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RESEARCH ARTICLE

THE LEGAL CERTAINTY OF ELECTRONICALLY-INTEGRATED MORTGAGE RIGHTS REGISTRATION REGULATION

Sy. Ali Murtado¹, Khoidin Khoidin^{1,2} and Ermanto Fahamsyah^{1,3}

1. Master of Notary, Faculty of Law, University of Jember, Indonesia.
2. Advisor, Faculty of Law, University of Jember, Indonesia.
3. Co-advisor, Faculty of Law, University of Jember, Indonesia.

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Abstract

The objective of this research was to determine the provisions contained in "Reg-Agrarian Minister 9/19" by "the principle of legal certainty" of "Mortgage Law" and "Agrarian Law", as well as "the principle of norm consistency" in the provisions of laws and regulations, especially the differences in conventional Mortgage Right registration and technology-based Mortgage Right Electronic Registration, whether it is appropriate and not with the provisions of relevant laws and regulations, and which provisions in its formation oblige the implementing of regulations to comply with the provisions of laws and regulations which are hierarchically above them concerning the issuance of the implementing regulations themselves. The conclusion of this research is whether or not the regulations are by "the principle of legal certainty" related to the provisions of Mortgage Right Electronic Registration in "Reg-Agrarian Minister 9/19", whether or not the regulations are by "the principle of norm consistency", because the provisions in the formation of statutory regulations require those criteria to be met.

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Introduction:-

The laws and regulations are concerning rights, obligations, as well as sanctions for violations committed by certain legal subjects on certain legal objects. In particular, in the private sector, there is Law of the Republic of Indonesia Number 4 of 1996 concerning Mortgage Rights to Land and Objects Related to Land (hereinafter referred to as Mortgage Law), under consideration that with the increasing movements of national development, which focuses on the economic sector, it is then necessary to provide sufficient funds that require a guarantee rights institution which is strong and capable of providing legal certainty for concerned parties. This can encourage increased community participation in said development, for creating a prosperous, just, and affluent society based on the State Ideology; the Pancasila and the State Constitution; and the 1945 Constitution¹.

Mortgage Rights (hereinafter referred to as MR), are guarantee rights imposed on land rights as intended in Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as

¹ Mortgage Law, Considering: In the letter "a".

Agrarian Law)². The existence of MR guarantee institutions is very supportive in economic development, especially from entrepreneurs' point of view who need credit for their business developments. Economic and trade developments which are closely followed by the development of need for credit and the provision of credit facilities require guarantees for the security of credit extension³. This research focused on the private and civil law aspects, Mortgage Law and related regulations, in particular the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 9 of 2019 concerning Electronically-Integrated Mortgage Services (hereinafter referred to as Reg-Agrarian Minister 9/19) which was recently issued by the agency on June 21st, 2019.

The Ministerial Regulation is electronically regulated (hereinafter referred to as MR-el) to facilitate the public by taking advantage of current technological developments. However, this implementation calls for preparation from the office-holders, especially those under the ministry of Land Office to guarantee legal certainty for legal subjects, either the organizers (creditors and debtors), as well as the legal objects.

Reg-Agrarian Minister 9/19 separates the functions, responsibilities, and authorities of the Land Deed Official. In the process of conventional MR, registration is still submitted by Land Deed Official, whereas MR-el, it must be carried out by the legal subjects, namely the Creditors as administrators with the condition that MR Objects must be owned by the Debtor. Therefore, if the creditor is negligent, the risks and legal consequences will make the guarantees provided do not have rights that are expressly written in Mortgage Law. From the above explanations, the researchers assumed the implementing regulations, namely Reg-Agrarian Minister 9/19, must comply with Mortgage Law and Agrarian Law, as viewed from "the principle of norms consistency" and "the principle of legal certainty" as determined by Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Laws and Regulations (hereinafter referred to as Reg-Formation and Legislation Laws). Therefore, as there were growing legal issues, research was conducted with the title: "The Legal Certainty of Electronically-Integrated Mortgage Rights Registration".

Formulation of the Problems

1. Are the MR-el registrations carried out by legal subjects on their legal objects by the principle of legal certainty?
2. Are the MR-el regulations stated in Reg-Agrarian Minister 9/19 by the principle of Legal Certainty and the principle of Norm Consistency?

Research Methodology:-

This research used the normative method, which is a method to analyze something based on norms and principles and legal principles, by taking into account applicable sources of law, both secondary and primary sources, to produce written legal arguments that are based on legal ground, firm, and straightforward. As stated by Prof. Peter Mahmud Marzuki, legal research is a know-how activity in legal science, not simply know-about. As a know-how activity, legal research is carried out to solve the legal issues it faces. This is where the ability to identify legal problems is needed, including carrying out legal reasoning, analyzing the problems, and providing solutions to legal problems⁴.

Discussion:-

The MR-el registrations carried out by legal subjects on their legal objects are following the principle of legal certainty

MR registration in Mortgage Law: MR acts as a right that is accessory (an agreement that is additional in nature and is linked to the main agreement and following the main agreement⁵), and the formulation of MR's is based on the

² Mortgage Rights that can be subject to a Ownership Rights, Cultivation Rights, and Building Rights, in articles of 25, 33, and 39 are regulated by law.

³ St. Nurjannah, JurnalJurisprudentie :*EksistensiHakTanggunganSebagaiLembagaJaminanHakAtas Tanah (TinjauanFilosofis)*, Volume 5 Nomor 1 Juni 2018, Abstraksi. Page. 195.

⁴ Peter Mahmud Marzuki, *PenelitianHukumEdisiRevisi*, (Kencana, Jakarta, 2017). Page. 60.

⁵ H Salim HS, *PerkembanganHukumJaminan Di Indonesia*, RajawaliPers, Cet.5, Jakarta, 2011. Page. 30.

existence of a principal agreement; a debt-receivable agreement⁶. In common, a debt-receivable agreement is an agreement between a debtor and a creditor as legal subjects in a certain contract for certain legal objects to be used as collateral for the settlement of certain debts. J. Satrio affirmed by looking at the doctrine in Mortgage Law article that the granting of MR, according to article 10 paragraph (1) of Mortgage Law, is the implementation of "a promise to give MR". Meanwhile, what is meant by giving MR is "making and signing deeds" (Article 10 paragraph (2) of Mortgage Law)⁷, referring to the fact that MR has been given but not yet been manifested because it has not been explicitly registered. The intended MR granting, is done by making a Deed of Granting Mortgage Rights by Land Deed Official. Deed of Granting Mortgage Rights must include the conditions as specified in Mortgage Law, including MR Subject, MR Object, and MR agreement clauses, except the promise to own MR objects⁸. After the signing of MR deed, by the parties, witnesses, and Land Deed Official, then it is registered to the Land Office. This is the moment when MR is manifested, which is a very important moment as it is closely connected with the emergence of preferred collection rights from creditors, determining the level and/or position of creditors towards fellow preferred creditors, and determining the position of the creditor in the event of confiscation of collateral (conservatoire blog or commonly abbreviated as CB) on collateral⁹. The aforementioned registration is after the formation of Mortgage Law which should be clear and straightforward as stated in article 13 paragraph (1 to 5):

The Granting of MR must be registered at Land Office

According to article 22 paragraph (3) of the Republic of Indonesia Government Regulation Number 10 of 1961 concerning Land Registration (hereinafter referred to as Reg-Government 10/61), it is stated that in principle the obligation of registration lies with the Land Deed Official, but it does not rule out that those concerned with MR recipient creditors register themselves to Land Registration Office (now the Land Office)¹⁰. Land Deed Official has the authority that the actual "obligation" MR registration "is due to its office" (*ex-officio*)¹¹. Article 13 paragraph (1) mentioned above is one of the principles in MR, namely the principle of publicity. Therefore, registering MR granting is an absolute requirement for the manifestation of such MR and the bind of MR to third parties, presumably, there is no objection, that creditors are allowed to take care of MR registration themselves, even in the explanation of Article 13 paragraph (2) of the Mortgage Law stated that registration can be done through officers and even by registered mail¹². H Salim HS said that this registration is intended so that a third party can find out that the collateral object is being subjected to collateral charging¹³. In the next article:

- (1) *At the latest of 7 (seven) working days after the signing of Deed of Granting Mortgage Rights as referred to in Article 10 paragraph (2)¹⁴, Land Deed Official is obliged to send Deed of Granting Mortgage Rights concerned and other necessary documents to the Land Office*

Article 13 paragraph (2) explains the roles of Land Deed Official, which means that the document submission by Land Deed Official means that the deeds and other required documents are conveyed to the Land Office through its officers or sent by registered mail. Land Deed Official is obliged to use the best and safest way by paying attention to the conditions of the area and existing facilities and always be guided by the goal of registering the MR as quickly as possible. For the sake of Land Deed Official security, Deed of Granting Mortgage Rights will only be signed, if all the files/documents needed for registration are complete, which is by the provisions of Article 28 Reg-Government 10/61¹⁵.

Other documents referred to in these provisions include documents of evidence relating to MR objects and the identity of the parties concerned, including certificates of land rights and certificates regarding MR objects. Land Deed Official is obliged to implement the provisions in this paragraph due to his position. Sanctions for violations

⁶ M. Khoidin, Diktat; *Pengantar Hukum Jaminan*. FH-UNEJ, 1999. Page. 47.

⁷ J Satrio, *Hukum Jaminan, Hak Jaminan Kebendaan, Hak Tanggungan*-Buku 2, (Citra Aditya Bakti, Cet.1, Bandung, 1998). Page. 137.

⁸ M. Khoidin, *Op.Cit.* Page. 48.

⁹ J. Satrio, *Op.Cit.* Page. 138.

¹⁰ *Ibid*, Page. 138.

¹¹ *Ibid*, Page. 140.

¹² *Ibid*, Page. 139.

¹³ H. Salim HS, *Op.Cit.* Hal. 9.

¹⁴ Article 10 paragraph (2) states that: Granting of Mortgage Rights is carried out by making a Deed of Granting Mortgage Rights by the Official of Making Land Deeds following the prevailing laws and regulations.

¹⁵ J. Satrio, *Op.Cit.* Page. 140.

will be stipulated in the laws and regulations governing the position of Land Deed Official. Violation of the seven-day time limit for registration can indeed result in the imposition of sanctions on Land Deed Official concerned, but the act itself remains valid and can still be registered. In the statement letter of MNA / KBPN number 110-1544 dated May 30, 1996, it was said that it should be noted that the delay in sending MR registration application files does not result in the cancellation of Deed of Granting Mortgage Rights¹⁶.

- (2) *The registration of MR as referred to in paragraph (1) shall be carried out by the Land Office by making a MR Land Book and recording it in the Land Book which is the object of MR and copying the record on Land Rights Certificate*

Registration of MR is carried out by the Land Office by making a MR Land Book and then recording the MR in question in the Land Book, which is in the Land Office, and eventually copying the record in Land Rights Certificate¹⁷.

- (3) *The date of MR Land Book as referred to in paragraph (3) is the seventh day after receipt of complete documents required for registration and if the seventh day falls on a holiday, the Land Book concerned shall be dated the following working day*

Article 13 paragraph (4) states that the production of MR Land Book must not be delayed that it can harm the parties concerned and reduce the guarantee of legal certainty. This paragraph sets a definite date as the date of the Land Book, namely the date of the seventh day in-count from the day the requirements in the form of a letter for complete registration are fulfilled.

- (4) *MR is manifested by the date of Land Book as referred in paragraph (4)*

MR Land Book date is the date that determines when MR is manifested, the creditor's position as a preference, and his rank compared to fellow preferred creditors¹⁸. Article 13 paragraph (5) is the fulfillment of "the principle of publicity", namely by making the MR Land Book, this principle is fulfilled and the MR is also binding on third parties as explained in Article 13 paragraph (1). Article 14 of (paragraphs 1 and 2) states that:

- a) *As proof of MR, the Land Office issues MR-Certificates following the prevailing laws and regulations;*
 b) *MR-Certificates, as referred to in paragraph (1), contains heading phrase (irah-irah) with the following exact wordings "For The Justice Based In The One and Only God"*¹⁹.

The provisions of article 14 paragraphs (2 and 3) constitute irah-irah listed on MR-Certificates, intended to confirm the existence of executorial power in MR-Certificates, so that if the debtor fails to meet his promise, he is facing execution akin to a court decision which has obtained permanent legal force, through procedures and parateexecutive organization by Civil Procedural Law regulations (hereinafter referred to as Reg-Civil Procedural Law). One of the strong features of MR is that it is easy and certain to carry out its execution if the debtor fails to meet his promise. Although in general terms of execution have been regulated in the applicable Reg-Civil Procedural Law, it is deemed necessary to specifically include provisions regarding MR execution in Mortgage Law.

MR registration in Reg-Agrarian Minister 9/19: Even though the Ministerial Regulation on MR-el has been enacted, it still largely depends on the readiness of the regional land office concerning its implementation to provide services to the community as the aimed by the Ministerial Regulation. The registration process requires that the submission of Deed of Granting Mortgage Rights to the Land Office remains the task of Land Deed Official for its products, according to a predetermined time limit, and the submission can be done electronically requiring the creditor to register and registered in HT-el service by completing other requirements²⁰, except for Deed of Granting Mortgage

¹⁶*Ibid*, Page. 142.

¹⁷*Ibid*, Page.142-143.

¹⁸*Ibid*, Page. 145.

¹⁹ Certificate as intended in the paragraph (2) has the same executorial power as a court decision that has obtained permanent legal force and is valid as a substitute for "grosseacteHypotheek" as long as it concerns land rights.

²⁰ Article 10 Reg-Agrarian Minister 9/19.

Rights requirements. The following are the provisions for MR-el registration at the Reg-Agrarian Minister 9/19. The MR-el service mechanism in the outline is as follows²¹:

1. *Registered users apply for MR services electronically through the MR-el system that has been provided by the Ministry and completes the requirements by the provisions of laws and regulations.*
2. *Then, the applicant must make a statement letter regarding accountability for the validity and correctness of the submitted Electronic Document data. The application requirements along with the statement letter are made in the form of an Electronic Document.*
3. *Specifically, regarding the requirements in the form of Land Rights Certificates or Ownership of Apartment Units, they must be in the name of the debtor*

This provision is worrisome for the debtor as the process takes a long time, concerning the conversion of land rights, which are not Certificates Ownership Rights, such as Certificates Cultivation Rights, Certificates Building Rights, and Certificates Usage Rights and not necessarily approved by legal rights owners, both government and private and the process costs money. Of course, it is inconsistent with Mortgage Law and Agrarian Law which state that the objects of MR are Ownership Rights, Building Rights, Cultivation Rights, and Usage Rights.

4. *The application that has been received by the MR-el System will be given proof of registration issued by the system. The proof of registration of said application at least contains, among others, the registration file number, the registration date, the name of the applicant, and the code for payment of service fees*
5. *The application is then processed after the application data and application registration fee are confirmed by the electronic system. Then the MR-el system will publish the results of MR services in the form of MR-Certificates and MR records in the Land Book and the Land Rights Certificate or Ownership of Apartment Units.*
6. *The recording of MR on Land Rights Certificate or Ownership of Apartment Units can be carried out by creditors by printing notes issued by the MR-el System and attaching the printed results of these notes to the Land Rights Certificate or Ownership of Apartment Units.*

The provisions mentioned above regarding MR-el constitute the active role of creditors who register and are registered at the local Land Office, without Land Deed Official interference, unless otherwise stipulated as requested by creditors for Land Deed Official services on objects that are promised by the parties, both creditors and debtors, of the legal objects as collateral.

The MR-el regulations stated in Reg-Agrarian Minister 9/19 are by the principle of Legal Certainty and the principle of Norm Consistency

Indonesia as a State law is obliged to carry out national legal development in a planned, integrated, and sustainable manner in a national legal system that guarantees the protection of the rights and obligations of all its people, based on the 1945 Constitution that the community is in need for fair laws and regulations. Regulations are made regarding the formation of laws and regulations which are carried out by means and methods that are certain, standardized, and fair which bind all institutions authorized to form laws and regulations²².

The MR-el arrangement in guaranteeing legal certainty for involved parties; creditors, debtors, Land Deed Official, and State Civil Apparatus in Land Office in engagement as collateral for certain objects which are immovable as collateral for payment of legally valid debts must comply with the provisions and norm consistency theory. It is as stipulated in Article 1 Number of Reg-Formation and Legislation Laws which states that:

The legislation is a written regulation that contains legally binding norms and is established or stipulated by a state institution or competent official through a procedure stipulated in statutory regulations.

Firstly, the purpose of "legally binding" applies to all legal subjects with interest as regulated in the regulations referred to.

²¹ AndriFrandoni, *HakTanggungjawabSecaraElektronik*, Posted 17 September 2019 In Legal News & Events, Kenny Wiston Law Offices.

²² See legal considerations in the Reg-Formation and Legislation Laws.

Secondly, the meaning of "established or stipulated by a state institution or competent official" are the executive and its apparatus (both ministerial and equivalent), legislative, and judicative as well as.

Thirdly, the meaning of "through a procedure stipulated in statutory regulations" is that both the executive and its apparatus, legislative, and judicative must comply with the laws and regulations governing it, both laws and regulations and / or implementing laws and regulations. They should be following the provisions in Article 5 of Reg-Formation and Legislation Laws that:

the formation of laws and regulations must be carried out based on fair principles, which include: a. clarity of purpose²³; b. appropriate institution or official²⁴; c. suitability between types, hierarchy, and content²⁵; d. implement-able²⁶; e. efficiency and efficacy²⁷; f. clarity of formulation²⁸; and g. openness²⁹, as well as

Reg-Agrarian Minister 9/19 is not following Article 6 paragraph (1) of Reg-Formation and Legislation Laws which states that:

The contents of the Legislation must reflect the principles of: a. protection³⁰; b. humanity³¹; c. nationality³²; d. kinship³³; e. archipelago³⁴; f. unity in diversity³⁵; g. justice³⁶; h. equal position in law and government³⁷; i. legal order and certainty³⁸; and j. balance, harmony, and conformity³⁹.

²³ See the explanation of article 5 of Reg-Formation and Legislation Laws, what is meant by "the principle of clarity of purpose" is that each Formation of Legislation must have a clear objective to be achieved.

²⁴ Ibid, What is meant by "the correct institutional principle or official forming" is that each type of Legislation must be made by the authorized state institution or official forming the Legislation. These legislations can be canceled or null and void if it is made by an unauthorized state institution or official.

²⁵ Ibid, What is meant by "the principle of conformity between types, hierarchy, and content materials" is that in the Formation of Legislations, it must pay attention to the appropriate content materials by the type and hierarchy of the Legislation.

²⁶ Ibid, What is meant by "the principle of implement-able" is that every Formation of Legislation must take into account the effectiveness of these Regulations in society, both philosophically, sociologically, and juridically.

²⁷ Ibid, What is meant by "the principle of efficacy and efficiency" is that every Legislation is made because it is really needed and useful in regulating the life of society, nation and state.

²⁸ Ibid, What is meant by "the principle of clarity of formulation" is that each Legislation must meet the technical requirements for the preparation of legislations, systematics, choice of words or terms, as well as legal language that is clear and easy to understand so as not to cause various kinds of interpretations in its implementation.

²⁹ Ibid, What is meant by the "principle of openness" is that in the Formation of Legislation starting from planning, preparation, discussion, ratification or stipulation, and promulgation is transparent and open. Thus, all levels of society have the widest possible opportunity to provide input in the Formation of Legislation.

³⁰ Ibid, Article 6; What is meant by "the principle of protection" is that each Content Materials of Legislation must function to protect to create public order.

³¹ Ibid, What is meant by the "principle of humanity" is that every Material Contained in the Legislation must reflect the protection and respect for human rights and the dignity and worth of every citizen and population of Indonesia in proportion.

³² Ibid, What is meant by "the principle of nationality" is that each content material of the Legislation must reflect the character and nature of the pluralistic Indonesian nation while maintaining the principles of the Unitary State of the Republic of Indonesia.

³³ Ibid, What is meant by "the principle of kinship" is that every Content Material of the Legislation must reflect deliberation to reach consensus in every decision making.

³⁴ Ibid, What is meant by "the principle of Archipelago" is that every Content Material of the Legislation always takes into account the interests of the entire territory of Indonesia and the Content of Legislation made in the regions is part of the national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

³⁵ Ibid, What is meant by "the principle of unity in diversity" is that the Content Material of Legislation must take into account the diversity of the population, religion, ethnicity, and class, special regional conditions and culture in the life of the community, nation, and state.

³⁶ Ibid, What is meant by "the principle of justice" is that every content material of Legislation must reflect justice proportionally to every citizen.

The emerging problem stemming from the provisions of both Mortgage Law which is based on Agrarian Law and Reg-Agrarian Minister 9/19 is it does not clearly state the rights and obligations of parties in MR registration and the authority to grant MR for MR objects. Registration is submitted to the Land Office. However, Mortgage Law does not regulate who is the applicant for MR registration, even though usually legal subjects do register them, often using Land Deed Official service. Meanwhile, the provisions in Permen stipulate that the submission of Deed of Granting Mortgage Rights to the Land Office is the responsibility of Land Deed Official up until the issuance of the MR-Certificates. On the other hand, Reg-Agrarian Minister 9/19 states that Land Deed Official submits Deed of Granting Mortgage Rights in the form of electronic documents⁴⁰, other requirements for MR-el registration applications become the obligations of creditors⁴¹. Therefore, if the creditors are negligent by not registering them, then the risk and legal consequences are the loss of the special rights granted by Mortgage Law. The provisions in Permen should be subject to Mortgage Law and Agrarian Law, as the doctrine in Reg-Formation and Legislation Laws.

These are the "factors" that are evidence-based related to different arrangements in the authority at MR registration at Land Office up until the issuance of MR-Certificates, especially Reg-Agrarian Minister 9/19 on regulations in a hierarchical manner, namely Mortgage Law and Agrarian Law in the formulation of articles. However, Reg-Agrarian Minister 9/19 does not see and comply with the legal doctrine in Reg-Formation and Legislation Laws. Thus, it can be said that the regulation goes beyond the statutory regulations, while the nature of Reg-Agrarian Minister 9/19 is implementing regulations rather than statutory regulations, it should be consistent with Mortgage Law and Agrarian Law to ensure legal certainty.

Conclusion:-

The MR-el registrations carried out by legal subjects on their legal objects are following the principle of legal certainty

MR-el registration in Mortgage Law: In general, the debt-receivables agreement in question, in particular MR, refers to an agreement between the debtor and the creditor as legal subjects in a certain contract for certain legal objects to be used as collateral for the settlement of certain debts. The provision of MR is done by making Deed of Granting Mortgage Rights by Land Deed Official, where it is mandatory to include the conditions as specified in Mortgage Law, concerning MR Subject, MR Object, and MR agreement clauses, and do not include promises to pose MR Object⁴². After the signing of MR deed by involved parties, witnesses, and Land Deed Official, it is then registered to Land Office. It is done to fulfill the principles in MR, namely the principle of publicity⁴³. Therefore, registering MR is an absolute prerequisite for the manifestation of MR and binding MR to third parties. H Salim HS stated that this registration is intended so that a third party can find out that the collateral is being charged⁴⁴.

MR-el registration in Reg-Agrarian Minister 9/19: The submission of Deed of Granting Mortgage Rights to the Land Office remains the task of Land Deed Official to deliver the deeds within a predetermined time limit⁴⁵. The submission can be done electronically but, in electronic submission, the intent, in this case, is limited to Deed of Granting Mortgage Rights, while another requirement is the active role of the creditors themselves who register and

³⁷ *Ibid*, What is meant by "the principle of equal position in law and government" is that any Content Material of the Legislation may not contain anything discriminatory based on background, among others, religion, ethnicity, race, class, gender, or social status.

³⁸ *Ibid*, What is meant by "the principle of order and legal certainty" is that every Content Material of the Legislation must be able to create order in society through the guarantee of legal certainty.

³⁹ *Ibid*, What is meant by "the principle of balance, harmony, and conformity" is that every Content Material of the Legislation must reflect balance, harmony, and conformity between the interests of individuals, society and the interests of the nation and state.

⁴⁰ See Article 10 Paragraph (1) Reg-Agrarian Minister 9/19

⁴¹ See Articles 7 to 9 Reg-Agrarian Minister 9/19, all forms of documents other than MR which are a requirement that MR must register with electronic media (electronic documents) by the creditors themselves, except; Deed of Granting Mortgage Rights that the Land Deed Official must submit.

⁴² M. Khoidin, *Op.Cit*, Page. 48.

⁴³ Principle of Compulsory Registration.

⁴⁴ H. Salim HS, *Op.Cit*. Page. 9.

⁴⁵ Article 10 Reg-Agrarian Minister 9/19.

are registered in MR-el services at Land Office by observing the provisions of articles 7 to 9 of Reg-Agrarian Minister 9/19, unless otherwise stipulated by the parties as legal subjects, be they debtors, creditors, and Land Deed Official. In the registration process, the MR object must be in the name of the debtor which is quite a heavy provision in its implementation, because it has to go through a fairly long process at a considerable cost, especially concerning Cultivation Rights, / Building Rights / Usage Right (not legal ownership), unlike Ownership Rights.

The MR-el regulations stated in Reg-Agrarian Minister 9/19 are NOT following the principle of Legal Certainty and the principle of Norm Consistency

Based on Mortgage Law, the legal act of submitting MR registration up until the issuance of MR-Certificates is carried out by Land Deed Official, while Reg-Agrarian Minister 9/19 regulates that submitting Deed of Granting Mortgage Rights to Land Office is the task of Land Deed Official, but the application for MR-el registration is the obligation of creditors regarding the MR object, and that is must be on behalf of the debtor. This, especially for parties as legal subjects who feel disadvantaged by the inconsistent provisions in Reg-Agrarian Minister 9/19, namely hierarchically which should be the implementing regulation of Mortgage Law and Agrarian Law which states that submission of a judicial review to the competent body. In deciding cases for this, as well as the duties and / or authorities of the Government, must immediately revise the policy of this Reg-Agrarian Minister 9/19 so that synchronous, comprehensive, appropriate and "consistent norms" provisions are produced in Reg-Agrarian Minister 9/19 as implementing regulations for Mortgage Law and Agrarian Law, to comply with the provisions of Reg-Formation and Legislation Laws, related to the principles of establishing laws and regulations, as well as types, hierarchies, and content of laws and regulations, to guarantee legal certainty, as mandated by the State ideology; Pancasila and the 1945 constitution.

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