



Study of the Responsibility of Independent Appraisal Services of Bank Collateral Related to the Auction Value of Execution of Collateral Objects

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Abstract. In providing bank credit, collateral must be submitted for credit return. Collateral certificates/fixed assets are most favored by creditors/banks. The provision of credit by banks cannot be separated from the assessment of collateral first. The Internal Bank carries out the assessment, which can be done by the Public Appraiser or KJPP (Public Appraisal Service Office). The Public Appraiser will provide a report on the value of collateral submitted by the debtor to be used as a basis by the bank to determine the Ceiling (maximum amount of credit). The position of creditors who are more dominant in the process of granting credit will more or less affect the market value and liquidation of collateral. In this case, the debtor has a risk to the value of the collateral that the Public Appraiser has determined if the collateral goes bankrupt. This research uses a legislative and conceptual approach.

Keywords: Public Valuerk, Bankruptcy Rights

INTRODUCTION

In the current era, the provision of credit by banks absolutely requires collateral as collateral for debtors in fulfilling their debts to banks. This is in accordance with banking activities, namely as public credit distributors. In the process of providing credit, an assessment of collateral will be submitted by the debtor as one of the procedures for providing bank credit. Appraisal will be conducted by an internal appraisal team from the bank or an Independent Public Appraisal known as the Public Appraisal Service Office (KJPP).

According to Dian Ayu Rahmadani (2022:164), "The collateral assessment will be carried out objectively according to the market value at that time and there is no collateral value engineering (over value). In general, the role of Appraisal collateral is not widely known by the public, in fact, it is not uncommon to assume that Appraisal is only an internal part of the bank so that it is considered a profession which does not stand alone. Whereas in today's economic and business developments, the role of Independent Appraisal/Public Appraiser can no longer be ruled out.

The legal umbrella regarding the Public Appraisal profession has not been regulated by comprehensive legislation, different from other legal professions such as notaries, advocates, and curators which has been specifically regulated in the legislation regarding public appraisers. The position of Public Appraisal regulations in Indonesia was initially regulated in PMK Number 125/PMK.01/2008 concerning Public Appraisal Services which has been considered less relevant to economic development present.

Then the regulation that regulates Public Appraisers is the Regulation of the Minister of Finance of the Republic of Indonesia Number 101/PMK.01/2014 concerning Public Appraisers which has been amended two times with Regulation of the Minister of Finance of the Republic of Indonesia 56/PMK.01/2017 concerning Amendments to the Regulation of the Minister of Finance of the Republic of Indonesia Number 101/PMK.01/2014 concerning Public Appraisers and last amended with the Regulation of the Minister of Finance of the Republic of Indonesia Number 228/PMK.01/2019 concerning the Second Amendment of the Regulation of the Minister of Finance of the Republic of Indonesia Number 101/PMK.01/2014 concerning Public Appraisals. (Hereinafter referred to as Permenkeu Peappraise Publik).

Definition of Valuation according to Article 1 paragraph (1) of the Minister of Finance Public Appraisal is a work process carried out to provide a written opinion on the economic value of an object of assessment that has been adjusted to SPI. While the definition of Public Appraiser explained by the Minister of Finance is an Appraiser who has obtained permission from the Minister to provide services as regulated in this Ministerial Regulation. This opinion is then used as a basis by the Banking in providing credit so as not to exceed the collateral value given by the debtor by the bank.

The definition of an appraiser according to Article 1 paragraph (3) of the Minister of Finance Public Appraisal is someone who has competence in carrying out appraisal activities, who has at least passed the initial assessment education. Along with the development of the Indonesian economy, and the rampant business carried out by the community has increased the need for public appraiser services, so that the existence of public appraiser services is better known and recognized by society.

However, this is still inversely proportional to the Laws and Regulations in Indonesia which still discuss a little about Public Appraisers so that the author feels that there is no picture it is clear how the duties and responsibilities of the Public Appraiser are to the results of his values set forth in the opinion. The public still considers that the Public Appraiser is part of the system of economic activity and has not stood alone independently.

Collateral which is one of the 1 of Principle 5 C in lending, indirectly makes the role of the interests of creditors (banks) more dominant than debtors related to value collateral. The Bank will apply its prudential principle in assessing a collateral provided by the debtor. The value of collateral (collateral) will be used as a reference by the bank in determining the Ceiling (batas maximum credit) while affecting the amount of the value of the Right of Liability from collateral.

Related to this, the question arises What is the responsibility of Appraisal Independent related to the value of collateral objects of insured? Based on the background and formulation of the problem above, it is necessary to rigid the study of the Responsibility Study of Independent Bank Collateral Appraisal Services Related to the Auction of Execution of Dependent Objects.

LITERATURE

Public Appraiser

Banking Law No. 10 of 1998 explains the definition of credit, namely an agreement between a bank (creditor) and a debtor that says the borrower (debtor) must return the money within a certain period of time by providing credit interest. The process of providing bank credit is known as the 5 C's principle, one of which is Collateral/Collateral given by debtors to banks as collateral for the return of their credit. Certificate collateral will be assessed by the appointed Internal Bank or KJPP. The bank in the process of granting credit will determine the maximum amount of credit that can be given (ceiling).

According to the value of collateral. This is what makes the bank's position more dominant in estimating the value of a certificate collateral. The definition of a public appraiser according to KMK No.101/PMK.01/2014 is a person or individual who carries out assessment activities independently/independently and professionally. In the collateral appraisal process, the Public Appraiser does not involve the debtor in the appraisal process, because the value of the object that is the result of the collateral appraisal is expected to obtain value accurate and there is no interference of the debtor in this matter. The debtor is limited to only being authorized to provide information or access to the collateral to be assessed.

Collateral Assessment Mechanism by Appraisal

In providing credit to collateral, in practice new and/or additional credit is found. Regarding additional credit on the same collateral, even the role of the debtor is no longer needed because both the creditor and the Public Appraiser simply look at the administrative and appraisal documents previous collateral.

The credit collateral assessment mechanism by Appraisal is as follows:

1. Identification of assessment objects
 - a. Determine the assessment schedule (day and date of assessment)
 - b. Setting assessment goals
 - c. Set the desired assessment type
2. Survey of assessment objects
3. Application of object assessment methods
4. Conclusion and Object assessment report

The mechanism in the valuation of collateral that the author conveyed above is a technical guide for the assessment of collateral contained in the appraiser's code of ethics. The results of the collateral value provided by the Public Appraiser to the bank are presented in 2 types of valuation approaches:

1. Collateral Market Value

Market value is the value of objects created by the collective pattern of the market (Agus Prawoto). Approach collateral valuation by looking at and comparing the market prices of several samples of housing units with the same specifications in the area. Houses or land located in the same location have an NJOP (Selling Value of Tax Objects) value that is not much different.

2. Collateral Liquidation Value/Fair Value

That is the collateral valuation approach by more specifically assessing land and buildings along with specifications, location, access, and quality of the assessed buildings. After the results of the collateral assessment are submitted to the bank, if the bank approves the collateral and its value, it will proceed to the credit binding process and binding the rights of dependents. The bank will charge a dependent value of 125% of the credit amount (assessed by the liquidation value of the collateral).

A case in point is that Pak Bani applied for a credit of Rp 1 billion to the bank. After being assessed by appraisal, the collateral given by Pak Bani was estimated at Rp 2.5 billion. So that a credit binding of IDR 1 billion and a binding of dependent rights of IDR 1.25 billion will be carried out.

In the bank's point of view, providing a collateral value of 125% of collateral (liquidation value) is a preventive and prudential effort carried out by the bank in the event of a default on credit. This is so that the total value of the dependent rights which is the right of the bank as a creditor can accommodate all administrative costs or fines related to bad loans. Before credit

binding is carried out, collateral assessment will first be carried out. Collateral with a maximum value of IDR 10 billion is carried out by the bank's Internal Appraiser, while collateral with a value of more than IDR 10 billion must use the services of an independent public appraiser/KJPP in accordance with the latest amendment to the Financial Services Authority Regulation (POJK) Number 40/POJK.03/2019 concerning Asset Quality Assessment of Commercial Banks. Meanwhile, collateral assessment of bad loans or AYDA management is mandatory to use an independent collateral appraiser/KJPP starting from IDR 5 billion. This is enforced to implement a prudential system in resolving bad loans in banks.

Dependent Rights Auction

Based on Law No. 4 of 1996 Article 1 Number (1) Dependent Rights, namely security rights imposed on land rights as referred to in Law No. 5 of 1960 concerning Basic Regulations Agrarian Trees, along with or not along with other objects that are an integral part of the land, for the repayment of certain debts that give priority to certain creditors against other creditors. From the above understanding, the author concludes that every collateral in the form of land and/or buildings that are used as credit collateral to banks must be bound for liability then burdened with a dependent right worth of debt (or more).

This Dependent Right is then used as collateral for credit repayment at the bank. In the banking business, many loans that have been disbursed have experienced bad loans, bankruptcy, or certain other circumstances that resulted in non-fulfillment of debtor obligations to the bank. Collateral that has been bound by the right of liability as collateral has the final role in fulfilling the debtor's obligations to the bank through the auction of execution of the right of liability by the Wealth Service Office State and Auction (KPKNL). This auction shows that the Appraisal appraisal rating system can be real, especially in the process of bad debts.

The execution based on Article 20 of the UUHT is carried out in three ways as follows:

- a) Execution of dependent rights under Article 6 of the UUHT
- b) Execution of the rights of dependents based on the executory title in the Certificate of Rights of Dependents

Based on the agreement between the grantors of collateral (collateral owners) with the recipients or holders of dependent rights, the sale of objects of liability can be carried out under the hands In consideration of obtaining the highest price so as to provide benefits for all parties.

METHOD

The author studies the laws and regulations regarding public appraisers, and the inclusion of Dependent Rights in bank collateral, therefore this research is normative juridical. The author uses an approach method in the form of a combination of a statutory approach and a conceptual approach. In this writing, the author tries to investigate the law in the form of a law that regulates public appraisers and dependent rights, along with what legal techniques the author uses to study it. The author uses the method to investigate the philosophical and legal foundations of a law, along with the internal relations and external suitability of its provisions.

DISCUSSION

Jawb Appraisal's Responsibility for the Liquidation Value of Auction Collateral

Article 17 paragraph (1) in the Minister of Finance for Public Appraisers stipulates that Appraisal/KJPP can be in the form of Individuals, Civil Partnerships or Firms. The basic foundation of Appraisal in carrying out assessment tasks in accordance with the Indonesian Appraisal Standard (SPI) is regulated in the Indonesian Appraisal Code of Ethics (KEPI) by applying appraisal standards honest, objective, no partiality, and already in accordance with competence.

The principles of objectivity by public appraisers that must be adhered to are:

- a) Objectivity
- b) Integritas
- c) Concealment
- d) Competence
- e) Professionalism

In accordance with the Minister of Finance for Public Appraisers, bad bank assets with a minimum value of Rp 5 billion are required to use KJPP services. This is expected to provide the most appropriate and relevant value for the object to be auctioned for the execution of dependent rights. KJPP is required to send its KJPP office assessment report to the Head Office and must be signed by the KJPP Leader, consisting of:

- 1) Monthly reports
- 2) Annual report

The value of collateral encumbered by collateral is recommended is the liquidation value of the collateral. However, often in banking practice there is an imposition of dependents based on the market value of the reported collateral. This will be a problem if the credit is bad. The value of bad credit collateral in the market is different from collateral in general, because people tend to be more careful to buy collateral that is salary from the execution auction of the dependent rights. This can cause a decrease in the market value of a collateral.

It is expected that the bank as the beneficiary of the dependent rights does not provide a credit amount with a maximum limit on the value of a collateral. This will provide difficulties if you are going to auction the execution of dependent rights because there can be a decrease in the value of collateral before the auction is carried out. Such a situation will certainly harm debtors and creditors. The objectivity of KJPP is seen in the execution of the auction of the right to gungan. The suitability of the value of bad collateral and the value of dependent rights which are the rights of creditors as fulfillment of the obligations of bad debtors.

KJPP may be subject to administrative sanctions if proven to violate in accordance with Article 7 of the Minister of Finance for Public Appraisers as follows:

- 1) Violating the provisions in paragraph (1) will be subject to sanctions in the form of revocation of the KJPP license.
- 2) Violating the provisions of ayat(2) will be subject to sanctions for revocation of the KJPP license.
- 3) Violating the provisions of paragraph (3), paragraph (4), paragraph (6), or paragraph (7) will be subject to suspension of KJPP permits for 3 (three) months.

CONCLUSION

Based on the explanation described above, there is no specific regulation related to the liquidation value of collateral auctions that are not in accordance with the liquidation value of bad collateral in an effort to provide legal protection for debtors.

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