

The Roya HT-EL on Debt Repayment by Third Parties

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Abstract. *This study examines the implementation of HT-El Roya as it pertains to the debt repayment of debtors using funds from third parties. This study is an empirical investigation. Purposive sampling was used to determine the sample size, and Technic data was gathered through interviews and analyzed using qualitative methods. According to government regulation No. 5 of 2020 concerning Electronic Dependent Rights Services, the application for HT-El companies conducted after the debtor pays off the debt to creditors can only be submitted through a BPN partner account that belongs to the creditor. With the debtor's obligation satisfied, the application for a dependent right must be submitted immediately in accordance with the most recent land registration principles. To keep the data at the Land Office up-to-date and in accordance with current circumstances, current land registration principles are required. This is intended to prevent future disputes. Roya liability may also be established for a portion of the collateralized debt, which is known as partial Roya. According to the provisions of Article 18 paragraph 1 of the Agrarian Regulation Number 5 of 2020, creditors are required to immediately register the removal of dependent rights upon payment of the receivables. Immediately in the article does not guarantee when the creditor will submit an application for Roya to the Land Office, despite the fact that the debtor has repaid the debt. In this instance, Roya HT-El depends on the creditor's willingness to submit a request for Roya to the Land Office. If funds from Third Parties are used in the repayment process and the old Creditor Party has not submitted a Roya request to the Land Office, the legal position of the new creditor will be affected. The authority to submit requests for HT-El Roya supposedly extends beyond creditors. Given that third parties can facilitate the credit repayment process, which in this context is known as credit takeover or subrogation.*

Keywords: HT-Electronic; Roya; Subrogation; Take Over.

1. INTRODUCTION

The successful implementation of development in a nation, including Indonesia, is possible with sufficient and adequate funding. As a subject of national development in Indonesia, the government and community require a substantial amount of funds to meet their operational requirements. In order to obtain these funds, numerous efforts

were made, one of which included acquiring credit from financial institutions. The bank is one of society's most important financial institutions. So that the bank is viewed as a trust agent for the government and the community, as well as a development agent.¹

In terms of providing credit, banks as creditors typically require collateral or security. The collateral must be substantial so that creditors can execute it more easily if the debtor defaults. Given the significance of the position of credit funds, it is appropriate for credit providers, recipients, and other associated parties to obtain protection through a robust institution of guarantee rights, which can also provide legal certainty for all parties involved.² One of the guarantee institutions that can be utilized is the guarantee institution of the right of dependents as stipulated in Law No. 4 of 1996 Concerning the Right of Dependents on Land and Objects Related to Land, also known as the Law on Rights of Dependents, or UUHT.³

An *accessoir* agreement is defined in guarantee law as an agreement made in relation to a dependent right. The *accessoir* agreement for dependent rights is made in the form of an authentic deed in the form of a Deed of Granting Rights of Dependents, referred to as APHT, and is made before the Land Deed Making Officer, referred to as PPAT. To fulfill the principle of publicity, the grant of rights must be registered with the Land Office. The registration of dependent rights is based on an application by an interested party, namely creditors as recipients of dependent rights, to the head of the local Land Office, which can be authorized to the PPAT. The land office will then continue the registration process by creating a land book of dependents. The Land Office then records the title to the land that is the subject of the dependent right in the land book and copies the record on the certificate of land rights concerned. The birth of dependent rights is marked by their recording in the land book and on land rights certificates. If the dependent rights are deleted for the reasons stated in the UUHT, the records made in the land book and the certificate of land rights can be crossed out or *Roya* immediately. The debtor usually makes the application for removal (*Roya*) of the right of dependents, which can be authorized by the PPAT.

In accordance with technological advancements, the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR / BPN) has revised its land administration policies. The Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 9 of 2019 concerning Electronic Integrated Dependent Rights Services is one of the dependent rights related regulations issued. The purpose of the regulation is to improve the service of dependent rights that adheres to the principles of openness, punctuality, swiftness, convenience, and affordability within the framework of public services, as well as to accommodate legal developments in Indonesia. In addition, the government policy was updated with the publication of Regulation of the Minister of Agrarian Affairs and Spatial Planning / National Land Agency No. 5 of 2020 on Electronic Dependent Rights Services, referred to here after as Regulation of ATR / BPN No. 5 of 2020. The existence of the new

¹ Nadia Imanda, *Lahirnya Hak Tanggungan Menurut Peraturan Pemerintah Agraria tentang Pelayanan Hak Tanggungan Terintegrasi secara Elektronik*, *Notaire*, Volume 3 No. 1, Universitas Airlangga, 2020, p. 152.

² General Explanation of Law no. 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land.

³ Nadia Imanda, *Op.Cit*, p. 153.

regulation nullifies Ministerial Regulation No. 9 of 2019 pertaining to Electronic Integrated Dependent Rights Services.⁴

Article 6 paragraph 1 letter d of the Minister of ATR / BPN Number 5 of 2020 specifies the types of HT-EI services that can be submitted via the HT-EI system as follows: registration of dependent rights, transfer of dependent rights, change of creditor names, removal of dependent rights, and data correction. Creditors, PPAT, and other parties designated by the Ministry may use liability services that are electronically integrated. Services in the form of registration of dependent rights or transfer of dependent rights, completeness of requirements documents submitted by PPAT; creditor name changes, removal of dependent rights, or data correction, completeness of requirements documents submitted by creditors.⁵

The right of liability is a property right; if the object of the right of liability is transferred by the grantor of the original right of dependent, the removal of the right of liability must be removed from the land book of land rights that are the subject of the right of dependent.⁶ The land book as it is known today is an electronic land book, which is a land book stored in the form of a database in an electronic system and containing the physical and legal data of an object of land registration with existing rights.

The abolition of dependent rights can be interpreted as the invalidity of dependent rights. The right of liability may end due to the write-off of the principal debt, that is, payment made by the debtor. Elimination of liability rights caused by the repayment of the debtor's principal debt, either by using funds from the debtor itself or by using funds from third parties. The repayment of the principal debt is evidenced by a written statement from the holder of the dependent rights or creditors. With the expiration of the dependent rights, the land office can cross out the records of the rights of dependents on the land book and also on the land title certificate. The removal is carried out based on a request from interested parties. If the dependent rights are installed electronically, those who can apply for the removal (Roya) of the dependent rights are the creditors, as stated in the provisions of Article 18 of the Regulation of ATR / BPN Number 5 of 2020 that in the event that the receivables have been paid off, creditors immediately register the removal of dependent rights. Application for removal of dependent rights as referred to in paragraph (1) is submitted through the HT-EI system. Furthermore, in the explanation of Article 22 of the UUHT contains a rule that the rights of dependents have been removed due to events as referred to in Article 18. The rights of dependents are carried out for the sake of administrative order and have no legal effect on the rights of the dependents concerned who have been removed.

Although Roya is merely an administrative process, if the dependent rights are not made Roya immediately after debt payments are made, it will have repercussions on the legal action process against the subject of the dependent rights and the legal

⁴Pandam Nurwulan, 2021. Implementasi Pelayanan Hak Tanggungan Elektronik Bagi Kreditor dan Pejabat Pembuat Akta Tanah. *JH Ius Quia Iustum*, Volume 28 No. 1, Universitas Islam Indonesia.

⁵ Article 9 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 5 of 2020 concerning Electronic Integrated Mortgage Services.

⁶ Rachmadi Usman, 2008, *Hukum Jaminan Keperdataan*, Sinar Grafika, Jakarta, p.508.

standing of third parties. We are aware of debt repayment by third parties and credit takeover or takeover at this time. Takeover is a term used in the banking industry when a third party provides credit to a debtor with the intent of paying off the debt/credit owed by the debtor to the initial creditor and providing new credit to the debtor so that the position of the third party replaces that of the initial creditor.⁷ Even though the debtor has been released from the relationship of receivables payable with previous creditors, the debtor will continue to be bound by the relationship of receivables with new creditors, who are third parties who have paid off the debtor's debts. Obviously, the Roya process cannot be separated from the repayment process.

The creditor of the holder of the right of dependents can submit a request for Roya in accordance with the regulations governing the replacement of the paper application system for Roya with an electronic system. In reality, however, for debt repayment involving third parties, there are still old creditors who do not immediately eliminate dependent rights (Roya). For this procedure, creditors still require a delay of at least one week. In the interim, transactions between users and new creditors, including the signing of deeds and agreements between the buyer and new creditors, have occurred until the funds have been disbursed. According to Article 18 paragraph 1 of Regulation of ATR / BPN Number 5 of 2020, the old creditor must immediately make Roya on guarantee after the new creditor has provided the credit funds. If it is not completed immediately, it will be risky for new creditors and PPAT regarding deeds, contracts, and other documents. It can be said that the new creditors' preferential rights have not been satisfied.⁸ The following discussion will examine the implementation of electronic liability rights in terms of debt repayment by third parties, based on this description.

2. RESEARCH METHODS

This type of research is an empirical examination of the implementation of electronic liability rights in terms of third-party debt repayment. There are both primary and secondary data used. Primary data are the primary data obtained directly from the field through interviews, whereas secondary data are supplementary data obtained from a variety of research-related legal materials. In addition, qualitative analysis is utilized in this study's a data analysis. By employing descriptive analysis methods.

3. RESULTS AND DISCUSSION

3.1. Roya Electronic Liability

Right of liability is a guarantee institution for the repayment of debtors owed to creditors of dependent rights holders whose object is land rights. In an online based service system, all HT-EI activities are implemented starting from validation and verification of service user data, namely creditors and PPAT, the registration process to the issuance of HT-EI Certificates. This eliminates direct interaction between users and

⁷ Syarif Toha, Problematika dalam Pelaksanaan Pengambilalihan Kredit dengan Jaminan Hak Tanggungan, *Jurnal Repertorium*, Volume IV No. 2, UNS, 2017, p.96.

⁸ Pandam Nurwulan, *Op.Cit.*

service implementers.⁹ With the change in the dependent rights service, two systems of dependent rights are currently known based on how the registration process is, namely conventional dependent rights and electronic dependent rights (HT-El). The existence of differences from the process of registering dependent rights will also affect the process of removing (Roya) dependent rights.

According to research conducted between February and March 2023 at both the Land Office and state-owned banks, the Land Office currently accepts two types of applications for Roya Rights of dependents: a conventional Roya application and an HT-El Roya application. Conventional Roya of dependent rights involves the submission of a request for Roya or removal of dependent rights by the debtor/collateral owner or his representative by submitting physical document evidence at the local Land Office counter. The application is submitted in accordance with the requirements of Article 22 paragraph 4 of the UUHT.¹⁰ Roya HT-El is the submission of a Roya application or removal of dependent rights through the electronic application system of the local land office by the creditor of the holder of the dependent rights. Roya HT-El is based on Article 9 paragraph 3 and Article 18 paragraph 1 of the 2020 ATR/BPN Number 5 Regulation. According to the provisions of the article, only the creditor of the dependent rights holder is eligible to submit a request for Roya HT-el. So that the creditor is solely liable for ensuring that the condition of the collateral object has been cleared of all encumbrances recorded at the Land Office. The existence of Roya arrangements for dependent rights, which are obligations of dependent rights holders' creditors, is identical to the application of Roya arrangements in fiduciary guarantees. It's just that the rules for fiduciary guarantees contain deadlines for Roya after the debtor's debt has been eliminated. Regarding the electronic liability rights, this has not been regulated.

According to Nurfaidah Said regarding the time limit of an agreement, that all agreements have a deadline for validity, it's just that there are agreements whose validity time limit is expressly specified in the agreement, there are those whose validity time limit is determined by a certain event or circumstance, and there is a time limit for validity determined later. The determination of the final limit of entry into force of an agreement is intended to relieve the parties from endless obligations, and to obtain the rights that have been agreed. Regarding the time limit as mentioned above can also be seen in the fiduciary agreement arrangement, which is the basis for the deletion of the fiduciary agreement. The deadline for the termination of the fiduciary agreement, is specified in the agreement itself while the basis for the termination of the fiduciary agreement is set separately in the fiduciary law.¹¹

When the debtor has paid off his debt to the creditor, the legal relationship between the two has ended, so that the debtor can be released from any obligations including the provision of guarantees to the creditor concerned. The expiration of the right to

⁹ Shinta Nur Istigfary. 2021. *Credit and Guarantee: Tinjauan Yuridis Registration Scertificate Of Dependent Rights in Eelectronics*, Thesis, Faculty of Law, University of Muhammadiyah Surakarta, p. 11

¹⁰ Sudargo Gautama. 1996. *Komentar atas Undang-undang Hak Tanggungan Baru Tahun 1996 No. 4, Citra Aditya Bakti*, Bandung, p. 114.

¹¹ Nurfaidah Said, 2010. *Hukum Jaminan Fidusia (Kajian Yuridis dan Filosofis Undang-Undang No. 42 tahun 1999*, Kretakupa Print, Makassar, p. 183.*Et.Seq.*

guarantee debt from the debtor can then be carried out the removal process (Roya) at the local Land Office. Roya HT-EI only involves Creditors and the Land Office. Regarding the procedure Roya HT-EI can be described as follows.

1) Roya HT-EI by Creditors

One of the users of HT-EI system services as mentioned in Article 7 paragraph 1 of the Agrarian Regulation No. 5 of 2020 is a creditor. The creditor in question is a party who owes in a certain receivable debt relationship, both individual creditors and creditors who are legal entities provided that the creditor has been registered as a partner in HT-EI services provided by the Land Office.

The bank, in its capacity as a financial institution, must register as a partner in such services if it offers services that provide credit to the general public. As a user of HT-EI bank service partners with offices and branches in multiple regions, please note that each regional office or branch office of the bank must have its own account. So that Roya HT-EI can only be applied by bank account holders whose names are recorded as dependent right holders. This means that HT-Roya el's cannot be utilized by parties other than creditors of other branch offices, even though they are still part of the same organization.

In addition, based on the provisions of Article 18 paragraph 1 of the Agrarian Regulation No. 5 of 2020, creditors are required to immediately register the write-off of dependent rights upon payment of the receivables. Even though the debtor has repaid the debt, the immediate language in the article does not guarantee with certainty when the creditor will apply for Roya to the land office. Electronic liability Roya is typically the creditor's ability to make a Roya request and submit it to the Land Office.

PT. Bank Tabungan Negara (Persero) Tbk. Panakkukang Branch Office and PT. Bank Rakyat Indonesia (Persero) Jenepono Branch Office interviews indicate that creditors will submit an HT-EI Roya request once the debtor has made credit payments. This is demonstrated by a certificate or letter of Roya issued by creditors. Based on the results of the interview, it was learned that at Bank BTN, a letter of Roya or certificate of credit repayment can be issued when the debtor has made full or partial credit repayments to creditors due to the purchase of each unit from the collateral object using the Home Ownership Credit (KPR) facility. If the debtor has another credit facility at the Bank (old creditor), such as a construction credit or investment credit, then the object of guarantee for the credit has been subdivided into multiple housing units. Then, for the sale of each unit, purchasers typically utilize the Home Ownership Credit (KPR) system at the original bank or at other banks. Prior to submitting an application for Roya, the creditor must ensure that payment has been received from either the debtor or the provider of the Home Ownership Credit Facility (KPR). When the payment has been received, the old creditor issues a certificate or letter of Roya. In addition, before the old creditor creates the Roya letter, the debtor typically submits a letter to the bank requesting that the bank create a Roya letter or a statement of full payment due to partial payment through the mortgage system.

Meanwhile, based on the results of interviews with sources at PT. Bank Rakyat Indonesia, obtained information that one of the requirements needed for Roya is an ID card, certificate of land rights and certificate of dependent rights and a letter of Roya.

The procedure is carried out by means of making a letter of Roya by the bank. The letter contains a statement from the bank that the debtor concerned has been paid off and the collateral bound by the dependent can be exempted from the encumbrance of the dependent right. After that, the bank submits a Roya request to the Land Office by uploading documents on the BPN partner application system.

After uploading the documents, a Deposit Order (SPS) will appear which is used PNBK payments. If PNBK has been paid, a certificate of liability will be issued which has been marked Roya.¹² Based on the information obtained from the two sources above, it can be said that the Roya letter or certificate of payment from creditors is an important document that needs to be attached when submitting the application for Roya of dependent rights both manually and electronically. The thing that needs to be considered when the creditor issues a letter of Roya is that the payment for the debtor's credit repayment has been fully received by the creditor. Because the date of making the Roya letter must be adjusted to the date of payment of the debtor's credit.

2) Roya Electronic Liability by Land Office

The land office is a vertical agency of the National Land Agency in the Regency / City which is under and directly responsible to the Minister through the Head of the Land Office. Based on Article 20 of the Minister of ATR/BPN Number 5 of 2020, the Land Office is responsible for the implementation of HT-EI services. To realize legal certainty, openness and accountability in public services, the Land Office refers to the Regulation of the Head of the National Land Agency Number 1 of 2010 concerning Service Standards and Land Regulation, hereinafter referred to as Perka Number 1 of 2010.

Since the regulation of the Minister of ATR / BPN Number 5 of 2020 was enacted, for the HT-EI Roya process, the Land Office has implemented an electronic Roya system by receiving application documents online so that the applicant no longer needs to come directly to the Land Office. When receiving the online Roya application, the officer at the Land Office verifies the suitability of the documents sent by the applicant, if it is in accordance with the necessary requirements, the Land Office issues a Deposit Order (SPS). Conversely, if the document sent by the applicant contains errors, the Land Office submits a notice for the correction of the document.

The completeness of the documents needed for Roya HT-EI are:¹³

- 1) ID card of the certificate owner;
- 2) Power of Attorney if the application is filed by another person;
- 3) ID card of the recipient of the Power of Attorney;
- 4) Copy of UN;

¹² Interview with Nurekawanty Staff of Credit Operations Division (OPK) Limited Liability Company PT. Bank Rakyat Indonesia (Persero) Tbk., on February 13, 2023.

¹³ Interview with Haryo Andi Setiaji Employee at the Jeneponto Regency Land Office on January 24, 2023.

- 5) Roya's letter;
- 6) Certificate of Land Rights;
- 7) Certificate of Entitlemen.

All documents mentioned above are then uploaded through the creditor's partner account. After the Land Office receives the HT-El Roya application, it should not take too long for the completion of the Roya process. However, there are certain factors that influence so that the process can be long. For example, the documents uploaded by the applicant do not match, the certificate is illegible or the server is having problems.

Factors that affect the time of implementation of the Roya process at the Land Office can occur due to external factors as well as internal factors of the Land Office itself, namely:

- 1) External factors can be in the form of errors made by the applicant, namely creditors in submitting completeness of documents, can be in the form of document upload errors or there are documents that are blurry or unclear so that the applicant is given the opportunity to make data corrections;
- 2) Internal factors are if the official in charge of the Roya settlement is not in place;
- 3) There is a disturbance on the pusdatin's server;

Briefly, the mechanism of electronic liability Roya is described as follows:

- 1) Debtor, making payment of debts either in whole or in part to creditors;
- 2) The debtor submits a letter of application to the creditor to make a certificate or letter of Roya, for part of the guarantee of the right to cover the debtor's credit facility, due to mortgage payments by the user (buyer);
- 3) The creditor confirms that he has received the payment;
- 4) Creditors make a certificate of partial payment (letter of Roya/partial Roya) in accordance with the credit repayment date or the date of the Home Ownership Credit (KPR) contract.
- 5) Creditors apply by logging in through the BPN partner account owned by the creditor on the <https://htel.atrbpn.go.id> website;
- 6) After successfully logging in, then click the Roya option;
- 7) The Creditors can conduct a search for Dependent Rights that will be Roya by entering the Right to Cover Number, the year in which the Right to Cover is registered and the Right to Cover code;

8) If the search is successful, the creditor can continue the process of uploading documents such as a letter of inquiry/letter of Roya, application form, and other supporting documents such as certificates and identity of the applicant;

9) After uploading the documents, the officer at the Land Office will verify the documents uploaded by creditors;

10) Creditors will receive a Deposit Order (SPS) for payment of Non-Tax State Revenue (PNBP) for Roya, then creditors can pay Roya fees as stated in the Deposit Order (SPS);

11) After payment, the creditor can download a note stating that the Roya process has been completed. Then on the certificate of dependent rights will appear a note "IT DOESN'T APPLY BECAUSE OF ROYA."

3.2. Repayment of Debts by Third Parties

At the stage of implementing a bank credit agreement, the obligation of the debtor customer to pay the debt is an achievement that must be carried out based on the form of achievement as stipulated in the provisions of Article 1234 BW. Furthermore, based on the provisions of Article 1235 BW, that every engagement to give something, is contained the obligation of the debtor to deliver the property concerned and to take care of it until the time of delivery. If the performance cannot be carried out, then the debtor must pay damages, costs and interest.¹⁴

Agreements related to dependent rights can arise when preceded by a principal agreement such as a credit agreement. Credit agreements have important functions for creditors and for debtors, among others, as principal agreements, as evidence of rights limitations between creditors and debtors and as a credit monitoring tool. Basically, the credit agreement will run well and smoothly if the debtor pays the credit received smoothly as agreed. To rescue bank credit and to maintain bank liquidity, many ways are done by banks including debt restructuring or by transferring debt or known as credit takeover.¹⁵ Payments are generally made by the debtor/debtor. However, in BW payments may also be made by other interested persons even those who are not interested, other people who are indebted (responsibility to bear), debtors or third parties who are not interested.¹⁶

Payment is one method for terminating a credit agreement, including receivables resulting from collection rights. As long as the collection right remains active, creditors, debtors, and the object of the engagement may be changed. For instance, if the debtor passes away or if the debtor's legal status improves during the credit period, the bank must perform passive subjective novation (novation of the debtor) or other replacements may be made, such as Cassie and subrogation. In these situations, a

¹⁴ Marwah. 2019. Relaxation of Banking Credit in Tourism Areas Hit by Natural Disasters. *Jurisprudentie Journal*. Volume 6 Number 1, UIN Alauddin, thing. 128.

¹⁵ Edy Supriyanto, Study of Cessie, Subrogation, Novasi in Banking Credit, *Yure Humano Journal*, Volume 2 Number 1, 2018, p. 77.

¹⁶ Ahmadi Miru, *Hukum Kontrak dan Perancangan Kontrak*, Raja Garfindo Persada, Jakarta, 2008, p. 88.

triangular legal relationship or the entanglement of three parties in a legal relationship is possible.¹⁷

Regarding the definition of debt transfer in the context of debt repayment by third parties, there is a difference in terminology between economic and legal terms. Take over with the institution of subrogation, Cassie, and novation is the legal term. Legally, however, credit transfer is included in the definitions of transfer balance, asset purchasing, takeover, and buyback guarantee, among others that have developed in banking terminology.¹⁸

The above-mentioned triangular legal relationship can exist if, at the time of payment of the debtor's debt, the funds used for payment originate from a third party. According to Article 16 of the UUHT, subrogation enables the payment of debts by third parties using collateral. Subrogation is when a third party pays off a debtor's debt in place of the original creditor. In the event of such a payment, it must be determined whether the collateral object needs to be Royo or not. Additionally, there is a term known as novation. In addition, payments can be made with third-party funds in the event of a takeover or the sale and purchase of collateral assets.

In insurance, subrogation occurs frequently in practice. If the asuradeur indemnifies the creditor, he assumes the creditor's position in collecting receivables from the debtor.¹⁹ Creditors' subrogation practice is typically an effort to salvage delinquent debts. This demonstrates that there is no Royo on the object of collateral provided by the debtor to creditors, even if the creditor has been paid by a third party.

According to Hery Shietra, the subrogation mechanism is the ideal legal model for redeeming the debt of another to a creditor. When using the subrogation method, 10 the principle of "droit de suite" applies, which means that the guarantee of repayment in the form of Dependent Rights is attached to the collateral object, wherever the collateral object is located. If the debtor defaults, the subrogation actor can immediately apply for an execution auction (execution parate).²⁰

Mustahar Notary / PPAT in Makassar City stated that subrogation is indeed the most possible. The change of creditors has been known to have two ways of subrogation, namely by involving old creditors or without involving old creditors. Subrogation without involving the old Creditors can actually happen, but mostly in practice it has not been done. The legal events that for the sake of law give rise to subrogation are:²¹

1) A creditor pays off another debtor who, by virtue of privilege or liability, has a higher right;

¹⁷ Edy Supriyanto *Op.Cit.* p. 72.

¹⁸ *Ibid.* p.77-88. (cited from Widiyono, *Aspek Hukum Operasional Transaksi Produk Perbankan di Indonesia: Simpanan, Jasa dan Kredit*).

¹⁹ Sudargo Gautama, *Op.Cit.* p.100.

²⁰ Hery Shietra. "Legal Opinion : Idealnya Take Over Kredit Lewat Subrogasi", <https://www.hukum-hukum.com/2018/03/idealnya-take-over-kredit-lewat-subrogasi.html?m=1> accessed on 17 January 2023.

²¹ Edy Supriyanto, *Op.Cit.* p 82.

- 2) A buyer of a fixed thing who has used the money for the price of the thing to pay off the person owed, to whom it is bound with a liability;
- 3) A person who, together with another person or for another person, is obliged to pay off the debt, as in the payment by one of the creditors on a debt with a loan or a payment made by the bore/insurer;
- 4) An heir who accepts with privilege but has paid the entire debt of the testator.

In contrast to credit distribution in general, where the debtor's collateral can be directly controlled by the creditor at the time the credit agreement is reached, in credit takeover or credit takeover, the debtor's collateral cannot necessarily be transferred to the new creditor at the time the credit agreement between the debtor and the new creditor has been reached because the guarantee remains with the old creditor.²² Typically, the Roya tide procedure is employed for the debt relief mechanism based on credit assumption. Thus, once the credit funds have been disbursed by the new creditor and received by the old creditor, the old creditor must immediately initiate the Roya process against the collateral object. By submitting a certificate of full payment and then requesting the Land Office to remove the Right of Liability record. After the completion of the Roya, the new creditor will register for the installation of the Right of Dependent. This approach tends to result in the practice of novation.

In this takeover, the date of the letter written by the old creditor must coincide with the date on which the debtor enters into a debt receivable agreement with the new creditor. The objective is for there to be no overlap in the collateral object due to the Dependent Rights whose Land Office records have not been removed. Otherwise, the rating of the dependent rights will be affected. If the old creditor has initiated the Roya procedure, the process is continued with the Granting of Dependent Rights based on a Power of Attorney Imposing Dependent Rights.

Anwar Borahima states that this takeover can be accomplished through subrogation or novation. To distinguish it, it can be determined whether the contract's content has changed or not. If there is no change to the contract's terms, it is referred to as subrogation, whereas if there is a change, it is referred to as novation.

According to the author, based on what has been described about how to repay debtor debts by involving third parties or with a takeover system using subrogation, novation, or the sale and purchase of objects, it is not always necessary to conduct a Roya process on the guarantee of dependent rights. If the method employed at the time of takeover is subrogation, no Roya certificate is required; only a subrogation application based on the subrogation deed must be submitted. So that the guarantee of liability rights is transferred without a fee to new creditors.

Alternatively, if the takeover is conducted using the novation method, roya is required to guarantee the rights of dependents. Because, essentially, payment by third parties signifies that the debtor's debt to the old creditor has been satisfied, resulting in the termination of both the debt receivable agreement and the accesoir agreement. Then, in order to guarantee the legal standing of third parties who have paid debtors, it is

²² Syarif Toha, *Op.cit.*

necessary to install the right of dependents, and before installing these dependents, the guarantee must be Roya.

According to the author, if Roya is in fact in need of repayment, then the creditor should take note. Because the law has given the creditor full responsibility for his authority to perform Roya HT-el. Because if a creditor's negligence in relation to the Roya process causes losses to third parties, the creditor can be considered to have committed illegal acts. The loss in question may take the form of both material and immaterial losses. The aggrieved party has the right to seek compensation for not only the losses incurred at the time the claim is filed, but also future losses. In addition to errors, losses, and deeds, there must be a causal connection between the three in order to be eligible for compensation.²³

4. CONCLUSION

The implementation of electronic liability rights whose applications can only be applied for by creditors, does not guarantee that the electronic liability rights can be carried out quickly as expected in Regulation Number 5 of 2020, namely the principle of timeliness. Because the regulation has not been clearly regulated regarding the deadline for submitting a Roya application after the debtor's debt is confirmed to have been paid off, so this tends to follow the readiness of creditors to submit the application. Meanwhile, if repayment is made by takeover, then not only the debtor has an interest in the object of the dependent rights but there are also third parties or new creditors. So that when the old creditor delays the Roya, it will affect the legal position of the new creditor.

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