit that are included in the special attention criteria, substandard, doubtful, meaning that at this stage they have not utilized legal institutions because the debtor is still cooperative and from a business point of view it is still running. These non-litigation efforts are in the form of credit rescue measures (SEBI Number 26/4/BPPP dated 19 May 1993):

a. Rescheduling (rescheduling), this method is carried out if the Debtor, based on the assessment of the bank account officer, is unable to fulfill the obligation to repay the principal installments and credit interest. Rescheduling can be in the form of extending the credit period, or extending the installment period, for example, installments are set 6 (six) months later to 12 months and reduce the amount of money for each installment resulting in an extension of the credit period.

Rescheduling loans, such as in the form of working capital loans in the form of Current Account Credits, Fixed Loans, and Demand Loans, will provide the possibility of receiving HGB that is almost due, even though the right has only one maturity year.

However, it should be noted here, if the credit is a new credit, then the extension of the right is carried out simultaneously with the installation of the Mortgage for the guarantee. The process of installing the Hak Guna Bangunan which is due to expire is carried out immediately after the process of imposing the Mortgage Right is complete, where the bank will issue an approval letter to extend the Hak Guna Bangunan, because it is still being used as collateral for the bank. If the credit is classified as an old credit and will be repeated or extended every year, review the collateral will of course always be given every time the credit will be extended, so that the right does not expire until it is extended by the bank. So here the bank will require the debtor to extend these rights if he wants the credit to be repeated or extended. Usually the debtor gives power of attorney to the bank to extend this right with the aim that the credit held by the bank with the debtor is still guaranteed by the Mortgage Right. Based on the creditor's point of view, with the extension of the SHGB, the credit extended by the bank will still be guaranteed by the SHGB that has been extended. From the debtor's point of view, the debtor still owns the land, because with the extension of these rights, the land does not go to the state.

b. Reconditioning, is an attempt by the bank to save the credit it provides by changing some or all of the conditions (requirements) that were initially agreed upon with the debtor and the bank which are then set forth in a credit agreement, one example is by lowering interest rates. ;

c. Restructuring, is the conversion of interest into credit, the act of adding credit facilities for the Debtor or by increasing Equity, namely by depositing fresh money. Credit restructuring based on S.K. DIR. BI 31/150/KEP/DIR/1998 dated 12 September 1998 which is an effort made by banks in credit business activities so that Debtors can fulfill their obligations, among others through lowering credit interest rates, reducing credit interest arrears, reducing credit principal, extending the term loans, adding credit facilities, taking over debtor assets in accordance with applicable regulations, converting credit into temporary equity participation in the debtor's company.

With respect to the building use rights that are used as collateral for debts burdened with mortgages, the term ends, causing the mortgage rights that burden them to also end, so that creditors lose their preferred rights to the collateral object in the form of said building use rights (article 18 paragraph 2 letter (d) UUHT). However, the abolition of the Mortgage due to the abolition of land rights burdened with the Mortgage does not result in the abolition of the guaranteed debt as stated in (article 18 paragraph (4) UUHT).

So that the removal of the Mortgage Right as a material agreement has legal consequences, namely changing the position of the Creditor, who was originally positioned as a Preferred Creditor who has material rights then has a position as a concurrent creditor who has individual rights. Individual rights are rights that arise from general guarantees or guarantees that are born from laws, as stated in Article 1131 of the Civil Code.

Therefore creditors have equal rights and equal status with other creditors in relation to the assets of a debtor so that in fulfilling their receivables payment cannot be prioritized even though some of them have bills that are born earlier than the others.

In the Mortgage Granting Deed, promises can be included, one of which is a promise that gives authority to the Mortgage holder to save the Mortgage object, if this is necessary to carry out the execution or to prevent the erasure or cancellation of the right that is the object of the Mortgage because it is not fulfilled. provisions of the law (article 11 paragraph 2 UUHT) In this promise includes the granting of authority to the Mortgage holder to at the expense of the Mortgage Giver, taking care of the extension of land rights that are made the object of the Mortgage to prevent the annulment of the Mortgage due to the abolition of land rights. The promises included in the Mortgage Deed are facultative in nature and do not affect the validity of the deed, but by making these promises in the Mortgage deed which are then registered with the Land Office, these promises also have binding force against third parties. Mortgage rights must be agreed upon, so in principle there must be an agreement between the two parties, meaning that if the guarantee giver agrees or refuses to be agreed like that. The promises meant are a manifestation of the seriousness and good faith of the Debtor, with these promises, if the Debtor defaults, the Creditor is given the rights or authority as agreed.

This is for the sake of and to protect the interests of creditors when the debtor defaults. So as an effort to save credit against the expiration of Building Use Rights PP No. 40 of 1996 states that:

1. Rights can be extended which is an addition to the validity period of a right without changing the conditions for granting said right (article 1 paragraph (6) PP No. 40 of 1996).
2. Renewal of rights, which is the granting of the same rights to land rights holders who already own them with Building Use Rights after the term of the rights or extensions expire (Article 1 paragraph (7) PP No. 40 of 1996).

2. Replacement Guarantee

Requesting a replacement guarantee from the Debtor is deemed necessary by the bank (Creditor) because the bank feels that the guarantee provided by the Debtor is insufficient or for other reasons that a replacement guarantee is needed.

In the opinion of the researcher, the creditor requests a replacement guarantee from the debtor for the main credit guarantee in the form of land with the status of a building use right, which has a limited term and will expire. It is important to have this replacement guarantee because if the term of the Building Use Right ends, the Mortgage that burdens it will also be erased.

Apart from that, it can also guarantee the certainty of returning credit if the debtor defaults. This is done considering the statutory provisions have expressly regulated that with the expiration of the building use rights, the encumbrance rights that burden them are also deleted.

Apart from that, it is also to anticipate if the extension process of the said Building Use Right is rejected or cannot be extended.

In general, this additional collateral is in the form of movable goods such as cars, as well as assets in the form of machines or stocks of goods, the bonding of which is carried out in a fiduciary manner or in the form of deposits in the said bank, the binding of which is carried out by means of an underhand mortgage is equipped with the power of attorney from the debtor to the bank to block, extend, or liquidate the deposit.

3. Litigation

In the world of banking, to handle loans in the category of bad loans, the litigation route is used. What is done is usually referred to as credit settlement actions. Factors causing credit settlement to be carried out are due to the failure of efforts made in rescue credit, and there is evidence that if the debtor has defaulted, which could be in the form of fraud, waste, or the debtor is bankrupt, then the next legal remedy is through credit settlement measures, in the form of billing or withdrawals, execution of guarantees and write-offs.

Based on the provisions of article 20 paragraph 1 UUHT there are 3 ways as a basis for executing the object guaranteed by the Mortgage, namely:

1. Based on the Parate executie as referred to in article 6 of Law Number 4 of 1996 concerning Mortgage Rights;
2. Based on the executorial title contained in the Mortgage certificate as referred to in article 14 paragraph 2 of the Mortgage Law;
3. Sales voluntarily under the hands;

Meanwhile, referring to the provisions of Article 20 paragraph (2) UUHT, it regulates the possibility of underhand sales. This is done if it is estimated that the sale in public (auction) will not produce the highest price. With underhand sales, it is intended to accelerate the sale of Mortgage objects with the highest selling price that benefits all parties. Underhand sales can only be carried out with the following two conditions:

1. With underhand sales, the highest price that benefits all parties can be obtained.
2. Can only be done with the agreement of the giver and the holder of the Mortgage Right.

Regarding legal protection for creditors in the context of granting Mortgage Rights, of course it cannot be separated from whether the consequences of the legal protection provided by the bank have secured the bank's position as the preferred creditor, because Building Use Rights which are used as collateral for credit do not cause problems for the bank. However, when the term of the building use rights which are still being used as collateral for credit ends, the mortgage rights also end so that the creditor has no legal protection because he cannot execute the collateral for the building use rights when the debtor defaults. The abolition of the Mortgage as a material agreement has legal consequences, namely changing the position of the creditor, who was originally positioned as a preferred creditor who has material rights, then has the position as a concurrent creditor who has individual rights.

Individual rights are rights that arise from general guarantees or guarantees that are born from laws, as stated in Article 1131 of the Civil Code. Therefore, the effort to guarantee legal protection for Creditors holding Mortgage Rights is by maintaining their position as Creditors with preferential rights, so that if the Debtor defaults, the Creditor still has a priority position over other Creditors regarding collateral, meaning that Creditors holding Mortgage Rights have the right to sell objects that are used as collateral through public auctions through applicable regulations and take all or part of the proceeds from the sale as settlement of receivables, with prior rights from other creditors. In particular, Creditors holding Mortgage Rights whose object is land with the status of Building Use Rights whose term will expire must pay attention to the validity of the agreement that has been made between the Creditor and the Debtor.

So the legal remedies that can be used as anticipation so that the creditor's position remains as the preferred creditor, especially in the case of granting credit with collateral for land whose object is a Building Use Right, need to pay attention to the following matters:

1. The maturity of the building use rights is longer than the credit period granted, which will provide a secure position to creditors as preferred creditors;
2. Requires accuracy on the part of the bank in monitoring the term of the building use rights due to the long term of building use rights so that the land owned by the debtor does not fall into the hands of the state;
3. The Bank receives the power of attorney to arrange for the extension of the Building Use Right when the right is due.

Thus what efforts are made by creditors (Banks) against debtors whose collateral for Building Use Rights Certificates has expired can be done in 3 ways, namely:

1. Non-legitimate
   a. Rescheduling (rescheduling)
   b. Reconditioning (return requirements),
   c. Restructuring (Rearrangement),
2. Replacement Guarantee
3. Litigation

6. Conclusion

1. Legal consequences with the expiration of Building Use Rights on mortgage rights since the enactment of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration related to the term of the end of land and building rights (SHGB ends). the right to the land becomes null and void which results in the fall of the HGB land to become State land.

2. The debtor completes his obligation to the creditor (Bank) to the creditor (Bank) whose expiry of building use rights is done by:

a) Pay off his obligations (pay off his debts)
b) Asking for a shorter credit period than the maturity of the Building Use Right;
c) Extend the rights to the Building Use Rights simultaneously at the beginning of the credit agreement, as well as at the time of the credit extension. In this case the debtor

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authorizes the bank to extend the right, and all costs incurred for this process become the debtor's burden;
d) Changing rights from Building Use Rights to Property Rights;
e) Provide replacement guarantees or additional guarantees.
Reimbursement of Mortgage Rights over land Building Use Rights whose term has expired and has been renewed in the credit period (before the credit is due)

3. What efforts are made by creditors (Banks) against debtors whose guarantees for Building Use Rights Certificates have expired can be done in 3 ways, namely:

1. Non-legitimate
a. Rescheduling (rescheduling)
b. Reconditioning (return requirements),
c. Restructuring (Rearrangement),
2. Replacement Guarantee
3. Litigation

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