



## Legal Review of the Execution of Mortgage Rights on Land

(Study of Constitutional Court Decision Number 10/PUU-XIX/2021)

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**Abstract.** The execution of mortgage rights on land is a crucial element in the property security legal system in Indonesia, which allows creditors to obtain debt repayment if the debtor defaults. However, the implementation of parate executie as a non-litigious mechanism based on Law Number 4 of 1996 concerning Mortgage Rights has sparked constitutional debates, particularly regarding the debtor's right to fair legal protection. This study analyzes the legal considerations of the Constitutional Court in Decision No. 10/PUU-XIX/2021, which rejected the constitutional review of the mortgage execution norms, and evaluates the legal execution procedures post-decision. Using the normative legal research method, this article examines the approach of contractual freedom, the principle of justice, and the protection of property rights in the context of creditor-debtor relationships. The study results show that the Court views parate executie as constitutionally valid, as long as it is carried out with the principles of transparency, proportionality, and the availability of legal recourse for the debtor. Therefore, legal protection within the mortgage system is not eliminated, but must be implemented through accountable and just practices. These findings provide an important normative basis for policymakers and economic actors in ensuring that the execution of guarantees runs effectively while still upholding the constitutional rights of the parties involved.

**Keywords:** Constitutional Court; Debtor; Legal Protection; Mortgage; Parate Executie

### 1. INTRODUCTION

Land mortgage rights are one of the property security instruments that play a vital role in financing and credit practices in Indonesia. In the legal relationship between the creditor and the debtor, the mortgage provides a special position for the creditor to obtain repayment of the debt from the collateral object if the debtor defaults. In this context, the execution of the mortgage becomes a mechanism that determines whether the legal interests of the creditor can be effectively protected, while still ensuring the rights of the debtor as the party providing the collateral. The legal provisions regarding the execution of mortgage rights are regulated in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT). This law grants the mortgage holder the authority to execute without going through the court (parate execution), based on the legal power inherent in the mortgage certificate. However, in practice, these provisions often lead to legal debates, especially when the execution procedure is carried out without involving a fair and open judicial process for the debtor.

One form of objection to this execution mechanism is reflected in the constitutional review of Article 6, Article 14 paragraph (3), Article 20, and Article 21 of the Mortgage Law through Constitutional Court Case Number 10/PUU-XIX/2021. The petitioner in the case argued that the norms in the Mortgage Law grant excessive power to creditors and undermine the rights of debtors to obtain equal and fair legal protection. The process of execution without

a court is considered to violate the principle of due process of law and has the potential to cause significant harm to the economically and legally weaker party. This request for judicial review is important because it touches on fundamental aspects of collateral law, specifically whether the execution rights attached to collateral are in accordance with the principles of the rule of law, social justice, and the protection of human rights as guaranteed in the 1945 Constitution. In addition, there is the issue of to what extent credit agreements and guarantee clauses can limit the legal space for debtors to defend themselves in execution disputes.

The Constitutional Court in its decision stated that the provisions in the Mortgage Law being tested are constitutional, and affirmed that *parate executie* is an embodiment of the principle of freedom of contract, which is legally valid as long as it does not violate the principle of prudence. The Court also stated that debtors still have the opportunity to raise objections or resist, either civilly or administratively, if they feel their rights are being violated. Nevertheless, the ruling does not immediately end the debate regarding the legal protection of debtors in the practice of executing collateral rights. In many cases, the execution of the auction of collateral objects is often carried out without transparency and disregards the principle of proportionality. Therefore, further studies are needed to evaluate the implementation of mortgage execution procedures post-MK decision, especially in relation to the principles of justice and the protection of the debtor's constitutional rights.

This research is relevant because there have not been many academic studies specifically examining the legal implications of the Constitutional Court Decision No. 10/PUU-XIX/2021 on the procedure for executing mortgage rights in legal practice. Understanding the applicable legal norms and the Court's interpretation is crucial for formulating a balanced legal protection framework for both parties in land mortgage credit agreements. By conducting a study on this Constitutional Court ruling, the researcher hopes to identify the legal principles that must be met in the execution of mortgage rights, as well as formulate normative recommendations for policymakers, auction implementers, and banking practitioners. This research will also contribute to the development of collateral law based on the principles of justice, legal certainty, and utility. Thus, the background of this research is based on the need to re-examine the procedure for executing mortgage rights from the perspective of constitutional law and civil practice, in order to ensure that the legal instruments used to protect creditors do not become tools of injustice for debtors. The Constitutional Court Decision No. 10/PUU-XIX/2021 serves as an important starting point in analyzing the balance of rights and obligations in the execution of collateral in Indonesia.

## **2. METHODOLOGY RESEARCH**

This research uses the normative legal research method, which is an approach that relies on positive legal norms as the main object of study. Normative legal research aims to examine and assess the conformity of the norms in Law Number 4 of 1996 concerning Mortgage with higher legal principles, particularly the 1945 Constitution of the Republic of Indonesia. Therefore, the approach used in this research is doctrinal, where the law is positioned as a written norm that can be analyzed systematically and logically. The approach used includes the statute approach, which is conducted by examining various legal provisions related to collateral rights, including the Collateral Rights Law, the Civil Code, the Bankruptcy Law, and the Constitutional Court Decision Number 10/PUU-XIX/2021. In addition, a case approach is also used to analyze the ratio decidendi of the Constitutional Court in that decision, as well as the extent to which the legal considerations taken by the Court align with the principle of protecting the constitutional rights of the parties, especially the debtor.

The technique for collecting legal materials is conducted through library research. The primary legal materials studied include legislation and court decisions (especially Constitutional Court decisions). Meanwhile, secondary legal materials are obtained from legal literature such as books, scientific journals, legal articles, and opinions from legal experts. Tertiary legal materials such as legal dictionaries and encyclopedias are also used to support the interpretation of certain legal terms. All legal materials are analyzed qualitatively, with an emphasis on legal reasoning and relevant principles. Through this normative method, this research is expected to provide a comprehensive overview of the legal standing of the mortgage execution mechanism post Constitutional Court Decision No. 10/PUU-XIX/2021, as well as offer normative arguments to strengthen fair and constitutional execution practices.

## **3. RESULT AND DISCUSSION**

### **Considerations of the Constitutional Court Judges in Decision No. 10/PUU-XIX/2021**

The application for case Number 10/PUU-XIX/2021 was submitted by the applicant who believes that their constitutional rights as a citizen have been violated due to the enactment of several provisions in Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land. In his application, the petitioner specifically questions the validity of Article 6, Article 14 paragraph (3), Article 20 paragraphs (1) and (2), as well as Article 21, which he believes grant excessive authority to creditors (mortgage holders) to execute the collateral object solely based on the strength of the mortgage itself—without the need for a court decision mechanism. The applicant believes that this condition contradicts the

fundamental principles of the rule of law (*rechtstaat*) upheld by Indonesia as stated in Article 1 paragraph (3) of the 1945 Constitution, which mandates that all legal actions, including the confiscation of property rights or the takeover of collateral, must be carried out through a fair and open legal process. He also argues that the regulation disregards the principle of due process of law, as the debtor is not given sufficient opportunity to defend themselves or challenge the validity of the creditor's execution actions before a judicial forum.

Furthermore, the petitioner stated that the unilateral execution regulation by the creditor through the "executorial title" of the mortgage as stipulated in those articles opens the possibility of abuse of power and has the potential to deprive ownership rights, which are part of human rights as guaranteed by Article 28G paragraph (1) and Article 28H paragraph (4) of the 1945 Constitution. Therefore, the petitioner requests that the Constitutional Court declare that the provisions in question are contrary to the 1945 Constitution, particularly regarding the protection of property rights, the right to obtain justice, and the guarantee of fair legal treatment in court. The applicant seriously questions the executorial nature of the mortgage rights contained in the articles of Law Number 4 of 1996 that are currently being tested. According to the applicant, the existence of provisions that grant automatic executory power (executory title) to mortgage certificates has nullified the principle of due process of law, which should be a main pillar in the legal system of a democratic state. By not requiring the execution process through judicial mechanisms, the debtor loses their constitutional right to a fair, transparent, and proportional defense before an independent judicial institution.

The applicant believes that the absence of a judicial control mechanism in the execution of collateral rights creates an imbalance in the legal relationship between creditors and debtors. This imbalance becomes very apparent when the debtor experiences economic difficulties beyond their control (*force majeure*), such as severe illness, natural disasters, or national economic crises, which morally and legally should be grounds for postponement or renegotiation of obligations, rather than being executed unilaterally. In practice, the absolute power granted to creditors often makes the position of debtors very vulnerable and without adequate protection from the state. In addition, the petitioner also highlights the provision regarding private sales as regulated in Article 20 paragraph (2) which is under the guise of "agreement" and "highest price." According to the petitioner, the phrase "highest price" is very abstract, vague, and potentially subject to abuse because it is not accompanied by objective standards and strict verification mechanisms. The procedure for private sales without court supervision is deemed to open the door to manipulative practices that harm the debtor, especially in the context of non-transparent and closed transactions. Thus, the petitioner

believes that the current system of mortgage execution is not in line with the principles of justice, protection of property rights, and the principle of proportionality in modern law. Therefore, he requests that the Constitutional Court review these norms to ensure that the execution of mortgage rights does not sacrifice substantive justice and the constitutional rights of citizens.

The Constitutional Court, in considering Case No. 10/PUU-XIX/2021, used an in-depth constitutional approach to the principles of justice, legal certainty, and the protection of human rights as guaranteed in the 1945 Constitution of the Republic of Indonesia. In the process of testing the norms of Law Number 4 of 1996 concerning Mortgage Rights, the Court evaluated the applicant's arguments by considering the context of the civil relationship between the creditor and the debtor within the system of contract law and property security in Indonesia. The Court explicitly emphasized that the granting of a mortgage is the result of a voluntary agreement between the parties, particularly from the debtor to the creditor, as a concrete manifestation of the principle of freedom of contract, which is universally recognized in civil law. Therefore, the existence of the mortgage and its executory nature are a direct consequence of the agreement. The Court stated that as long as the agreement is made legally, free from coercion, and meets legal requirements, the execution of the mortgage right cannot be considered a violation of the debtor's constitutional rights.

Furthermore, the Court emphasized that the legal character of a mortgage, which is property-based and accessory (*accessoir*)—meaning it follows the principal debt—is an important part of the legal structure of guarantees that provides protection and legal certainty for creditors. This is also in line with the purpose of establishing the Mortgage Law, which is to create an efficient, reliable financing system that can instill confidence in financial institutions as credit providers. Regarding the executory power of the mortgage certificate, the Court believes that it is actually a form of legal efficiency needed in the practice of resolving problematic loans. A mortgage certificate with execution power equivalent to a final court decision (*kracht van gewijsde*) allows creditors to execute against the collateral without going through a lengthy, costly litigation process that could potentially create legal uncertainty. This mechanism is considered constitutionally valid as long as it still provides legal space and protection for the debtor, including the possibility of raising objections, suspensions, or peaceful settlements before execution is carried out.

Therefore, the Constitutional Court concluded that the provisions of the articles in the Mortgage Law that grant executory power to creditors do not contradict the 1945 Constitution, as they still consider the principles of substantive justice and access to legal protection. The

Court emphasized the importance of balancing the interests of debtors and creditors, as well as upholding the principles of prudence and responsibility in the execution of collateral rights to prevent arbitrary misuse. In its considerations, the Constitutional Court firmly emphasized the importance of the principle of freedom of contract as one of the fundamental principles in the national civil law system.

The Court emphasized that the mortgage is not a legal institution formed unilaterally by the creditor, but rather a voluntary agreement arising from the consensus between the creditor and the debtor. Thus, the existence of a mortgage must be understood as an integral part of a loan agreement, where one party (the debtor) provides a guarantee in the form of rights to land and/or objects attached to it to the other party (the creditor) as collateral for debt repayment. When a debtor consciously and voluntarily agrees to pledge their land or assets as a form of debt guarantee, all legal consequences, including the creditor's authority to execute the mortgage, are part of the implementation of the principle of *pacta sunt servanda*, which means that agreements made in accordance with the law are binding as law for the parties who make them. The Court holds that respecting the legal force of a duly agreed-upon contract is part of the constitutional protection of legal certainty and contractual justice. Regarding the provisions of Article 20 paragraph (2) of Law Number 4 of 1996, particularly concerning the interpretation of "highest price" in the context of the sale of collateral objects through private sale, the Court provides a constructive interpretation. According to the Court, the term "highest price" cannot be interpreted absolutely or mathematically alone, but must be understood in the context of fair market value based on the principles of openness, transparency, and mutual agreement of the parties. In this case, the mechanism of private sale conducted in good faith and through fair procedures cannot automatically be considered a violation of the debtor's constitutional rights.

The Court also emphasized that as long as the sale process is conducted transparently, informatively, and involves the debtor's approval or at least their knowledge, there is no violation of the right to a sense of justice or the right to ownership. On the contrary, efficient private sales that avoid lengthy auction processes are considered beneficial for both parties, especially if the sale proceeds can more optimally reduce the debtor's debt burden. Furthermore, the Court guarantees that the national legal system continues to provide judicial control over the mechanism. If there are objections from the debtor, including regarding the determination of the sale value or alleged deviations in the sales process, the debtor has the constitutional right to sue in court. The judicial process serves as a legitimate forum to examine the validity of the procedures and the substance of the execution of the collateral rights. Thus,

the Court concluded that the provision in question does not violate the principles of justice and legal certainty as long as its implementation follows transparent, proportional procedures and respects the rights of both parties.

The Constitutional Court also affirmed that Article 21 of Law Number 4 of 1996 does not contradict the 1945 Constitution of the Republic of Indonesia, because the provision is actually in line with Article 55 of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Bankruptcy Law). In Article 55 of the Bankruptcy Law, it is emphasized that a *separatis* creditor, namely a party holding a security interest such as a mortgage, fiduciary, lien, or pledge, has the legal right to execute their security independently, as if no bankruptcy had occurred against the debtor. The Court considers that this right is a form of legitimate and rational legal protection for creditors who from the outset have held a special position based on a legally valid guarantee agreement. In the Indonesian civil law system, collateral such as a mortgage provides a strong legal position and priority for its holder to collect debts from the proceeds of the execution of the collateral object, compared to other creditors. Therefore, Article 21 of the Mortgage Law, which provides a legal basis for secured creditors to continue execution amid the bankruptcy process, actually demonstrates systemic consistency between collateral law and bankruptcy law.

Furthermore, the Court views that the existence of this provision does not eliminate protection for the debtor, because the execution by the *separatis* creditor remains subject to procedural provisions and the principle of prudence as regulated in the Bankruptcy Law, and is supervised by the curator and the commercial court. In other words, creditors do not act without supervision, but rather within a system that ensures accountability and transparency. This execution right is part of the legal certainty in debt relationships and simultaneously serves as a guarantee for the sustainability of the national financing system, as it provides confidence to financial institutions in extending credit with collateral. Without an effective execution mechanism, the function of the mortgage as a means of securing debt becomes weak and lacks utility.

Therefore, the Court considers that Article 21 of the Mortgage Rights Law does not violate the principles of justice, legal certainty, or the protection of human rights as guaranteed in the 1945 Constitution. On the contrary, the article plays an important role in maintaining the balance between the interests of creditors and debtors, as well as creating a healthy and reliable collateral legal system. The Constitutional Court firmly rejected the applicant's assumption that the norms tested in Law Number 4 of 1996 concerning Mortgage Rights have closed the space for legal protection for debtors. In its consideration, the Court stated that legal mechanisms

remain available and accessible to debtors if they feel aggrieved or experience unilateral actions that exceed the creditor's authority. The debtor has the constitutional right to file an objection, sue in the district court, or utilize other legal avenues in accordance with the national civil justice system. Therefore, there is no neglect of the principle of due process of law, as the right to defend oneself is still guaranteed within the context of the applicable legal system.

The Court also emphasized that the interpretation of the rule of law (*rechtstaat*) principle cannot be separated from a comprehensive understanding of the function of agreements and the mechanism of collateral, including mortgage rights. On the contrary, the Court sees that the existence of articles regulating the executory power of collateral rights is part of the effort to provide legal certainty in national financing practices, while also maintaining the balance of rights and obligations of the parties in credit relationships. In modern banking and financial institution systems, clarity regarding the mechanism of collateral execution is an important prerequisite for ensuring that the flow of credit remains healthy and orderly. Furthermore, the Court stated that the norms being tested do not contain any substance that contradicts the 1945 Constitution, whether from the aspect of human rights protection, social justice, or the principle of equality before the law. On the contrary, the regulation in question reflects the synchronization between the principles of national civil law and the needs of the modern economy, which demands efficiency in the resolution of debt disputes.

The Court assessed that in contractual relationships, the principles of trust and responsibility must be upheld, and therefore the execution of a lien that has been duly agreed upon cannot be considered contrary to the constitution. After considering all legal arguments, evidence, and normative facts presented in the application, the Constitutional Court decided to reject all the legal review applications submitted by the applicants. In its verdict, the Court stated that Article 6, Article 14 paragraph (3), Article 20 paragraphs (1) and (2), as well as Article 21 of the Mortgage Law do not contradict the 1945 Constitution, either formally or materially. On the contrary, these articles are declared as an important part of the national collateral law architecture, which plays a strategic role in maintaining legal trust, economic stability, and the protection of the rights of all parties involved in credit agreements.

### **Procedure for the Execution of Mortgage Rights on Land based on the prevailing laws and regulations Post Constitutional Court Decision No. 10/PUU-XIX/2021**

Post the issuance of the Constitutional Court Decision No. 10/PUU-XIX/2021, there are no normative changes or deletions of legal norms in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (UUHT). However, this decision holds significant value as it provides a crucial constitutional affirmation regarding the validity and

legality of the mortgage execution procedures. The Court stated that the mechanism for executing collateral rights, whether conducted through public auctions by the State Assets and Auction Service Office (KPKNL) or through private sales as regulated in Article 20 paragraph (2) of the Mortgage Law, is constitutionally valid, as long as it is carried out in accordance with legal procedures, the principle of good faith, and the principle of justice.

This assertion indicates that the Court does not question the substance of the execution regulations in the UUHT, but rather emphasizes the importance of correct, transparent, and just implementation. In this case, the Court emphasized that the principle of the rule of law, which upholds justice and the protection of constitutional rights, is not neglected, as the debtor still has the legal right to file an objection, pursue a lawsuit, or take other legal actions if they feel their rights are violated during the execution process. Therefore, although the tested norms remain intact, the Court has provided a constitutional interpretation that serves as an important reference in banking practices, financing, and the auctioning of collateral objects. With this ruling, the Court affirmed that existing implementation regulations, such as the Minister of Finance Regulation and the technical auction provisions from the Directorate General of State Assets (DJKN), can still be used as an operational basis, as long as they do not conflict with the general principles of good governance and the constitutional rights of citizens.

In addition, this ruling also serves as a normative guideline reminding all stakeholders—be they creditors, debtors, auction officials, or law enforcement officers—not to abuse execution authority and to always uphold the principles of proportionality and legal certainty. Thus, the mortgage system in Indonesia remains robust as a civil law instrument that supports economic growth, while still adhering to the constitutional framework and respecting human rights. The main procedure in the execution of mortgage rights in Indonesia is known as *parate executie*, which is a mechanism for executing the collateral object directly by the creditor without requiring a court decision or decree beforehand. The legal basis for this mechanism is explicitly stated in Article 6 and Article 14 paragraphs (2) and (3) of Law Number 4 of 1996 concerning Mortgage on Land and Objects Related to Land (UUHT). In the provisions, it is explained that if the debtor breaches the agreement or defaults, the first mortgage holder is authorized to sell the object of the mortgage through a public auction to obtain debt repayment from the sale proceeds.

One of the important elements of the executorial power of a mortgage is the mortgage certificate itself, which formally contains the phrase "For Justice Based on the One and Only God." This phrase indicates that the certificate has legal power equivalent to a court decision that has permanent legal force (*inkracht van gewijsde*). Therefore, the creditor can simply use

this certificate as the legal basis to file an execution request through the State Assets and Auction Service Office (KPKNL) without needing to file a lawsuit or application to the court first. The Constitutional Court in Decision No. 10/PUU-XIX/2021 affirmed that this mechanism is constitutionally valid, as the principle of parate executie has become an integral part of the initial agreement between the creditor and the debtor in the deed of mortgage. In other words, from the beginning, the debtor has voluntarily agreed to be subject to this mechanism, which embodies the principle of freedom of contract in civil law. Therefore, the execution carried out without the intervention of the court is not a form of legal violation, but rather a logical consequence of a valid and binding agreement.

Parate execution is also intended to simplify and expedite the process of resolving debt disputes, particularly in the financial and banking sectors that demand efficiency and legal certainty. Without this mechanism, the process of executing collateral will become lengthy, costly, and potentially hinder the smooth flow of credit, which is the lifeblood of the economy. Therefore, the existence of parate execution not only provides legal protection for creditors but also strengthens the stability and effectiveness of the national financing system. However, the Court emphasizes that in practice, the execution of parate execution must be carried out transparently, proportionally, and in accordance with the principles of justice, so as not to cause imbalances or abuse of power by the creditor. If the debtor feels aggrieved, they still have the legal right to file a lawsuit or objection (*verzet*) against the execution process, ensuring that the principle of due process of law is upheld in the national legal system.

Before the execution of the collateral right is carried out, the creditor has a legal obligation to provide prior written notice to the debtor, stating that the debtor has defaulted or failed to fulfill their payment obligations. This notice is part of the principle of prudence and legal protection for the debtor, while also providing the debtor with an opportunity to clarify, settle, or restructure the debt within a reasonable period. If within that period there is no resolution or good faith from the debtor to fulfill the obligation, the creditor is allowed to submit a request for auction of the collateral object to the State Assets and Auction Service Office (KPKNL). The auction process through KPKNL is conducted based on strict, transparent, and accountable procedures, in accordance with the provisions in the legislation related to state auctions. The stages in this process include: the appraisal of the collateral by an independent appraiser, the announcement of the auction plan to the public through official media, the conduct of the auction in an open and competitive manner, and the handover of the auction results to the creditor and any surplus auction proceeds (if any) to the debtor. This process aims to ensure that the auction price reflects fair market value and does not harm the

interests of either party. In Decision No. 10/PUU-XIX/2021, the Constitutional Court affirmed that this mechanism is constitutional as long as it is implemented with the principles of transparency, participation, and providing legal space for the debtor to express objections or grievances.

As an alternative to public auctions, Article 20 paragraph (2) of the Mortgage Law regulates the sale of collateral objects through private sale. This mechanism provides flexibility for the parties, especially if they agree to sell the collateral object to a third party without going through the formal auction procedure, on the condition that the sale is conducted based on mutual agreement and results in the highest reasonable price. In this case, both the creditor and the debtor have the right to negotiate the value of the collateral, taking into account market conditions and objective economic value. The Court explicitly rejects a narrow interpretation of the phrase "highest price," stating that it does not refer to the absolute highest price in nominal terms, but rather to a price that is considered economically and rationally fair in the context of a healthy civil transaction. Although creditors have strong execution rights, the Constitutional Court emphasizes that the position of the debtor remains adequately protected by law. Debtors do not lose their right to file a civil lawsuit in court, make an administrative objection, or submit a legal resistance (*verzet*) if they feel there has been a procedural violation, price manipulation, or injustice in the execution process. In addition, in practice, the technical regulations issued by the Ministry of Finance (especially DJKN) and the regulations from the National Land Agency (BPN) also provide administrative space for debtors to file objections, both at the stage of assessing the collateral object, at the announcement of the auction plan, and after the execution.

Thus, the execution of collateral rights in Indonesia, based on *parate execution* and private sales, is not only normatively valid but also equipped with mechanisms to protect debtor rights, as long as it is carried out in accordance with applicable legal provisions. This system reflects the state's efforts to maintain a balance between the efficiency of resolving non-performing loans and the protection of property rights as well as procedural justice for debtors.

In addition to *parate executie*, creditors can also choose execution through the court based on the provisions of Article 14 paragraph (3) of the UUHT, namely by submitting an execution application to the District Court. This procedure is litigative in nature and is usually used when a dispute arises that requires a judge's ruling. In this case, the court will examine the evidence of default and issue an execution order if deemed valid. This mechanism guarantees that the law provides dual-track protection, namely direct and judicial pathways for the parties involved. The Constitutional Court Decision No. 10/PUU-XIX/2021 substantively

provides constitutional legitimacy to the applicable regulations, while also emphasizing the importance of implementing fair and non-arbitrary procedures. The Court stated that the execution of the mortgage right carried out legally and in accordance with the agreement does not contradict the principle of justice, as long as it still allows the debtor to defend their rights. In this case, administrative procedures become an important instrument in bridging the interests of both parties.

Thus, post the Constitutional Court's decision, the procedure for executing collateral rights still refers to the mechanisms of *parate executie* and private sale as regulated in the UUHT, but it must be carried out transparently, proportionally, and accountably. The rights of creditors are still guaranteed, but their implementation must not eliminate the debtor's right to obtain balanced legal protection. The principles of justice and equal treatment must remain the foundation in implementing these regulations.

#### **4. CONCLUSION**

The Constitutional Court Decision Number 10/PUU-XIX/2021 affirms that the provisions regarding the execution of collateral rights in Law Number 4 of 1996 remain constitutional. The Court stated that *parate executie* can be carried out as long as it does not violate the principles of justice, proportionality, and protection of human rights. The principle of freedom of contract serves as the main basis in binding the mortgage agreement between the creditor and the debtor. The court also allows the debtor to mount a legal challenge if there are violations in the execution process. In addition, private sales are allowed as long as they are conducted transparently and mutually agreed upon based on a fair price. The term "highest price" is not interpreted as an absolute figure, but rather as a market value that reflects fairness for both parties. Thus, the execution mechanism remains valid without disregarding the debtor's constitutional rights. The execution of mortgage rights after this ruling must be more careful, accountable, and non-discriminatory. The entire court ruling serves as an important reference in balancing legal certainty and protection of property rights.

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