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The Appraisal Value of Collateral Assets as the Basis for Mortgage Rights Enforcement: An Analysis of Legal Certainty and Legal Protection

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The implementation of bank credit is inseparable from the use of collateral as a safeguard mechanism in the event of debtor default. One of the most widely used forms of collateral in banking practice is the Mortgage Right over land and objects attached to or related to land. In the enforcement of Mortgage Rights, the appraisal value of collateral assets serves as an important reference for determining the auction limit value. However, appraisal values may not always reflect the fair market value of collateral, potentially resulting in assets being sold at relatively low prices and causing losses to debtors. This study aims to analyze legal certainty regarding the use of collateral appraisal values as the basis for Mortgage Right enforcement and examine legal protection for debtors in the appraisal process. This normative juridical study employs statutory and conceptual approaches. Primary, secondary, and tertiary legal materials were obtained through literature research and analyzed qualitatively. The findings indicate that legal certainty has not been fully achieved due to the absence of comprehensive standards, mechanisms, and parameters governing collateral appraisal in Mortgage Right enforcement. Furthermore, debtor protection remains limited because debtors have restricted participation and objection mechanisms regarding appraisal results. Therefore, strengthening regulations, transparency, accountability, and balanced legal protection is necessary to ensure certainty and fairness in Mortgage Right enforcement.
Keywords: Appraisal Value; Collateral Assets; Legal Certainty; and Legal Protection.

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1. Introduction

Indonesia's national economic development is closely related to the strategic role of banking institutions as financial intermediaries. Banks collect funds from the public and redistribute them in the form of credit and/or financing to support economic activities. Credit distribution contributes to business development, investment, production, and household consumption. However, credit activities inherently involve legal and economic risks, particularly the risk of debtor default. Therefore, collateral constitutes an important legal instrument for providing security to creditors and ensuring the repayment of obligations arising from credit agreements (Republic of Indonesia, 1998). In Indonesian civil law, collateral may take the form of general or special security. General security is regulated under Articles 1131 and 1132 of the Indonesian Civil Code, which essentially provide that the debtor's assets serve as security for the fulfillment of obligations. However, general security does not provide a preferential position to a particular creditor. Consequently, special security instruments are important in banking practice because they provide stronger legal protection and a preferential position for creditors in recovering their claims (Muhammad, 2017).

One of the principal forms of special security used in banking practice is the Mortgage Right (*Hak Tanggungan*) over land and objects related to land. Mortgage Rights are specifically regulated by Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land. Article 1 paragraph (1) defines a Mortgage Right as a security right imposed on land rights, together with or

without objects related to the land, to secure the repayment of a particular debt and to grant a preferential position to a particular creditor over other creditors (Republic of Indonesia, 1996).
The enforcement authority of Mortgage Rights is particularly important when a debtor defaults. Article 6 of Law Number 4 of 1996 provides that the first-ranking Mortgage Right holder has the right to sell the object of the Mortgage Right through a public auction under its own authority and obtain repayment from the proceeds of the sale. This mechanism is commonly associated with *parate executie*, which is intended to provide effectiveness and legal certainty for creditors in recovering outstanding debts (Republic of Indonesia, 1996; Hirsanuddin & Sudiarto, 2021).

However, the execution of Mortgage Rights also raises an important issue concerning the determination of the economic value of the collateral. The appraisal value of collateral assets is closely related to the determination of the auction limit value. If the appraisal does not adequately reflect the reasonable or market value of the collateral, the auction may potentially result in an economically disadvantageous outcome for the debtor. Conversely, an excessively high valuation may reduce the effectiveness of the auction and delay the creditor's recovery.

The legal issue becomes more complex because Law Number 4 of 1996 does not comprehensively regulate detailed standards, mechanisms, and parameters for determining collateral appraisal values. Detailed provisions concerning auctions and valuation are distributed among implementing regulations and professional valuation practices. This regulatory structure raises questions concerning whether the existing legal framework provides sufficient legal certainty and procedural protection for debtors when an appraisal value is considered inaccurate or potentially detrimental. From the perspective of legal protection, debtors may have limited participation in determining the appraisal value and auction limit after default occurs. A lack of transparency regarding the basis and methodology of valuation may make it difficult for debtors to assess the fairness of the appraisal. Previous research emphasizes the importance of balanced legal protection for creditors and debtors in the execution of Mortgage Rights (*parate executie*) (Hirsanuddin & Sudiarto, 2021). Furthermore, Constitutional Court Decision Number 18/PUU-XVII/2019, although concerning fiduciary security, provides a relevant comparative perspective by emphasizing the importance of legal certainty and procedural protection in the enforcement of security rights (Constitutional Court of the Republic of Indonesia, 2019).

Judicial disputes also demonstrate the practical relevance of this issue. Cirebon District Court Decision Number 81/Pdt.G/2023/PN Cbn involved objections concerning the execution of a Mortgage Right and the determination of the auction limit. Such disputes demonstrate the potential tension between the creditor's right to obtain repayment and the debtor's economic interest in obtaining a fair value for the collateral (Cirebon District Court, 2023). Previous studies have examined legal protection in Mortgage Right execution and the interests of creditors and debtors. However, a focused analysis of the relationship between collateral appraisal value, auction limit determination, legal certainty, and debtor protection remains necessary. This constitutes the research gap addressed by this study. Therefore, this research aims to analyze the legal certainty of using collateral appraisal values as the basis for Mortgage Right enforcement and to examine the legal protection available to debtors concerning the determination and use of appraisal values in the execution process.

This study is expected to contribute to the development of banking and security law by clarifying the relationship between creditor enforcement rights, collateral valuation, auction procedures, and debtor protection. The study emphasizes the importance of a transparent, objective, and accountable appraisal process so that the enforcement of Mortgage Rights can maintain the effectiveness of creditor protection while also ensuring legal certainty and balanced protection of the debtor's economic rights.

2. Literature Review

Credit Agreements, Banking Principles, and Collateral

The legal relationship between banks and debtors in credit provision is fundamentally a contractual relationship governed by the principles of civil law. Under Article 1320 of the Indonesian Civil Code (KUHPerdata), an agreement is legally valid when it fulfills the requirements of consent, legal capacity, a specific object, and a lawful cause. Furthermore, Article 1338 establishes the principle of *pacta sunt servanda*, under which a legally concluded agreement binds the parties as law, while paragraph (3) requires its implementation in good faith. These principles are particularly relevant to credit agreements because the rights and obligations of banks and debtors, including the provision and enforcement of collateral, originate from the contractual relationship (Noer, 2024; Yuanitasari & Kusmayanti, 2021).

In banking law, credit provision is also subject to the prudential principle. Article 8 paragraph (1) of Law Number 10 of 1998 concerning Banking requires banks to conduct an adequate analysis of the debtor's good faith, ability, and capacity to repay the credit. Collateral constitutes one of the important instruments in mitigating credit risk. In banking practice, the assessment of collateral is commonly associated with the 5C principles: character, capacity, capital, collateral, and condition of economy (Kasmir, 2021). Accordingly, collateral has both economic and legal functions because it provides a mechanism for creditors to obtain repayment when a debtor defaults (Fuady, 2020).

The collateral agreement is generally accessory to the principal credit agreement. Consequently, the legal existence of the collateral is connected to the principal obligation. Among the forms of material security recognized in Indonesian law, Mortgage Rights (*Hak Tanggungan*) occupy an important position in bank lending because they provide preferential rights to creditors and an execution mechanism against the collateral object. The creditor's stronger legal position, however, must be balanced with protection of the debtor's property and economic rights (Sjahdeini, 2020; Hirsanuddin & Sudiarto, 2021).

Mortgage Rights and Their Execution

Mortgage Rights are regulated by Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land. Article 1 paragraph (1) defines Mortgage Rights as security rights imposed on land rights and objects related to land to guarantee the repayment of certain debts, granting priority to particular creditors over other creditors (Republic of Indonesia, 1996). The Mortgage Rights institution is characterized by several principles, including *droit de preference*, *droit de suite*, specialization, publicity, and its accessory nature. These characteristics provide legal certainty and strengthen the creditor's position in obtaining repayment. However, the strong executorial character of Mortgage Rights also creates a corresponding need for adequate protection of debtors, particularly when the collateral is sold to satisfy the outstanding obligation (Ashibly, 2018; Hirsanuddin & Sudiarto, 2021).

Article 6 of Law Number 4 of 1996 grants the first Mortgage Rights holder the authority to sell the Mortgage Rights object through a public auction if the debtor defaults. This mechanism, commonly referred to as *parate executie*, is intended to provide an efficient means of debt recovery. Nevertheless, execution must still comply with applicable auction regulations and principles of fairness, good faith, transparency, and legal certainty. Hirsanuddin and Sudiarto (2021) emphasize that the implementation of *parate executie* involves legal protection issues involving both creditors and debtors. Recent studies likewise identify procedural transparency, debtor objections, and the balance of interests as important issues in Mortgage Rights execution (Salsabila & Lubis, 2024; Triwanto et al., 2025).

Appraisal Value of Collateral Assets

Appraisal is an important component in determining the economic value of collateral. In banking practice, collateral valuation is used to assess credit risk and the adequacy of security. At the execution stage, appraisal becomes increasingly significant because the valuation may serve as a reference in determining the auction limit value (Siregar, 2021; Wahyuni & Purwanto, 2024). The objectivity and independence of the appraisal process are therefore essential. Professional appraisal activities in Indonesia are conducted within the framework of regulations governing public appraisers and Indonesian Valuation Standards (SPI). An appraisal should consider relevant characteristics of the asset, market conditions, the purpose of valuation, and the appropriate valuation methodology. The use of an independent appraiser is intended to minimize conflicts of interest and increase the credibility of the valuation result (Siregar, 2021).

From a legal perspective, however, appraisal cannot be viewed merely as a technical or economic activity. When an appraisal result becomes a reference for determining the auction limit of a Mortgage Rights object, the valuation directly affects the legal and economic interests of both parties. An undervalued collateral may reduce the proceeds obtained from the sale and potentially affect the debtor's remaining economic rights after settlement of the creditor's claim. Conversely, an excessive valuation may create risks for the creditor and undermine the prudential principle in banking (Az Zahra & Handitya, 2023; Mahendra et al., 2025).

Thus, appraisal has a dual character: it is an economic valuation instrument and, in the context of execution, an instrument with legal consequences. Az Zahra and Handitya (2023) emphasize the importance of the collateral appraisal institution in supporting the proper binding of collateral in the banking sector. This becomes particularly important when the appraisal result is subsequently used to determine the minimum value of an auction object.

Appraisal Value and Auction Limit in Mortgage Rights Execution

The relationship between appraisal value and auction limit is particularly important in Mortgage Rights execution. Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines provides that every auction generally requires a limit value and that the determination of the limit value is the responsibility of the seller. Article 56 recognizes an appraisal report by an appraiser, an assessment report by an assessor, or, under specified circumstances, the seller's own estimated price as bases for determining the limit value. For specified Mortgage Rights execution auctions, Article 57 requires the limit value to be based on an appraisal report prepared by a government or public appraiser in accordance with applicable regulations (Ministry of Finance of the Republic of Indonesia, 2023).

This regulatory framework demonstrates that appraisal has an important position in the execution process. Nevertheless, the regulation of Mortgage Rights and auction implementation operates through several legal instruments. Law Number 4 of 1996 establishes the substantive framework for Mortgage Rights and their execution, while auction regulations establish procedural requirements concerning the auction and limit value. The interaction between these regulatory instruments is therefore important in assessing legal certainty concerning appraisal values. The issue becomes particularly significant when there is a substantial difference between an appraisal value, market conditions, and the eventual auction price. Mahendra et al. (2025) specifically examine the implementation of market value and liquidation value as limit values in Mortgage Rights auctions, demonstrating the importance of valuation methodology in the execution process. The determination of the limit value is therefore not merely an administrative matter but may have direct consequences for the economic interests of both creditors and debtors.

The literature also indicates that disputes may arise when debtors consider the auction value to be below the reasonable value of the collateral. Studies concerning debtor protection in auction execution identify auction pricing, notification, procedural transparency, and opportunities for objection as important areas of legal protection (Zendrato, 2024; Winoto et al., 2025).

Legal Certainty and Legal Protection of Debtors

Legal certainty in the context of collateral appraisal requires a clear relationship between the appraisal process, the resulting value, the auction limit, and the execution of Mortgage Rights. From a normative perspective, relevant indicators include: (1) a clear legal basis for appraisal authority; (2) objective and professionally recognized valuation standards; (3) transparency of the valuation process; (4) consistency between legal norms and their implementation; and (5) mechanisms for objection, correction, or legal remedy. Recent legal scholarship emphasizes that legal certainty in Mortgage Rights execution remains an important issue because the existence of an executorial mechanism does not eliminate the need for procedural and substantive protection of debtors. Dewi and Budiharseno (2026), for example, identify doctrinal, procedural, and institutional challenges in achieving legal certainty in the execution of Mortgage Rights.

Legal protection of debtors can be understood through preventive and repressive mechanisms. Preventive protection may be realized through transparency of appraisal information, professional independence, accountability of appraisers, and adequate notification to debtors. Repressive protection may be provided through objection procedures, civil claims, and other legal remedies when an appraisal or execution process is alleged to violate legal rights. Research by Masturi et al. (2026) emphasizes the relevance of balance and good faith in Mortgage Rights enforcement, particularly in relation to auction pricing, notification, and creditor conduct.

The Constitutional Court Decision Number 18/PUU-XVII/2019, although directly concerning fiduciary security rather than Mortgage Rights, provides a comparative perspective concerning the relationship between execution of security rights and debtor protection. Therefore, the decision should be used as comparative legal reasoning rather than as a direct precedent governing Mortgage Rights execution.

Research Gap

Previous studies have examined different aspects of Mortgage Rights execution, including *parate executie*, creditor and debtor protection, auction procedures, and legal certainty. Hirsanuddin and Sudiarto (2021) examined legal protection for creditors and debtors in *parate executie* of Mortgage Rights objects. More recent research has addressed the implementation of *parate executie* and the legal protection of parties involved in Mortgage Rights auctions (Salsabila & Lubis, 2024; Triwanto et al., 2025). In addition, Mahendra et al. (2025) specifically analyzed market value and liquidation value as limit values in Mortgage Rights auctions, while Winoto et al. (2025) examined the reconstruction of legal protection for debtors in Mortgage Rights auction execution. These studies demonstrate that valuation and debtor protection are important components of the Mortgage Rights execution framework.

However, the existing literature tends to examine execution procedures, auction mechanisms, valuation, or debtor protection as separate issues. The specific relationship between collateral appraisal value, auction limit determination, legal certainty, and debtor protection remains insufficiently integrated into a single normative legal analysis. This research therefore focuses on the normative position of appraisal value as a basis for Mortgage Rights execution and examines whether the existing regulatory framework provides adequate legal certainty and legal protection for debtors.

Based on the literature reviewed, this study positions appraisal value not merely as an economic measurement but as a legal instrument that has direct consequences for the execution of Mortgage Rights.

3. Method

This study employs normative juridical research, also known as doctrinal legal research, which examines legal norms, statutory provisions, legal doctrines, and judicial decisions relevant to the use of collateral appraisal values as the basis for the execution of Mortgage Rights. Normative legal research is directed toward identifying, interpreting, and evaluating applicable legal norms to formulate prescriptive legal arguments concerning legal certainty and legal protection (Muhaimin, 2020). The research is descriptive-analytical in nature, describing the applicable legal framework concerning credit agreements, collateral, appraisal values, auction limit values, and Mortgage Rights execution, followed by a normative analysis of the legal problems arising from their implementation. The study uses three approaches. First, the statutory approach is applied to examine the legal provisions governing banking, credit, collateral, Mortgage Rights, appraisal, and auctions, particularly Law Number 10 of 1998 concerning Banking, Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land, Law Number 42 of 1999 concerning Fiduciary Guarantees, and Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines. Second, the conceptual approach is used to analyze legal concepts and principles relevant to the research, including legal certainty, legal protection, good faith, proportionality, material security, collateral appraisal, and the balance of creditor and debtor interests. Third, the case approach is used to examine judicial reasoning concerning the execution of security rights and debtor protection, particularly Cirebon District Court Decision Number 81/Pdt.G/2023/PN Cbn and Constitutional Court Decision Number 18/PUU-XVII/2019. The latter is used as comparative legal material because it concerns fiduciary security rather than Mortgage Rights directly.

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation and judicial decisions, particularly Law Number 4 of 1996, Law Number 10 of 1998, Law Number 42 of 1999, Minister of Finance Regulation Number 122 of 2023, and the selected court decisions. Secondary legal materials comprise legal books, peer-reviewed journal articles, scientific publications, and previous research concerning banking law, collateral law, appraisal, auctions, Mortgage Rights execution, legal certainty, and debtor protection. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other reference materials used to clarify legal terminology and concepts. Legal materials were collected through library research by identifying, inventorying, classifying, and reviewing relevant legislation, judicial decisions, legal literature, and scientific publications. The materials were selected based on their relevance to the research questions and their authority or academic reliability.

The analysis was conducted qualitatively and prescriptively through systematic legal interpretation and legal reasoning. The analysis begins by identifying the applicable legal norms governing collateral appraisal and Mortgage Rights execution, examining the relationship between appraisal values and auction limit values, and assessing the consistency of these norms with the principles of legal certainty, good faith, proportionality, and legal protection. The statutory provisions are subsequently compared with relevant legal doctrines and judicial considerations to identify normative gaps and potential problems in implementation. Conclusions are formulated deductively from general legal norms to specific findings concerning (1) legal certainty in the use of collateral appraisal values as the basis for Mortgage Rights execution and (2) legal protection available to debtors in the determination and application of such appraisal values.

4. Result

Legal Certainty Regarding the Use of Collateral Appraisal Value as the Basis for Mortgage Rights Enforcement

The results of the normative juridical analysis indicate that the use of collateral appraisal value in the enforcement of Mortgage Rights has a legal basis within the banking and auction framework, but its implementation has not yet provided comprehensive legal certainty concerning valuation standards, transparency, and debtor participation. Legal certainty requires not only the existence of legal norms but also clarity, consistency, and predictability in their application (Khairiah et al., 2025).

The use of appraisal in banking is closely related to the prudential principle stipulated in Article 8 paragraph (1) of Law No. 10 of 1998 concerning Banking. Collateral assessment is generally conducted to determine the economic value of the asset, support credit risk analysis, and provide a basis for decisions concerning the collateral. In practice, appraisal services may be performed by a Public Appraisal Services Office (KJPP). However, the Mortgage Rights Law does not specifically establish a comprehensive methodology for determining collateral appraisal values in the context of Mortgage Rights enforcement.

Law No. 4 of 1996 concerning Mortgage Rights provides strong legal protection for creditors. Article 6 grants the first Mortgage Rights holder the authority to sell the collateral through a public auction if the debtor defaults. This parate execution mechanism is intended to provide an effective means of debt recovery. Nevertheless, the execution authority must be exercised within the framework of legal certainty, proportionality, and protection of the debtor's property rights.

A significant finding is that the legal framework distinguishes between the authority to execute the collateral and the mechanism for determining its economic value. The Mortgage Rights Law clearly regulates the creditor's execution authority, but does not comprehensively regulate the technical standards for determining the appraisal value that subsequently influences the auction limit. Consequently, the appraisal process relies on a combination of auction regulations, professional appraisal standards, and institutional practices.

The auction framework is particularly important in this regard. Under the current auction regime, Minister of Finance Regulation No. 122 of 2023 concerning Auction Implementation Guidelines regulates the determination of the auction limit and recognizes appraisal reports as a basis for determining the limit value in specified execution auctions. This indicates that appraisal is legally relevant to the auction process. However, the existence of an appraisal report does not by itself eliminate the need for professional objectivity, accountability, and compliance with applicable valuation standards.

The analysis further shows that there is a distinction between market value, appraisal value, and auction limit value. These concepts should not be treated as automatically identical. An appraisal represents a professional valuation based on specified assumptions, data, methods, and valuation dates, whereas the auction limit functions as a minimum price in the auction mechanism. Therefore, a difference between an appraisal value and an actual transaction price does not automatically establish an unlawful act. Legal liability would require evidence of relevant legal elements, such as professional negligence, unlawfulness, fault, actual loss, and a causal relationship.

Another finding concerns the position of the debtor. Although the debtor remains the owner of the collateral before the transfer resulting from a lawful execution process, the debtor generally has limited participation in determining the appraiser and appraisal methodology. This creates a potential imbalance because the appraisal value may significantly affect the economic value ultimately obtained from the

collateral. The issue is therefore not merely whether an appraisal exists, but whether the valuation process is objective, independent, transparent, and accountable.

From the perspective of legal certainty, four requirements can be identified. First, the valuation must be based on clear and professionally accepted standards. Second, the appraiser must maintain independence and objectivity. Third, the determination of the auction limit must be supported by an accountable valuation basis. Fourth, parties affected by the valuation should have adequate access to relevant information and legal remedies. These requirements are consistent with the function of appraisal standards in maintaining professional accountability (Mahendra et al., 2025).

The analysis also demonstrates that Article 1338 paragraph (3) of the Civil Code, which requires agreements to be performed in good faith, remains relevant to the implementation of credit agreements and collateral enforcement. The creditor's right to execute collateral cannot be understood as an unlimited authority. The exercise of such authority should remain consistent with good faith, proportionality, and respect for the debtor's legal interests.

Accordingly, the first research question can be answered as follows: the use of collateral appraisal value as a basis for Mortgage Rights enforcement has a legal foundation, but legal certainty remains incomplete because the regulatory framework does not comprehensively integrate valuation methodology, transparency, accountability, and debtor participation into a single enforcement mechanism. Therefore, the legal problem is not the absence of regulation, but the fragmentation of the applicable regulatory framework and the limited procedural protection surrounding the appraisal process.

Forms of Legal Protection for Debtors Regarding Collateral Appraisal Value in Mortgage Rights Enforcement

The analysis shows that legal protection for debtors can be categorized into preventive and repressive legal protection. Preventive protection is intended to prevent losses before the execution occurs, whereas repressive protection operates after a dispute or alleged violation has arisen. Preventive protection should begin at the appraisal stage. Because the appraisal value can influence the auction limit and consequently affect the economic value of the collateral, debtors have a legitimate legal interest in the objectivity and accountability of the valuation. The principle of good faith under Article 1338 paragraph (3) of the Civil Code also requires the parties to perform their contractual relationship fairly and properly.

The principal weakness identified is the limited procedural involvement of debtors in the appraisal process. In practice, the creditor generally plays a major role in selecting or commissioning an appraiser, while the debtor may have limited access to information concerning the valuation method, supporting data, assumptions, and final appraisal result. This condition potentially weakens the debtor's ability to challenge an appraisal that is considered unreasonable.

Therefore, preventive legal protection can be strengthened through several mechanisms: (1) transparency of the appraisal process; (2) access for debtors to relevant appraisal information; (3) independence and objectivity of public appraisers; (4) accountability for the valuation method and supporting data; and (5) an opportunity for debtors to submit objections or a comparative appraisal before execution, subject to applicable legal procedures. These mechanisms would strengthen procedural fairness without eliminating the creditor's right to execute the collateral. The professional responsibility of public appraisers also constitutes an important component of debtor protection. Public appraisal is not merely an administrative activity because its result may influence the transfer and economic realization of the debtor's property. Consequently, an appraisal that is proven to have been conducted contrary to professional standards may become relevant to legal responsibility, depending on the facts and applicable legal provisions.

Repressive legal protection is available when the debtor believes that the appraisal or execution process has caused unlawful loss. Article 1365 of the Civil Code provides a general basis for claims arising from unlawful acts. However, a low appraisal value alone cannot automatically be regarded as an unlawful act. The debtor must establish the relevant legal elements, including an unlawful act, fault, loss, and causal relationship between the conduct and the loss suffered. Repressive protection may also arise through legal challenges to the execution or auction where procedural or substantive defects are alleged. Such mechanisms demonstrate that the creditor's right to parate execution is not absolute. Execution must still comply with applicable legal requirements and may be subject to judicial review where there is an alleged violation of law or rights.

The protection of the debtor's economic rights is particularly important. The imposition of Mortgage Rights does not, by itself, transfer ownership of the collateral to the creditor. The Mortgage Right functions as security for repayment of a particular debt. Therefore, until lawful execution occurs, the debtor retains the relevant ownership interests, including the economic interest in any value remaining after repayment of the secured debt and legitimate execution costs.

The analysis further demonstrates that the principle of proportionality should guide the relationship between creditor enforcement rights and debtor protection. Creditors require legal certainty and effective mechanisms to recover outstanding debts, while debtors require protection against arbitrary or unjustified reduction of the economic value of their property. Consequently, legal protection should not be interpreted as an instrument to obstruct lawful execution, but as a mechanism to ensure that execution is conducted fairly and accountably.

Based on the analysis, the second research question can therefore be answered that legal protection for debtors currently exists through general contractual principles, professional appraisal obligations, auction procedures, civil remedies, and judicial mechanisms; however, preventive protection specifically concerning the determination of appraisal value remains limited. The stronger emphasis remains on repressive remedies after a dispute arises.

The findings indicate the need to strengthen preventive mechanisms by providing clearer procedural rights for debtors, particularly concerning access to appraisal information, explanation of the valuation basis, opportunities to raise objections, and mechanisms for obtaining an independent comparative valuation. Such measures would improve transparency and accountability while maintaining the creditor's legitimate right to enforce the Mortgage Rights. Overall, the findings establish that the central legal issue is not whether creditors possess the right to execute Mortgage Rights, because such authority is expressly recognized by Law No. 4 of 1996. The principal issue concerns how the economic value of the collateral is determined and controlled before execution takes place. A balanced enforcement system therefore requires integration between creditor enforcement rights, professional appraisal standards, auction regulations, and effective procedural protection for debtors.

Summary of Research Findings

Thus, the study establishes that the appraisal value occupies a strategic position in Mortgage Rights enforcement because it can influence the determination of the auction limit and consequently the economic realization of the collateral.

Table 1. The research findings

Research Aspect	Finding
Legal basis	Appraisal-based Mortgage Rights enforcement has a legal basis through Mortgage Rights, banking, appraisal, and auction regulations.

Research Aspect	Finding
Legal certainty	Legal certainty is not yet fully integrated because valuation, auction limits, and execution are regulated across different legal instruments.
Appraisal value	Appraisal value, market value, and auction realization are legally and conceptually distinct and cannot automatically be equated.
Debtor participation	Debtor participation and access to appraisal information remain limited.
Preventive protection	Exists through good faith, professional appraisal obligations, and auction procedures, but remains insufficiently specific to appraisal disputes.
Repressive protection	Available through civil claims, challenges to defective execution or auction procedures, and judicial mechanisms, subject to proof of the applicable legal elements.
Core finding	The principal legal problem lies in the fragmented regulation and limited procedural safeguards surrounding the determination and use of appraisal values before Mortgage Rights execution.

Nevertheless, its legal function must be accompanied by adequate standards of objectivity, transparency, accountability, and procedural protection to ensure that enforcement provides legal certainty to creditors without disproportionately impairing the debtor's legal and economic interests.

5. Conclusion

This study concludes that the use of collateral appraisal values as a basis for Mortgage Rights enforcement has a legal foundation under Law No. 4 of 1996 concerning Mortgage Rights and the applicable auction regulations. However, legal certainty has not been fully achieved because the regulatory framework does not comprehensively integrate valuation standards, valuation procedures, accountability, transparency, and the relationship between appraisal value and auction limit value. The fragmented regulatory framework may create uncertainty regarding whether the appraisal adequately represents the economic value of the collateral. Therefore, appraisal in Mortgage Rights enforcement should be conducted objectively, independently, transparently, and professionally while maintaining the creditor's lawful right to recover outstanding debts. Legal protection for debtors also remains insufficient, particularly at the preventive stage. Although debtors have access to contractual principles, professional appraisal obligations, auction procedures, civil remedies, and judicial mechanisms, their participation and access to information concerning the appraisal process remain limited. The absence of a clear mechanism for obtaining appraisal information, submitting objections, or obtaining comparative valuation may place debtors in a weaker position when appraisal results are disputed. Accordingly, preventive protection should be strengthened without restricting lawful Mortgage Rights enforcement. The Government and relevant regulatory authorities should establish clearer provisions concerning collateral valuation, public appraiser accountability, debtor access to appraisal information, objection mechanisms, and comparative appraisal before auction. Strengthening these mechanisms would improve transparency and procedural fairness while maintaining creditor protection. Future research should examine court decisions concerning disputes over appraisal values and auction limits to develop more consistent legal parameters for Mortgage Rights enforcement and debtor protection.

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