

EKSISTENSI LEMBAGA *PARATE EXECUTIE*
DALAM UU NO. 4 TAHUN 1996 TENTANG HAK TANGGUNGAN
ATAS TANAH BESERTA BENDA-BENDA
YANG BERKAITAN DENGAN TANAH

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ABSTRACT

The one of facility that given by Mortgage Law is simple and definite to do the execution, when the debtor (the giver of mortgage) doesn't fulfill his obligation in the same manner as agreed, stipulated in General Explanation of Mortgage Law . Based on Article 20, there are 3 (three) methods of the procedure to execute of the mortgage object. They are as follows :

1. The execution based on the agreement to sell the property on Parate Executie.
2. The execution based on executorial title that provided in the mortgage certificate.
3. The execution is by means of the selling of property in furtive (underhanded) based on agreement made between the giver and the holder of mortgage.

Parate Executie is the simplest and easiest way for creditor to get back his credit when debtor was doing default. But this institution is theoretically constrained by Article 26 of the Law in reality that stipulates that as long as there is no regulation for it so the execution of the mortgage right is based on prevailing civil law procedure. Eventhough no problem of it in practice, it means that the Bank as the holder of mortgage keeps operating parate executie and National Auction Institution (Kantor Lelang Negara) is capable to sell the property of mortgage, and it keeps operating pirate executie and National Auction Institution is capable to sell the property of mortgage without judge validation.

The Keyword : Mortgage, Parate Executie, Land