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Legal Protection of Auction Winners of Agraria Disputes of Confiscated Assets through KPKNL

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Abstract. It is important to know the rights of the auction winner in every auction procedure. This includes legal protection for the winning bidder for assets confiscated through the State Wealth and Auction Service Office (KPKNL). This research will reveal the legal protection section of agrarian disputes over the auction of bppn confiscated assets through KPKNL in Medan City. Data collection used Normative Juridical review. Research informants only focus on employees and parties who have problems related to the agrarian suspicion of the auction of confiscated assets by the Indonesian Bank Restructuring Agency, confiscate through KPKNL in the Medan branch. The conclusion is that legally the auction, there are inappropriate regulations by the Central KPKNL and the Medan city area. There are also problems with policies made by agraria confiscate, where the regulations are not well integrated. KPKNL has conducted an auction, but has not provided certainty for the auction winner. In this case, the auction winner gets a loss because he has followed all procedures and did not receive what has been stipulated by KPKNL.

Keywords: Legal Protection; KPKNL

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1. Introduction

The land problem is often a very complex and very complex issue. If viewed from the economic aspect of land as an element of production, from the point of view of its historical and cultural values, land is a very important part for the survival of customs and culture. So that people are able to shed blood to defend their land. However, land is also an arena for survival and also an important part of production, although it must ensure that space is available for building infrastructure and infrastructure. If it is related to government efforts in the use, control and ownership of land, land registration is very important to achieve legal certainty.

Legal certainty includes certainty regarding the person or legal entity who is the holder of the right which is also known as certainty regarding the subject of the right, location, boundaries and area of land parcels which is also known as certainty regarding the object of the right. The rapid development of this era has made people's dependence on land increasing. While land does not increase and is relatively fixed, this results in limited availability of land and of course can be a problem for the State and even people's lives. Likewise the case of land grabbing through an auction which has been won by PT. United Rope, whose rights were not accepted. So that the need for a law on legal protection for the winner of auction rights, moreover there will be a transfer of rights.

The system of transfer of land rights based on auction can be seen in the statutory regulations governing auction, contained in article 41 which reads "At the latest seven working days before a parcel of land or house unit is auctioned both for the execution and non-execution of auction. , The Head of the Auction Office is obliged to request information as referred to in Article 34 regarding the land parcel or house unit to be auctioned.† The 1945 Constitution Article 33 paragraph (3) explains that "Earth, water, space, and natural resources article 33 paragraph (3) of the 1945 Constitution explains that "Earth, water, space and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people". So that land is an important and fundamental part of community life. This is the basis for the community to make good use of the land for production and for survival.‡Such as Law No. 5 of 1960 concerning Basic Agrarian Principles or what is known as UUPA.§

Can describe the rights of the auction land winner won by PT. United Rope is still used as a suspect by the local government, namely the Medan City Government. It is true that the purpose of an auction of land is so that the auction buyer can legally control and use the land. During its development, not only land rights were auctioned off, but also ownership rights over housing units. In accordance with the above regulation, the winner of the auction has registered the land with the competent authority. Therefore, the auction winner is obliged to receive legal protection.

2. Research Method

This research process is carried out through an empirical juridical approach obtained through field research. The juridical approach (das sallen) is used because this research uses data from legal sources. Meanwhile, through an empirical approach (das sein)because of the results come from fact, opinion and field facts. So that through an empirical juridical approach, all problems studied will be integrated through legal sources

(secondary data) with primary data that will be obtained from the field related to the juridical review of legal protection for agrarian suspects on the auction of confiscated assets through KPKNL in the Medan branch. As for the source of data collection in this study, namely derived from some primary data and secondary data, including the following:

a. Primary Legal Materials, namely binding materials consisting of laws and regulations, including:
    1. The regulations in primary law are derived from Law no. 5 of 1960 concerning basic regulations on agrarian principles of the president of the Republic of Indonesia.
    2. Regulation of the minister of finance of the republic of Indonesia number 27 /pmk.06/2016 on auction implementation instructions and auction rights.
    3. Republic of Indonesia government regulation Number 40 of 1996 concerning Business Use Rights, Building Use Rights and Land Use Rights.
b. Tertiary Legal Materials derived from legal dictionaries and large Indonesian dictionaries.
c. Secondary legal materials derived from literature such as journals, books, newspaper media, and other sources related to this thesis.
d. Expert Opinion or expert figure in the field of Agrarian Affairs and Auction Rights

3. Result and Discussion

Analysis of Legal Protection for the Auction Winner of Mortgage Execution

In relation to positive law and legal certainty, in fact it has been mandated in the 1945 Constitution, namely in Article 28D paragraph (1) "Everyone has the right to recognition, guarantees, protection and legal certainty that is just and equal treatment before the law". This article is intended so that the law does not consider a person's status in solving all problems relating to the law that he is facing. Likewise with problems related to auctions so that they can be resolved fairly in order to reflect the values of the article above. Auctions were originally regulated in the provisions of Dutch law, namely the Auction Rules and Auction Instructions which are now being adopted and enforced in Indonesia. The researcher will describe the analysis related to legal protection of the winning bidder. In this study, researchers describe each of the legal protections for agrarian disputes winning the auction for confiscated agrariathat occurred at KPKNL Medan. The legal conditions in this auction are in accordance because they have fulfilled four agreements. The agreement in an agreement means that there is mutual agreement of the parties' will regarding the main points of the agreement. Based on legal facts in the trial at the Medan KPKN, the auction winner is a buyer who voluntarily and wants to buy an auction object.

In the case at the Medan KPKNL, the object being traded was a plot of land and a building. The author believes that the auction object is clear and complies with the provisions of Article 1332 which reads "Only goods that can be traded can be the subject of the agreement." and Article 1333 which reads “An agreement must have as principal the type of goods at least determined. In connection with the case of legal protection against the auction winner by the Medan KPKN, both the Defendants and the auction winners are aware that the purpose of the auction is solely to sell the auction object without any elements that are contrary to law, morals. and public order. Analysis of the implementation of the agrarian trumpet auction on the auction of seized assets of coniscate through the Medan branch of the KPKNL is a major problem in this topic. If an

auction has met the applicable provisions, the auction process can provide legal certainty and legal protection for the auction winner, seller, and third parties.

Protection of the auction buyer for the execution of the mortgage right is indirectly regulated in a preventive manner. Preventive protection of the auction winner is a form of protection provided before the dispute over the auction object occurs, so that it is preventive in nature. Preventive protection in the Vendu Reglement, which is contained in Article 42 of the Vendu Reglement, which stipulates that the auction winner can receive an authenticated quote or what is called an excerpt of auction minutes. The provision of auction minutes here can be likened to a deed of a sale and purchase agreement. In this research, another preventive legal protection by KPKNL is to notify the seller to carry out the precautionary principle regarding documents, information, conditions and conditions of the auction object.

Legal protection for auction winners over control of the auction object

Legal protection for the auction winner means legal certainty of the auction winner's rights over the object purchased through an auction. In the auction process that has been carried out, there will be legal consequences, namely the transfer of rights to the auction object from the seller to the auction winner. In the transfer of rights to the auction object, it turns out that it creates a problem, such as the inability to control the auction object by the auction winner. This research was conducted to find out how legal protection for the auction winner for confiscation agraria by KPKNL in Medan. Indonesian positive law that provides legal protection for the winner of the auction for the execution of mortgage rights is Vendu Reglement, HIR, and PMK Number 106 / PMK.06 / 2013 concerning Amendments to PMK Number 93 / PMK.06 / 2010 and PMK Number 93 / PMK.06 / 2010 Concerning Instructions for Conducting Tenders. Meanwhile, the auction minutes do not provide legal protection for the auction winner. PT. United Rope, who was the winner of the auction, should have the rights to the minutes of the auction, but in fact it is no longer in accordance with what has been determined by the KPKNL. Based on Article 1 number 22 PMK Number 106 / PMK.06 / 2013, the auction winner is the buyer or legal entity submitting the highest bid and is legalized as the auction winner by the auction official.

In Article 22 Vendu Reglement and Article 71 paragraph (1) PMK Number 106 / PMK.06 / 2013, the auction winner as a legitimate buyer has obligations related to auction payments and other legal taxes / levies in accordance with a predetermined time period. If the auction winner has not fulfilled his obligations, the auction winner is not allowed to control the object. In the event that the auction winner does not carry out his payment obligation within the specified time period, the auction official will make a statement to cancel the auction winner, and the winner is not allowed to participate in the auction in all parts of Indonesia within 6 (six) months

In Article 42 of the Vendu Reglement, the winner of the auction is entitled to obtain an authenticated copy or excerpt of the minutes or what is currently called an excerpt of auction minutes. The quotation from the auction minutes will later be used as the sale and purchase deed for the purpose of transferring the name of the auction object. Transfer of rights through minutes of auction is also regulated in the provisions of Article 41 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration. In this case, the minutes of the auction have the same status as the sale and purchase deed made by the Official for Making Land Deeds (PPAT) which is commonly used as one of the bases for registering the transfer of rights to land at the Land Office.

Preventive legal protection is legal protection where the winner is given the opportunity to submit an objection or opinion before a government decision takes a definitive form.

From this formula, it reflects the principle of legal certainty for the auction winner. This regulation is technical in nature, so it only binds the parties in it. The provisions of Article 12 of PMK Number 93 / PMK.06 / 2010 have indirectly provided the principle of legal certainty to the buyer / winner of the auction. Prior to carrying out the auction, the auction official has conducted a juridical analysis of the tender requirements documents, so that the auction can be carried out in accordance with the provisions of laws and regulations. Regarding the validity of the auction object, it is regulated in Article 16 paragraph (1), paragraph (2), and paragraph (3) PMK Number 93 / PMK.06 / 2010, which reflects the principle of legal certainty for the buyer / winner of the auction.

Regarding control of objects, Article 67 of the Minister of Finance Regulation Number 93 / PMK.06 / 2010 provides preventive protection to the owner of the object. Based on this provision, the auction winner must carry out his obligations in order to control the object. The bidder / buyer is considered to really know what he has offered. If there are deficiencies / damages both visible and invisible, the bidder / buyer has no right to refuse or withdraw after the purchase has been validated and waives all rights to claim damages for anything.

Obstacles encountered in providing legal protection to agrarian auction winner's obstacles encountered in providing legal protection to agrarian auction winners for agraria assets by the Medan KPKNL can be divided into two, namely internal obstacles and external obstacles. Internal obstacles in providing legal protection to auction winners are that the auction seller / creditor does not want to compensate the auction winner, while the external obstacle encountered is the absence of laws and regulations that clearly regulate the provision of legal protection for the auction winner.

The winner of the auction should be able to file a claim for compensation to the District court against the Seller / Creditor / Auction Applicant, because the auction is declared invalid. So that the Auction Winner should regain their rights over the price paid in the sale and purchase. The Auction Winner should be able to use the minutes of the Auction and a court decision stating that the auction is canceled as the basis for filing a lawsuit. Efforts to overcome obstacles in the absence of laws and regulations that clearly regulate the legal protection of the auction winner if there is a court decision stating that the auction that has been carried out is declared null and void, that is, it is necessary to make laws and regulations that explicitly regulate the legal protection of the auction winner. So that PT. United Rope, as the winner of the auction, received legal certainty for the goods it had purchased through the auction.

4. Conclusion

Based on the findings obtained by researchers in the description of research results and discussion of research So, it can be concluded that legally the auction there are inappropriate regulations by the Central and Regional KPKNL as well as the policies of the Medan city government. There are also problems with policies made by Agraria asset confoscate where the regulations are not well integrated. KPKNL has conducted an auction, but has not provided certainty for the auction winner. In this case, the auction winner gets a loss because he has followed all procedures and did not receive what has been stipulated by KPKNL.

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