Jurnal HUKUM dan KENOTARIATAN

Volume 8 Issue 2, 2024
P-ISSN: 2549-3361, E-ISSN: 2655-7789

Legal Protection For Cessionaris Of Fiduciary Collateral Objects In The Form Of Receivables Through Cessie As A Form Of Transfer Of Taxable Goods

Sudargo Tandiono[1], Indrati Rini[2]
[1] *Faculty of Law, Narotama University of Surabaya, Indonesia*
E-mail: sudargotandiono18@gmail.com
[2] *Faculty of Law, Narotama University of Surabaya, Indonesia*
E-mail: indratirini1956@gmail.com

Abstract: The existence of a collateral object is intended as a form of protection for creditors if the debtor experiences delinquency, which makes it easier for creditors to collect repayment from the collateral object. The reason for conducting this research is to know how valid recieveables as a form of transfer through a cessie in terms of the object of collateral in the form of accounts receivable. The normative legal approach using the statute approach is applied in the research methodology of this research. The results of the analysis show that the parties most at risk in transferring fiduciary collateral with objects of receivables through a cessie are Cedents (old creditors) and Cessionaris (new creditors). On the other hand, even though there is destruction of the collateral object on the transferred receivable due to payment by the debtor, the tax that has been credited cannot be adjusted in value. Therefore, it is very detrimental for cedents and cessionaries to deal with these problems.

Keywords: : Fiduciary; collateral; Cessionari; Cessie; Taxable goods

1. Introduction

The need for funding is a driving force for someone to look for ways to obtain money in other forms, which can be in the form of loans. Loans arising from a lending and borrowing agreement are known as debts. The lending and borrowing agreement stipulates that the first party will give the second party an amount of money that can be used up to that time in exchange for the second party returning equivalent goods to the first party in the same amount and condition. At the same time, the right to obtain a return is referred to as a receivable.[1] Based on the working system of the loan agreement, it can be seen if there are two parties to the agreement, namely the borrower, called the debtor, and the lender, further called the creditor. In the debt agreement, clearly, the creditor is required to provide a certain amount of cash or assets to the debtor to be used within a certain period of time. On the other hand, based on an agreement that exists, the debtor is obliged to pay back the amount of money or goods lent for a certain period of time. According on the explanation above, receivables are assets in the form of bills

[1] Wawan Muhwan Hariri, *Hukum Perikatan: Dilengkapi Hukum Perikatan Dalam Islam* (Bandung: Pustaka Setia, 2011).

for a certain amount of money, with evidence in the form of letters owned by related parties based on debt agreements, which can be drawn from several of these factors.

The debt agreement has two components, namely the Principal Agreement and the Accessoire Agreement: The principal agreement has its own foundation for its existence. The main agreement has its own foundation for its existence, which can be called the basic agreement, in this case, the debt agreement. An act in which one or more people bind themselves to one or more other people which includes the obligations and rights of the parties (Creditors-Debtors).[2] Unlike the Main Agreement, Accessoire Agreement (additional) or follow-up agreement; if translated from French according to the Collins Dictionary the word "Accessoire" can mean an additional part of object, or it can be interpreted as a secondary. As it means linguistically, the acessoir agreement follows and cannot stand alone, because the Accessoire agreement follows other agreements, namely the principal agreement. Even the fulfillment or cancellation of fulfillment of certain terms and conditions in the basic agreement will form the basis of a supplementary agreement, namely determining whether the Accessoire Agreement still exists or not.[3] Furthermore, it can be summarized if the main characteristic of the Accessoire agreement is that it cannot stand alone, exist or not exist, transfer or expiration depending on the main agreement, if the principal agreement is invalid, afterwards the accesoir agreement is likewise invalid.

There are 3 classifications of Receivables based on type according to the Civil Code :[4]

1. Receivables in the name, more specifically the transfer of such receivables by an authentic deed (as referred to in article 1868 of the Civil Code) or privately, the transfer of which is accompanied by tangible rights.
2. Receivables on carry, meaning that the transfer can only be completed by the submision of relevant receivables.
3. Receivables on Appointee, receivables that make their transfer through receivables along with endorsement (*endossement*) must be submitted to transfer receivables.

Based on what is stated in PSAK No.1 revision 2013 (IAI, 2013: PSAK No.1) receivables are current assets that are traded, consumed, and realized as part of the regular operating cycle of a business entity. Therefore according to PSAK receivables are categorized as liquid assets (Current Assets) of course like other assets, receivables can be transferred to other parties.[5] Receivables can be transferred to other parties, namely by *cessie* receivables. In this situation, a *cessie* deed (underhand or notarized) must be used to

---

[2] Sri Widodo, "Kewenangan Mengadili Terhadap Sengketa Berdasarkan Perjanjian Pokok (Akad Syariah) Dan Perjanjian Accesoir (APHT) Akibat Pilihan Hukum Yang Berbeda (Studi Putusan Nomor 499/Pdt.g/2021/Pa.Yk Di Pengadilan Agama Kota Yogyakarta)" (Universitas Islam Indonesia, 2022).

[3] Widodo.

[4] Diharini, "Tinjauan Yuridis Terhadap Piutang Sebagai Objek Jaminan Fidusia (Studi Kasus) Pada Bank BCA Cabang Depok" (Universitas Indonesia, 2011).

[5] Ribka Josevira Logor, Harijanto Sabijono, and Stanly W. Alexander, "Evaluasi Perlakuan Akuntansi Atas Piutang Tak Tertagih Pada PT. Angkasa Pura I (Persero) Cabang Manado," *Jurnal Riset Akuntansi* 15, no. 3 (2020): 521–26, https://doi.org/10.32400/gc.15.3.30175.2020.

transfer the receivables in accordance with the provisions of the Civil Code. The solution to overcome this, to obtain funds relatively quickly, can be done by banks through the transfer of receivables (cessie).[6] *Cessie* is a legal action by transferring receivables by creditors grasping guarantees to other parties (new creditors).[7] In *cessie* Receivables are used as objects of transaction through purchases, when the purchase of receivables occurs, of course, there is a transfer of control over collateral objects, acessoir agreements (materiil guarantees) will always follow the principal agreement, namely the receivables debt agreement. The transfer of receivables based on *cessie* is carried out based on civil events to transfer property rights, carried out by people who have the freedom to act (take ownership actions) over the goods, as specified in article 613 paragraph (2) of the Civil Code. The parties contained in the *Cessie* include:

1. *Cedent* is a party (old creditor) who submits his receivables to a third party (new creditor),
2. *Cessionaris* is the party (New creditor) who receives the delivery of the transfer of receivables from the old creditor (*Cedent*),
3. *Cessus* the party who has the debt (debtor).

2. Method

This research is a type of normative juridical research (*recherche juridique normative*) combined with library and policy research. In general, normative legal research or literary law is carried out by examining literature or secondary data. Normative legal research is research that is based on literature studies or laws and regulations, the purpose of this research is to find a solution after finding and formulating legal arguments by conducting an analysis of the object of research problems.[8] Peter Mahmud Marzuki described the purpose of conducting normative legal research, namely to answer and solve the legal problems studied after obtaining the suitability of cases/phenomena with legal rules, legal principles, and existing legal doctrines.[9] If there is a statement that is true or false, it is only based on the suitability of the case with its legal basis, either on principles or articles in laws and regulations, without having to collect data in the community as is done for empirical legal research.[10]

The statute approach is an approach that is carried out by examining and analyzing laws and regulations that are related or have a relationship either directly regulating or not directly involved with the legal issue being studied. Review of laws and regulations not

[6] Novelia Adistie and Jarkasi Anwar, "Hubungan Keabsahan Pengalihan Piutang (Cessie) Yang Dilakukan Secara Berulang Kali Terhadap Perpindahan Hak Tanggungan Milik Debitur," *Yustisia Tirtayasa* 1, no. 4 (2021): 93–117.

[7] Sutan Remy Sjahdeini, *Hak Tanggungan (Asas-Asas, Ketentuan-Ketentuan Pokok Dan Masalah Yang Dihadapi Oleh Perbankan),* (Bandung: Alumni, 1999).

[8] Philipus M. Hadjon and Tatiek Sri Djamiati, *Argumentasi Hukum* (Yogyakarta: Gadjah Mada University Press, 2005).

[9] Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum* (Bandung: PT. Citra Aditya Bakti, 2004).

[10] Salim HS and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi* (Jakarta: Raja Grafindo Persada, 2014).

solely on regulatory articles but also includes principles, synchronization/compatibility and the rest.[11]

3. Result And Discussion

3.1. The Characteristics of Recievable as Object of law

Before discussing receivables as objects, of course it is necessary to understand the definition of objects (*zaak*) which can be seen in article 499 of the Civil Code referring to any goods (goederen) or rights over something (Recht), which can be used as objects of property rights of the subject. law. In civil law, the meaning of objects is quite abstract because objects as goods (*goederen*) are real things and objects as rights (*recht*) are things that are not real. In addition, the word "as an object of property rights" of course an object must be recognized as an object according to law (legal object), for this it is necessary to have a condition to be recognized as a legal object : [12]

1. Human dominance
2. It has economic value
3. Can be used as an object (legal act)

An abstract definition of objects makes it necessary to classify objects/zaaks based on the Civil Code because it is impossible to mention them one by one, including:

1. Article 503: Intangible and intangible objects
2. Article 504: Movable and immovable objects
3. Article 505: Consumables and non-consumables
4. Article 1131: Existing and extant objects
5. Article 1160 jo. 1296 of the Civil Code: Divisible and indivisible objects.
6. Article 537: Objects in trade and objects outside trade (Based on the status of objects that can be used as objects in the subject matter of the agreement / do not contradict the objective elements of the agreement)
7. Article 587: Treasure objects and non-treasure objects
8. Article 575: Goods produce and objects do not produce
9. Article 518: Objects that have owners and things that have no owners (*Resnullius*);

In addition, according to Badrulzaman there are classifications of objects that are not directly registered in the Civil Code: [13]

10. Registered and unregistered objects
11. Objects that are on the surface of the ground and objects that are in the ground
12. Private property and commons

Based on this classification, receivables can be categorized as: **First**, Receivables are movable objects as stated in the Preamble to Law Number 42 of 1999 concerning Fiduciary Guarantees. Movable goods, such as stocks, commodities (inventory),

[11] Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revi (Jakarta: Kencana, 2014).
[12] Mariam Darus Badrulzaman, *Sistem Hukum Benda Nasional* (Bandung: Alumni, 2022).
[13] Badrulzaman.

receivables, machine tools, and motor vehicles are fiduciary guarantee object. **Second**, receivables as objects of production which in this case are interest in the form of money on loans made. **Third**, receivables as intangible objects based on Article 14 paragraph (3) of Law Number 42 of 1999 concerning Fiduciary Guarantees. **Fourth**, accounts receivable as objects that will still exist (caused by payments that will be given in the future). Thus receivables can be categorized as movable objects, intangible objects, objects that will still exist and objects that produce. Consequently the first receivables can be controlled by humans and receivables have economic value and legally recognized receivables as objects, of course receivables can be recognized as collateral objects.

Civil Law has concluded that to be considered as an object of Property Rights, whether tangible or intangible, an object must fulfill three conditions, namely (Safira, 2017): 1. The object must exists able to exists controlled by humans, if an object cannot exists controlled by humans then the object cannot exists an object of property rights, such just as the sun, wind, in addition to so on. 2. The object must exists of value to humans. This object over here does not mean that object over there it must only exists valued economically, however also other values such just as moral values, ethical values, etc. 3. The object must exists one whole, for example a car door in addition to a car, a house in addition to a wall. So owing to the fact that the first receivables currently am able to exists controlled by humans in addition to the receivables have economic value in addition to legally the receivables currently are recognized just as objects, of course the receivables currently am able to exists recognized just as collateral objects. In addition, the concept of roundness in receivables just as an object of collateral includes the object of collateral in the receivables. Meanwhile, the interest on the receivables needs to exists studied further. Agar dapat memahami posisi objek jaminan dan bunga hasil piutang perlu dilakukan penelaahan lebih lanjut terkait konsep perlekatan dalam kebendaan tercantum dalam Pasal 500 KUHPerdata yang berbunyi:

In order to understand the position of the collateral object and the interest on receivables, it is necessary to carry out further studies regarding the concept of attachment in material as stated in Article 500 of the Civil Code which reads:

> *"Everything that is included in an item due to the law of attachment, as well as all its results, both natural products and the results of handicrafts, as long as they are attached to branches or roots, or attached to the ground, are part of that item.."*

Because entire civil proceeds must be recognized as part of a principal object. Interest on receivables according to the attachment law in article 500 of the Civil Code in conjunction with article 502 Paragraph (2) of the Civil Code shows that interest money is part of the main object (hoofdzaak) in the form of receivables due to civil proceeds (*Burgerlijk Vrucht*). However, unlike the object of guarantee, the law of attachment cannot apply to it because the types of rights that bind it are different. According to Pitlo quoted from Badrulzaman, material rights are separated into 3 types of rights, namely: material rights to self-owned objects, material rights to other people's objects, and material rights to guarantees.[14] Therefore that based on the type of material rights, there is a separation

[14] Badrulzaman.

between receivables which are material rights to self-owned objects, while the right to collateral for receivables is attached to receivables as material rights to collateral.

There are several principles of material law according to Badrulzaman quoted from sahputra, the principles of material law include: [15]

1. The principle of a closed system, the purpose of material rights having a closed system is that only rights to things permitted by law are allowed, meaning that the law places limits on material rights. This limits the formation of other material rights which can usually occur when formulating an agreement, because basically the agreement is free for the parties to the contract;
2. The principle of the right to follow objects (*droit de suite*), this principle is based on article 1977 of the Civil Code which states that property rights are attached to objects in the hands of whoever the object is, then the owner of the object is the owner;
3. The principle of publicity, which is meant by publicity (*openbaarheid*) can be interpreted as a public "announcement" about the status of ownership of objects. The announcement of the right to movable property occurs through the actual ownership of the mastery, on the other hand the announcement of the right to immovable property (land) is made by registration in the land book;
4. The principle of speciality, Individual property rights to land must be clearly defined in the form, boundaries, location, and area of the land. Rights (such as ownership, commercial use, and building use) over immovable assets also embody this idea by applying the provisions of this principle;
5. The principle of totality, Property rights cannot be granted only for part of it; Property rights must be granted to all objects in totality. The frames, windows, doors, and tiles of a building belong to their owners;
6. The principle of *accessie*, the principle of attachment (*accessie*) derives from this principle of totality. An object often consists of pieces joined to the main object, such as the relationship between a building and its doors, windows, and tiles;
7. The principle of horizontal separation, Articles 571, 600, 601, 603, 604, and 605 BW accept the concept of vertical engagement principle, although Law No. 5 of 1960 concerning Basic Agrarian Law upholds the principle of horizontal separation derived from customary law;
8. The principle can be assigned, Property rights include the right to transfer ownership of property;
9. The principle of protection, protection for parties in good faith even if the surrendering party has no rights (*beschikkings on bevoegd*), as referred to in Article 1977 Paragraph 1 BW;
10. Absolute principle (coercive law), Property law is governed by absolute requirements, which means that everyone is obliged to respect and uphold property rights.

[15] Syahron Sahputra, "Pertanggungjawaban Pidana Terhadap Pengalihan Benda Jaminan Fidusia Dalam Perjanjian Kredit," *Jurnal Ilmiah Advokasi* 8, no. 1 (2020): 36–48, https://doi.org/10.36987/jiad.v8i1.1650.

Collateral objects are attached to receivables based on the provisions contained in the receivables agreement. When the object of the guarantee is in the form of receivables, the guarantee institutions that can be used are only Fiduciary guarantees and lien guarantees. The attachment of collateral to receivables due to the engagement of collateral objects with receivables is only civil *(burgerlijke betrokkenheid*) and not materially attached (*aard en nagelvast*). The collateral remains a material right to the guarantee but there is attachment to it based on the principle of attachment (*accessie* principle). The existence of civil attachment to collateral objects on receivables raises the understanding that collateral objects are part of the main object (*hoofdzaak*) as additional objects (*bijzaak*). Property rights according to Article 584 of the Civil Code regulate how to acquire property rights:

> *"Title to a thing (zaak) cannot be acquired by any other means, but by way of ownership, by attachment, by expiration, by inheritance, either by law or by will, and by appointment or assignment based on an event to transfer property by a person entitled to free action over the property."*

Acquisition of property rights in the Civil Code is one of them due to attachment, because there is a phrase "because of attachment" making every form of attachment, whether civil or material attachment, will be considered as one unit with the main object that has the same status as property rights. This results in a change in the status of objects that originally belonged to the debtor, turning them into objects belonging to the creditor (as *accessie* objects) either carried out *bezit* (control) through *feitelijk levering* (handing over of objects) as is the case with mortgage guarantee institutions or transfer of ownership rights to creditors which can be seen in a fiduciary guarantee institution. If it has been guaranteed in an agreement, the object which is the object of guarantee will experience a change in ownership status. Collateral object which, even though it is under the power of the debtor, based on the fiduciary deed of guarantee, states that the object is entrusted by the creditor to the debtor whose status has changed from property right to loan use. [16]

3.2. Transfer of Receivables as transfer of taxable Goods through *Cessie*

Subsequently, Previous understanding of knowing how the position of receivables as the objects in material law, this section will further explore how the position of receivables on behalf of those guaranteed by fiduciary guarantee institutions as tax objects (taxable goods) through the transfer of collateral objects by creditors (*cedent*) to *cessionaris* or can be also termed as a *cessie* (if the object is a receivable) based on Article 19 paragraph (1) of Law No. 42 of 1999 concerning fiduciary guarantees. Delivery of receivables on behalf of is yurisdische levering which is a legal action by transferring property rights to other parties. The transfer of receivables requires notification to the debtor based on Article 613 paragraph (2) of the Civil Code but does not have to be based on a written agreement or agreement with the debtor, because the transfer of receivables from the old creditor to the new creditor has legal consequences for the debtor. In order to make the transfer have legal consequences, the debtor must be

[16] Sahputra.

notified in writing to agree and acknowledge the transfer.[17] Account receivables are debts paid to the person or organization whose name is listed on the promissory note. Debtors are obliged to pay new creditors and not old creditors as a result of notification of transfer of receivables on their behalf.[18] Owing to the fact that with a cessie, every single one the rights in addition to obligations of the old fiduciary recipient currently are transferred to the new fiduciary recipient in addition to the transfer of rights to the receivables currently exists notified to the fiduciary provider. The right to receivable currently exists deemed to have existed transferred at the time the cessie deed used to exist made, so not when the deed used to exist communicated to the debtor.[19]

Provisions governing levering (transfer of receivables) are listed in article 613 of the Civil Code in conjunction with article 19 paragraph (1) of the Fiduciary Guarantee Law, the transfer of ownership rights is very important considering that a sale and purchase agreement is consensual obligatoir in nature (article 1458 of the Civil Code). The consensual nature of the obligatoir makes the agreement binding when it is made, it is enough with the agreement of the parties, then the rights and obligations of the parties to the agreement arise, bearing in mind that article 1459 of the Civil Code states that property rights will not automatically transfer to the buyer when an agreement is reached on a sales agreement. buy. The sale and purchase agreement is only in the form of conditions, such as the requirement that the seller is obliged to deliver the goods and the buyer is obliged to pay the price of the goods, only in the form of an obligation. Property rights will only transfer after the handover is carried out as referred to in articles 612, 613, 616 of the Civil Code.[20]

Levering is valid when it meets manifold conditions: [21]

First, the material covenant. Agreements that transfer material rights, such as property rights, bezit, or other types of rights to other parties, are referred to as material agreements. Unlike the agreement contained in Book III of the Civil Code, the Alliance (*verbintenis*) cannot result from an agreement with property law (*zakelijk recht*). The agreement in Book III deals with an engagement (verbintenis), or an agreement that gives birth to an engagement (*verbintenis*), or an agreement in which one party must execute and the other party is entitled to achievement. Only individual rights (*persoonlijk recht*) created by agreements are obligatoir, no property rights are created or transferred as a result.

Second, the legal basis/basis for the right to transfer property rights. A legal relationship called the title or basis of rights causes the movement of an object through buying and

---

[17] Ilham Muzaki and Aris Machmud, "Prosedur Pengalihan Cessie Dalam Perspektif Hukum" 12, no. 1 (2023): 143–59, https://doi.org/10.37893/jbh.v12i1.503.

[18] Rina Eka, "Konsep Peralihan Jaminan Prefensial Dalam Cessie," *Badamai Law Journal* 6, no. 1 (2021): 130–49, https://doi.org/10.32801/damai.v6i1.11756.

[19] Ashibly, *Buku Ajar Hukum Jaminan* (Bengkulu: MIH Unihaz, 2018).

[20] Suharnoko and Endah Hartati, *Dokrin Subrogasi, Novasi, Dan Cessie (Dalam Kitab Undang-Undang Perdata, Nieuw Nederlands Burgerlijk Wetboek, Code Civil Prancis Dan Comman Law* (Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2005).

[21] Sri Soedewi Masjchoen Sofwan, *Hukum Benda* (Yogyakarta: Liberty, 1981).

selling and exchanging goods. According to Article 583 BW, there must be a transition as a result of the basic right of eigendom transition, which means there is an obligatoir obligation for the transition. According to Article 584 BW, the existence of a legal relationship for the transfer of eigendom is the basis of rights.

Third, Entitled Authority (*beschikkingsbevoegdheid*). According to Article 584 BW, the transfer must be carried out because of the justification given by the persons legally entitled to its eigendom. A *beschikkingsbevoegdheid* from the transferor is required for a submission to be valid, in addition to a title of good standing. This condition is none other than the application of the *nemoplus* principle, which states that no one can transfer rights beyond what he already has. In addition, the owner often has the power to manage the item. Article 1977 BW, however, has bypassed the requirement for legitimate authority.

Lastly, Real submission (*feitelijke levering*) and juridical submission (juridische levering). The real surrender is hand-to-hand handover. The actual surrender is when handing over the keys to the house; The legal surrender is at the time of transfer of title in front of the Land Deed Making Officer. Real surrender and lawful surrender usually occur simultaneously for movable objects, but occur separately for immovable objects.

Criteria in the definition of delivery of Taxable Goods based on PP Number 44 of 2022 concerning Value Added Tax:

- Article 6 Paragraph (1): Self-use and/or free gift of Taxable Goods;
- Article 8 Paragraph (1) & (4): Transfer of Taxable Goods due to a certain agreement (both in the form of a lease purchase agreement and/or a leasing agreement);
- Article 9 Paragraph (1): delivery of the Taxable Goods to a Broker/Agent/broker or through an auctioneer;
- Article 10 Paragraph (1): Transfer of rights over Taxable Goods as a result of an agreement, such as the delivery of collateral by the creditor to the Buyer, whether in the form of mortgage rights over land and objects related to land, fiduciary guarantees, mortgages, Pledges, or encumbrances other kind.
- Article 23 Paragraph (3) letter a number 1: Carrying out a consignment of Taxable Goods;
- Article 23 Paragraph (3) letter a number 2: Transfer of Taxable Goods from head office to branch or vice versa, as well as distribution of Taxable Goods between branches;
- Article 23 Paragraph (3) letter b: delivery of tangible Taxable Goods or immovable goods which occurs when the Buyer obtains legal and real rights to use or control said Tangible Taxable Goods;
- Article 23 Paragraph (3) letter c: delivery of intangible taxable goods, whether recorded as income or as receivables;
- Article 23 Paragraph (3) letter d: Taxable Goods that are still in existence at the time of the company's dissolution are in the form of inventory or assets which, according to their original classification, are not for sale;

- Article 23 Paragraph (3) letter e: transfer of taxable goods during business mergers, acquisitions, expansions, separations and acquisitions, as well as transfers made to replace shares with capital (which do not meet the requirements to carry out administrative reforms, consolidated tax policies, or expansion of the tax base);
- Article 23 Paragraph (3): Import of taxable goods entered into the customs area.

Objects that are not included in the definition of delivery of Taxable Goods based on Government Regulation Number 44 of 2022 concerning Value Added Tax:

- Article 12 Paragraph (1): Delivery of Taxable Goods to guarantee debts;
- Article 16: Delivery of Taxable Goods from the center to a branch or vice versa and/or delivery of Taxable Goods between branches (Taxable Goods using a certain amount);
- Article 23 Paragraph (3) letter e: Transfer of Taxable Goods in the context of business merger, consolidation, expansion, split-up and takeover provided that the party making the transfer and the party receiving the transfer is a Taxable Entrepreneur (who fulfills the provisions for carrying out administrative reforms, policies consolidated taxation, and expansion of the tax base); And
- Article 23 Paragraph (3) letter d: Taxable Goods in the form of assets in the form of inventory and/or assets at the time of the dissolution of the company still remain and from the beginning were not for sale, what remains.

Consequently, it can be seen if the transfer of rights over Taxable Goods due to an agreement including the delivery of collateral by the creditor to the *cessionaris* is classified as delivery of Taxable Goods in the sense of value added tax. Receivables as intangible movable objects are, of course, included as taxable goods which if the transfer is made of the receivables as collateral/guarantee. In addition to receivables, everything that is generated from receivables is based on article 1158 BW which states if since the guarantee is made in the form of receivables, then everything generated from receivables will be in the hands of the creditor, for instance in the form of interest and further more. Basically, the right to fiduciary collateral currently exists an absolute material right (in rem) owing to the fact that fiduciary collateral remains with the object that object over there currently exists the object of the fiduciary guarantee in whoever's hands the object currently exists in, unless the existence of the object currently exists based on a transfer of rights to receivables (cessie). [22] *Cessie* is one of the 3 types of transfer of material rights according to the Civil Code. 3 The forms of transfer of material rights include: first, article 612, which is in the form of handover of movable property (Article 503) and tangible (Article 504), namely the transfer is made in real terms (*feitelijke levering*), carried out by or on behalf of the owner of the object. Second, article 613, which is in the form of handing over intangible movable objects such as the transfer of receivables on behalf of other intangible movable objects. The transfer is carried out legally (juridische levering), namely by transferring based on an authentic deed (for the transfer of receivables, it is usually done with a notarial deed) or private deed. Meanwhile, the term *cessie* itself is a

[22] Sanusi, Kus Rizkianto, and Imam Asmarudin, *Perlindungan Hukum Dalam Perjanjian Fidusia* (Brebes: Diya Media Group, 2017).

form of indoctrination by legal experts to term the transfer referred to in Article 613 of the Civil Code. Third, article 616, which is in the form of handing over or appointing immovable property which is carried out through the announcement of the deed concerned with the object, the announcement provisions are contained in article 620.

Causal theory and abstract theory are two legal theories that regulate the transfer of property rights. The causal theory states that the legality of a transfer of property rights (*levering*) depends on the legality of the underlying contractual obligations. In other words, if the contract of sale and purchase of receivables is valid, then the *cessie* is correspondingly valid, and vice versa, if the obligatoir contract is valid, then the transfer of ownership rights is valid. The provisions of Article 584 of the Civil Code which among other things state that property rights are obtained by handing over (by means of a *cessie*) based on a civil event to transfer property rights, or in other words, it is called recht title (for example in a sale and purchase agreement on receivables), and is carried out by a person who is authorized to transfer property rights, shows that the Civil Code follows a causal system. The second theory is an abstract theory that bases its validity on the underlying contractual obligations. If the obligation agreement underlying a leverage agreement turns out to be invalid, the property rights can still be transferred or leveraged, and as a result the owner no longer has the right to reclaim because the property rights have undergone a transfer. [23] Because Cessie is a form of handover of receivables in the name, for the handover to occur it must be based on the existence of a basis of rights (Rechttitel) which is a civil relationship that underlies the transfer of rights. This right arises because of an obligatory relationship or a relationship that transfers the rights to the receivables. In general, the obligatory relationship takes the form of an agreement to buy and sell receivables or bills. Thus, there are two legal acts in handing over receivables in the name of the person, namely the sale and purchase agreement which is the basis of the rights and the cessie agreement as a form of handing over the receivables in the name of. [24]

However, the thing that most needs to be considered is a condition where the Fiduciary guarantee object is in the form of destroyed receivables. Creditors' rights are less protected due to Constitutional Court decisions number 18/PUU-XVII/2019 and number 2/PUU-XIX/2021. Because the definition of default or default has changed, a reduction in this right can be identified. However, because the creditor cannot carry out the execution process immediately, this disrupts the creditor's economic turnover rate and creates the possibility of disputes between the debtor and the creditor. Second, the lack of clarity in creditor law regarding the process of executing fiduciary guarantees due to Constitutional Court Decisions Number 18/PUU-XVII/2019 and Number 2/PUU-XIX/2021, further makes it difficult for creditors to transfer fiduciary guarantees.[25] In the event that the collateral

---

[23] Suharnoko and Hartati, *Dokrin Subrogasi, Novasi, Dan Cessie (Dalam Kitab Undang-Undang Perdata, Nieuw Nederlands Burgerlijk Wetboek, Code Civil Prancis Dan Comman Law*.

[24] Diana Fitriana and Abdul Wahid, "Upaya Hukum Cessionaris Terhadap Hak Tagih Atas Jaminan Hak Tanggungan Berdasarkan Pengalihan Hutang (Cessie)," *Jurnal Hukum Sasana* 7, no. 2 (2021): 243–62.

[25] Nurul Ma'rifah, "Kepastian Hukum Terhadap Kreditur Pasca Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 Dan Nomor 2/PUU-XIX/2021," *Notary Law Journal* 1, no. 2 (2022): 204–26, https://doi.org/10.32801/nolaj.v1i2.23.

object is in the form of a receivable, the fiduciary receiving creditor has no protection if the fiduciary giving debtor obtains his rights through the settlement of his receivables as a creditor from the original debtor. Fiduciary recipient creditors cannot transfer collateralized receivables if they are not yet due, in addition, transfers cannot be made if the receivables have been written off because the original debtor has made payments to the debtor providing the fiduciary guarantee. One of the reasons for the cancellation of the agreement according to article 1381 of the Civil Code is because of payment. Transfer through a *cessie* cannot be carried out if the collateral object is deleted, the object that is the object of guarantee is deleted, the fiduciary guarantee is abolished, although it does not result in the principal agreement being abolished (article 25 paragraph (1) letter c of the Fiduciary Guarantee Law). Nonetheless, creditors continue to experience losses because they no longer have material rights, which makes them take precedence in paying receivables.

Bearing in mind Article 19 paragraph (2) PP Number 44 of 2022, the elimination of collateral objects that have been transferred does not result in adjustments to Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods which have been credited as Input Tax or charged as costs for the acquisition of Goods Destroyed or damaged Taxable Goods does not apply in the event that the Taxable Goods are destroyed or damaged to a certain extent. if it cannot be used anymore due to circumstances beyond the control of the Taxable Entrepreneur or force majeure. As long as the tax has been reported by the selling Taxable Entrepreneur (creditor) or credited as Input Tax or charged as a cost by the *cessionaris* Taxable Entrepreneur.

4. Conclusion

Accordingly receivables are legally recognized as objects and legal objects, receivables are legal objects because they have fulfilled the existing criteria, namely that there is human control, has economic value, and can be used as an object. Receivables according to their material nature are categorized as movable, intangible, producing, and those that will still exist. On the basis of the nature of accounts receivable as an object that produces, of course, it will produce something. What is meant is interest, interest is recognized as a civil proceeding object which makes it classified as an additional object which is an integral part of the main object in this case Receivables. Receivables that are used as collateral objects certainly have collateral objects depending on the type of guarantee institution. The collateral object for collateralized receivables is indeed an additional object legally attached to the receivable due to civil attachment. Furthermore that when you have collateral in the form of receivables, the component that experiences a transition is the first principal object, namely receivables and additional objects in the form of interest to be obtained (objects that are still to come) and collateral objects for receivables.

One form of transfer between the seller (creditor/*cedent*) and the buyer (*cessionaris*) through a sale-purchase agreement is a *cessie. Cessie* is only devoted to intangible movable objects, one of which is receivables. Withholding tax on the transfer of collateral objects does not occur when a sale and purchase agreement is made between the *cedent* and the buyer (*cessionaris*). The sale-purchase agreement cannot be considered as a transitional event because the sale-purchase agreement was born since an agreement was reached by the parties, even in conditions where the obligations of the parties have not been carried out, the collateral object has not been transferred and costs have not been paid. The thing that needs to be considered by the creditor receiving the fiduciary before transferring the object of the fiduciary guarantee is whether the object of the guarantee still exists. Because the value added tax that has been reported or credited cannot be tax adjusted if the collateralized receivables have been deleted or destroyed.

References

Adistie, Novelia, and Jarkasi Anwar. "Hubungan Keabsahan Pengalihan Piutang (Cessie) Yang Dilakukan Secara Berulang Kali Terhadap Perpindahan Hak Tanggungan Milik Debitur." *Yustisia Tirtayasa* 1, no. 4 (2021): 93–117.

Ashibly. *Buku Ajar Hukum Jaminan*. Bengkulu: MIH Unihaz, 2018.

Badrulzaman, Mariam Darus. *Sistem Hukum Benda Nasional*. Bandung: Alumni, 2022.

Diharini. "Tinjauan Yuridis Terhadap Piutang Sebagai Objek Jaminan Fidusia (Studi Kasus) Pada Bank BCA Cabang Depok." Universitas Indonesia, 2011.

Eka, Rina. "Konsep Peralihan Jaminan Prefensial Dalam Cessie." *Badamai Law Journal* 6, no. 1 (2021): 130–49. https://doi.org/10.32801/damai.v6i1.11756.

Fitriana, Diana, and Abdul Wahid. "Upaya Hukum Cessionaris Terhadap Hak Tagih Atas Jaminan Hak Tanggungan Berdasarkan Pengalihan Hutang (Cessie)." *Jurnal Hukum Sasana* 7, no. 2 (2021): 243–62.

Hadjon, Philipus M., and Tatiek Sri Djamiati. *Argumentasi Hukum*. Yogyakarta: Gadjah Mada University Press, 2005.

Hariri, Wawan Muhwan. *Hukum Perikatan: Dilengkapi Hukum Perikatan Dalam Islam*. Bandung: Pustaka Setia, 2011.

HS, Salim, and Erlies Septiana Nurbani. *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*. Jakarta: Raja Grafindo Persada, 2014.

Logor, Ribka Josevira, Harijanto Sabijono, and Stanly W. Alexander. "Evaluasi Perlakuan Akuntansi Atas Piutang Tak Tertagih Pada PT. Angkasa Pura I (Persero) Cabang Manado." *Jurnal Riset Akuntansi* 15, no. 3 (2020): 521–26. https://doi.org/10.32400/gc.15.3.30175.2020.

Ma'rifah, Nurul. "Kepastian Hukum Terhadap Kreditur Pasca Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019 Dan Nomor 2/PUU-XIX/2021." *Notary Law Journal* 1, no. 2 (2022): 204–26. https://doi.org/10.32801/nolaj.v1i2.23.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Edisi Revi. Jakarta: Kencana, 2014.

Muhammad, Abdulkadir. *Hukum Dan Penelitian Hukum*. Bandung: PT. Citra Aditya Bakti, 2004.

Muzaki, Ilham, and Aris Machmud. "Prosedur Pengalihan Cessie Dalam Perspektif Hukum" 12, no. 1 (2023): 143–59. https://doi.org/10.37893/jbh.v12i1.503.

Sahputra, Syahron. "Pertanggungjawaban Pidana Terhadap Pengalihan Benda Jaminan Fidusia Dalam Perjanjian Kredit." *Jurnal Ilmiah Advokasi* 8, no. 1 (2020): 36–48. https://doi.org/10.36987/jiad.v8i1.1650.

Sanusi, Kus Rizkianto, and Imam Asmarudin. *Perlindungan Hukum Dalam Perjanjian Fidusia*. Brebes: Diya Media Group, 2017.

Sjahdeini, Sutan Remy. *Hak Tanggungan (Asas-Asas, Ketentuan-Ketentuan Pokok Dan Masalah Yang Dihadapi Oleh Perbankan),*. Bandung: Alumni, 1999.

Sofwan, Sri Soedewi Masjchoen. *Hukum Benda*. Yogyakarta: Liberty, 1981.

Suharnoko, and Endah Hartati. *Dokrin Subrogasi, Novasi, Dan Cessie (Dalam Kitab Undang-Undang Perdata, Nieuw Nederlands Burgerlijk Wetboek, Code Civil Prancis Dan Comman Law*. Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2005.

Widodo, Sri. "Kewenangan Mengadili Terhadap Sengketa Berdasarkan Perjanjian Pokok (Akad Syariah) Dan Perjanjian Accesoir (APHT) Akibat Pilihan Hukum Yang Berbeda (Studi Putusan Nomor 499/Pdt.g/2021/Pa.Yk Di Pengadilan Agama Kota Yogyakarta)." Universitas Islam Indonesia, 2022.

Conflict of Interest Statement: The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

Jurnal Hukum dan kenotariatan is an open access and peer-reviewed journal published by Master Of Notarial, Universitas Islam Malang, Indonesia.

Open Access