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Determination Of The Selling Price Of Auction Land Is Below Standard According To Minister Of Finance Regulation Number 213/PMK.06/2020

Balqis Najiyah[1]

[1]*Master of Notarial Universitas Islam Malang,*
Email : balgisbabud@gmail.com

Abstract *:* This research is motivated by the problem of many defaults or injuries to promises or defaults on the part of the debtor which then encourages creditors to conduct auctions as a result of which there are often auctions that are not as expected, namely the existence of auctioneers below a reasonable price limit. The purpose of this study is to determine and analyze the importance of determining the selling price of auction land below the standard according to the regulation of the minister of finance 213 / PMK.06 / 2020, the modus operandi of determining the selling price of auction land under the standard set by the regulation of the minister of finance number 213 / PMK.06 / 2020, This research uses normative juridical research methods in the form of a statutory approach (statute approach) and conceptual approach (conceptual approach). Research data is sourced from secondary data sourced from primary legal materials, secondary legal materials and tertiary legal materials which are then analyzed in a qualitative descriptive manner. The results and the first discussion show that the determination of the selling price of auction land in determining the limit value based on the appraisal of the appraiser or the estimator of the estimator, the estimator here is the internal party of the seller or the party appointed by the seller to make an assessment based on a method that can be accounted for. the second, The modus operandi in determining bank auction prices is initially setting a limit value above the liquidation value, but at the time of the auction there is no auction buyer, so at the time of re-auction the limit value price continues to be lowered until a winner / auction buyer is found. Third, the determination of the limit value of the execution auction carried out far below the market price will harm the debtor as explained in article 1365 of the Indonesian Civil Code which discusses Unlawful Acts (PMH). The limit value must be determined first by the seller based on the assessment results of the appraiser where the auction limit value as low as possible must be in accordance with the liquidation value so that the auction office has the authority to reject the auction application submitted by the seller if it is not in accordance with the predetermined standards so as to ensure a sense of justice for the parties. The modus operandi in determining auction prices carried out by banks, first banks use liquidation value as the limit value, is, banks initially set the limit value above the liquidation value but at the time of auction there is no auction buyer. The determination of the execution auction limit value that is carried out far below the market price will harm the debtor as explained in article 1365 of the Indonesian Civil Code which discusses Unlawful Acts (PMH)

Keywords: Standard, Auction Land, Minister of Finance Regulation Number 213/PMK.06/2020

1. Introduction

A. Background

Auction as a legal institution has the function of creating value from an item or melting an item into a sum of money with objective value. Auction institutions must always exist in the legal system to meet the needs of the community. First, to meet the needs of auction sales, as stipulated in many laws and regulations. Second, to fulfill or implement judicial decisions or dispute resolution institutions based on the Law in the context of law enforcement. Third, to meet the needs of the business world in general, producers or owners of private objects may conduct auction sales.[1]

Auction is a mechanism for buying and selling by announcing the offer of goods as auction objects openly to potential bidders at the same time. Then on the specified day, an auction is held where at that time the bidders bid each other the price of the goods as the object of the auction with price bids that are closer to the price desired by the seller or owner of the goods. If the price has been reached or no other participants bid at a higher price, then an auction winner is decided, and there will be an auction sale between the seller / owner of the goods and the auction winner as the buyer. In the auction, the winner of the auction will get the Minutes of Auction.The minutes of auction are deeds of transfer of rights (acta van transport) that have perfect legal force or authenticity and have perfect evidentiary power, made by the Auction Officer.

Banks as lenders will certainly ask debtors to provide or provide a guarantee Some collateral, banks certainly apply the principle of prudence in distributing credit funds.2 The bank will prefer to provide loans or credit to debtors who have collateral, although the principle of a collateral is one element only. In principle, collateral is only one element in providing credit to minimize the risk in disbursing credit, because in that principle not always a credit distribution must have collateral, because the type of business and business opportunity owned by the debtor is basically a guarantee of the business prospects itself or in other words, If the existing elements have been able to convince the creditor of the debtor's ability, the guarantee is sufficient only in the form of principal collateral and the bank is not obliged to ask for additional collateral.

Article 43 of the Minister of Finance No. 213/2020 explains that every auction requires a limit value and the determination of the limit value is the responsibility of the seller In article 1131 BW determines an obligation for the debtor to provide security to creditors for all debts he receives, without the determination of special guarantees, all debtor assets, both existing and future, will become collateral when the person makes an agreement. In addition, in the implementation of auctions, article 43 of Minister of Finance Regulation 213/2020 explains that every auction requires a limit value and the determination of the limit value is the responsibility of the seller. Basically, there is no credit that does not contain collateral, in accordance with Article 1131 of the Civil Code (hereinafter referred to as BW) "All property of the debtor, both movable and new, will be borne in the future for all personal engagements.

Not a few occurrences of default or injury to promises or defaults on the part of the debtor which then encourage creditors to auction the object of the debtor's liability to cover the debtor's receivables. At this time, there are often auctions that are not as expected, namely the existence of auctioneers below the reasonable price limit, the limit value in question is the minimum price of goods to be auctioned and set by the seller, but in the explanation, if the collateral object is sold below

[1] Academic Paper of the Draft Law on Auctions, Ministry of Finance of the Republic of Indonesia Directorate General of State Receivables and Auctions, Legal Bureau-Secretariat General, Jakarta, February 18, 2005, page. 4.

[2] C.S.T.kansil and Chistrine, Fundamentals of Indonesian Commercial Law Knowledge, Second Edition, Sinar Grafika, Jakarta, 2013. Page.240

the limit value, this is included in the category of unlawful acts that have been regulated in article 1365 of the Indonesian Civil Code.

Based on the background description above, and so that the problems to be studied become clearer and the writing of this research is in accordance with the desired goals, the main problem that the author will examine is how the legal consequences arise based on the Minister of Finance Regulation Number 213 / PMK.06 / 2020 concerning Auction Implementation Guidelines for efforts that can be made by debtors for losses by auctioning land objects auctioned below the price Reasonable price limit/standardization.

B. Problem Formulation

This study analyzes whether the selling price of auction land is below the standard according to the Minister of Finance Regulation number 213 / PMK.06 / 2020 is in accordance with reality, because seeing the Supreme Court decision, many debtors are suing because of defaults from the estimator from the KPKNL office.

Researchers are interested in this research, so there are many problem formulations:

What is the procedure for determining the selling price of land based on the standards set by the Minister of Finance Regulation number 213/PMK.06/2020 concerning the implementation of auctions? What is the modus operandi of determining the selling price of auction land under the standards set by the Minister of Finance Regulation number 213/PMK.06/2020? What are the legal consequences of selling substandard auction land?

C. Research Methods

The method used in this study is normative juridical research. According to E Saefullah Wiradipradja explained that normative legal research is "legal research that examines positive legal norms as the object of study". In legal research, normative law has been written in the form of existing norms, principles and legal institutions. In addition, normative law is a dogmatic form of law that examines, maintains and integrates positive law with logical buildings.3

The approach method in this study is to use a statutory approach (statute approach) and a conceptual approach (conceptual approach), this legislative approach to examine all laws and regulations related to legal issues that are being discussed in this study. In the statutory approach, law will be seen as a closed system that has 3 properties, namely, Comprehensive, All-iclusive, Systematic.4

While the conceptual approach is an approach that departs from the views and doctrines that develop in legal science. By studying views and doctrines in legal science, researchers can find ideas that can give birth to legal understanding, legal concepts and principles that are relevant to the issue being studied. An understanding of views and doctrines as mentioned above can be relied upon by a researcher to build a legal argument in solving the issue under study.

2. Discussion

[3] Muhaimin. 2020. Legal Research Methods. Mataram: Mataram University Press. Page, 46.

[4] *Ibid,* page. 56.

A. Discussion of Procedures for Implementing the Selling Price of Auction Land Based on the Standards Set in Minister Regulation Number 213/06/2020

One of the objects of rights contained in the community is land, and every individual has the right to own the object of rights (land), so if we talk about the existence of objects of rights, then how do individuals obtain the object of rights (land)? As for land rights can be obtained by buying and selling, according to Harun Al-Rashid, in essence buying and selling is one way of transferring land rights to the land buyer from the land seller.5

The process of selling land is divided into two ways, namely: general sales and special sales by auction conducted by KPKNL (State Wealth and Auction Service Office). Here the author only highlights the sales process specifically, namely the transfer of land rights through auction (public sale), where this auction is carried out in the context of paying off debts guaranteed by dependent rights. In Article 1 of Law Number 4 of 1996 or referred to as the Law on Dependent Rights (UUHT) states that the definition of dependent rights is a guarantee right imposed on land rights as referred to in Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles, along with or not along with other objects that are an integral part of the land, for the repayment of certain debts, which gives priority to certain creditors over other creditors.

The problem that arises is regarding the execution of dependent rights, which in practice is now carried out through parate execution under Article 6 of the Law. The implementation of the auction is considered inappropriate, because it considers the provisions of Article 6 of the Law on execution auctions to be stand-alone provisions apart from other provisions on execution. The provisions of Article 6 of the UUHT are part of the execution parate whose basic provisions are provided for in Article 20 (1) a of the UUHT. In addition, the KPKNL also overrides the provisions of Article 26 of the UUHT along with its explanation and General Explanation number 9 of the UUHT, which expressly states that the provisions of the UUHT regarding the execution of objects of dependent rights have not yet applied because there is no government regulation as its implementation.

Auctions have two types, namely execution and non-execution auctions, execution auctions are auctions to carry out court decisions or determinations, other documents that are equated with it, and / or implement the provisions in laws and regulations, in legal problems regarding execution auctions arise at the time of the auction, for example a lawsuit from a third party. This auction was about to be held but suddenly an objection was raised by a third party stating that the auctioned item was his property. In this case, those who feel the objection can file a third party resistance lawsuit (derden verzet) officially through a letter of resistance registered with the relevant District Court by attaching evidence in the form of proof of ownership rights, for example, which will be auctioned land on the resistance. In exceptional cases, for example, what will be auctioned is suspended first rather than a fatal error occurs. The Chief Justice of the District Court as the presiding official. Sales through auction means that there is a legal bond between the Auction Office and the participant or winner of the auction. Sale and purchase is an agreement made between the seller and the buyer that gives rise to a reciprocal obligation. A sale and purchase agreement occurs when both parties reach an agreement on the goods and their price. In the case of a sale and purchase agreement whose object

[5] Harun Al-Rashid, Overview of Land Sale, Ghalia Indonesia, Jakarta, 1997, page 50

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is land, in addition to having a valid basis, the authority to act and must be proven by a deed made by and before the Land Deed Making Officer. The sale and purchase of land through the Auction Office if carried out in accordance with the correct procedure, means that the sale and purchase of the land has been carried out according to a valid title as a basis for the surrender so that the surrender can be valid.

In order to settle/return the debtor's credit, collateral sales are carried out through public auction. Auction is the sale of goods that are open to the public with a written and/or oral price bid that increases or decreases to reach the highest price, which is preceded by the announcement of the auction. As for the terms and conditions, namely:

a. Every auction is required to have a limit value, which is the minimum price of the item to be auctioned and set by the seller.
b. The limit price will be announced publicly which becomes an integral part of the auction announcement.
c. The auction bid security deposit that has been deposited is returned in full without deduction to participants who are not authorized as buyers.
d. Payment by cheque / giro is declared valid if and has been effectively received by the bank, as a sign of payment the winner will be given a receipt or proof of payment of the auction price by the treasurer of KPKNL receipt / Class I Auction Officer / auction house.

Based on the provisions of Article 47 paragraph (1) of the Minister of Finance Regulation No.213/PMK.06/2020 concerning Auction Implementation Guidelines (PMKN 213/2020), it is known that creditor banks set limit values based on the appraiser's assessment or estimator's assessment. The estimator here is the internal party of the seller or the party appointed by the seller to make an assessment based on a method that can be accounted for based on the amount of the estimated value of the selling price of goods, which is used to obtain accurate estimated calculation results. Thus, the mechanism for determining the auction price of land as follows: the seller can determine the market value as the first priority (upper limit) and liquidation value as the last alternative (lower limit) to get the limit value. Second, the limit value must be set first by the seller based on the assessment results of the appraiser where the auction limit value as low as possible must be in accordance with the liquidation value so that the auction office has the authority to reject the auction application submitted by the seller if it is not in accordance with predetermined standards so as to ensure a sense of fairness for the parties. Third, if the auction price is determined by an internal estimator of the bank or creditor, it must follow a similar procedure of determining the value of the lien, market value and liquidation value in terms of the highest price. And the execution of the right of liability carried out with a limit value below the market price is permissible and valid according to applicable laws and regulations because the offer becomes limited and the price of the object becomes relatively much lower than the market price.

Based on the Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Guidelines, requires a limit value in each auction. Limit Value is the minimum value of items to be auctioned and set by the Seller. The determination of the Limit Value is the responsibility of the Seller, the limit value is determined based on the assessment by the appraiser or the assessment by the estimator. After an auction is held and the winner of the auction is determined by the auction official, the name Auction Price is obtained. The Auction Price is the highest bid price submitted by the Bidder who has been certified as the winner by the Auction Officer. In the implementation of Market Execution Auction 6 of the Law on Collateral Rights (UUHT), Fiduciary Guarantee Execution Auction, Pledge Execution Auction, and Bankruptcy Asset Execution Auction, the Limit Value is set with the highest range equal to the market value and the lowest equal to the liquidation value (Article 51 PMK 213/2020).

Article 1 Number 28 PMKN 213/2020 determines the limit value is the minimum price of goods to be auctioned and set by the seller. Looking at the credit distribution made by the creditor bank to the debtor with land collateral, the seller is the creditor bank. Although the bank is the party that determines the limit value of the object Auction, Article 44 paragraph (1) PMKN 213/2020 explicitly stipulates that in terms of determining the limit value, banks must consider input from:[6]

a. Assessment from the appraiser (the party who conducts the assessment independently based on his competence).
b. Appraisal by an estimator (a party derived from the seller, who makes an assessment based on methods that can be accounted for by the seller, including curators and for art and antiques or antiquities objects). One of the main subjects of PMKN 213/2020 turns out that the determination of the limit value below Rp. 1,000,000,000 (one billion rupiah) is the responsibility of the bank (creditor) based on an assessment by an estimator who is actually a party from the bank (creditor) itself, if referring to the previous rule, namely article 36 paragraph (6) PMKN 106 / PMK 06/2013, it can be concluded that the creditor Bank determines the limit value based on the assessment and estimator if the limit value is below Rp. 300,000,000 (three hundred million rupiah) against the limit value of Rp. 3000,000,000 (three hundred million limit value is determined based on the assessment of the appraiser). PMKN 213/2020 It should pay attention to the interests of debtors as people who are entitled to legal protection and equal opportunities in the economic sector. One of its manifestations is the regulation of determining the auction limit value paying attention to the principle of justice and the principle of propriety / fairness based on Pancasila.

B. Discussion of The modus operandi of determining the selling price of auction land is below the standards set by Minister of Finance Regulation Number 213/PMK.06/2020.

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[6] Harahap, M. Yahya. Scope of Civil Field Execution Issues, Fourth Print. Jakarta: Gramedia Pustaka Umum, 2003, page 78

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In auctions, there are also often lawsuits because auctions are carried out below standard prices that are not in accordance with the provisions, in this study the author examines in Supreme Court Decision Number 402 / Pdt / 2017 / PT SMG that there is a dispute between the applicant and the defendant, in this case the plaintiff disagrees because the market value is not the same with the object of the land being auctioned. And sued in default because it was not in accordance with the agreement made before the auction took place. Default is an act where someone breaks a promise against a promise he has made with another party. The legal basis for default is stipulated in Article 1338 of the Criminal Code which reads, "all agreements made in accordance with applicable law, as law for those who make them.

In the case of the Constitutional Court decision Number 402 / Pdt / 2017 / PT SMG explained that the Minutes of Auction were made on August 22, 2014, from the minutes of auction of the auction winner of the auction Defendant III, the Plaintiff's Guarantee by Defendant I and Defendant II Auctioned below the market price of IDR 62,000,000 (sixty two million rupiah) land covering an area of 281 m2, even though the market price of the land per m was IDR 2,000,000 (two million rupiah) The total price is IDR 562,000,000 (five hundred and sixty-two million rupiah), in which case the Defendant ostensibly sold the price of Plaintiff I's debt and therefore auctioned below the market price. 1 year after the auction i.e. 2015 and Plaintiff I was forced to receive poor money (the remaining money of the auction) from Defendant III on September 18, 2015 amounting to Rp 25,910,328, if he did not want to receive, then the money was owned by the state.

Supreme Court Decision Number 402/Pdt/2017/PT SMG which reads Considering, that because the Comparator has defaulted, Respondent I on the basis of the rights attached to it has made a sale based on the Certificate of Liability held by him and Defendant I in determining the limit value based on the assessment made by the assessment team carried out by the assessment team, so that therefore the determination of the limit value made by Respondent I is valid according to law. In this case, there is a default due to the fault of the auction estimator team.

In this writing, the author will focus on the application of the principle of fairness in the auction of collateral related to the determination of the limit value that must be included when the auction applicant submits an auction application. In practice, what is meant by the principle of fairness in auctions is to cover all aspects, namely procedural justice which is expected to cause justice to auction applicants, auction item owners and auction buyers. The theory of procedural justice was put forward by John Rawls. Through a procedural theory, justice is expected to be able to guarantee the implementation of rights and at the same time distribute obligations fairly to all people so as to realize peace, order and fairness as a whole and comprehensively. Procedural fairness in the auction in question is justice seen from the applicable procedures or a regulation that regulates the instructions for the implementation of auctions.[7]

There are many cases where banks set the limit value of the object of liability (auction goods) with the liquidation value. According to the author, the reason the bank uses the liquidation value as the limit value is that the bank initially

[7] Purnama T. Sianturi, Legal Protection for Buyers of Immovable Collateral through Auction, Bandung: Mandar Maju, 2008, page.34

sets the limit value above the liquidation value, but at the time of the auction there is no auction buyer, so at the time of re-auction the limit value price continues to be lowered until a winner / auction buyer is found by continuing to hold a re-auction, this will greatly prolong the process of returning debtor debts. Another reason is because the market value is usually used as a reference when buying and selling occurs at that time and there is a will between the buyer and seller and another reason is because in the PMK regarding the Auction Implementation Guidelines it is not regulated regarding the determination of the limit value must use the market value first or not.

PMK Number 213/PMK.06/2020 concerning Auction Implementation Guidelines does not regulate whether in determining the limit value must first use market value or not. However, in the PMK, it is regulated that the determination of the limit value must not be below the liquidation value. KPKNL will not check whether the limit value listed by the bidder is a fair price or the correct price on the market or not, what will be checked by KPKNL is the legality of the required documents. Then the limit value is the decision and responsibility of the auction applicant.

KPKNL has its own views on the protection provided to debtors. KPKNL provides legal protection limited to the implementation of auctions only, where the implementation of auctions must follow the requirements based on applicable regulations. Even though it carries out auctions in accordance with existing regulations, it does not rule out the possibility that KPKNL will be sued by debtors. There are also those who become The reason the debtor filed a lawsuit was due to illegal acts both involving the auction process and prices that were considered too low. Regarding the price, it is the creditor's business because the creditor determines the limit value. In the trial process, KPKNL only answered the question of the auction implementation process. The role of KPKNL in the auction process of execution of dependent rights is as a supervisor so that auction items are not misappropriated, KPKNL as a selection agency for dependent rights auction participants, KPKNL plays a role in maintaining the stability of the auction implementation of dependent rights, KPKNL acts as an intermediary between buyers and sellers of auction goods. Third

Based on Article 6 of the Law, the limit value must be set by the seller based on PMK Number 106 / PMK.06 / 2013 The limit value is the minimum price of goods to be auctioned and set by the seller / owner of the goods. In the implementation of the auction of execution of dependent rights, the provisions for the limit value of objects have been regulated in Article 36 paragraph (6) PMK Number 106 / PMK.06 / 2013. This provision states that in an execution auction based on Article 6 of the Law on Dependent Rights with a limit value of at least Rp. 300,000,000 (three hundred million rupiah), the limit value must be determined by the seller based on the assessment results of the appraiser.

So that a person or legal entity/business entity can be declared to have committed an unlawful act if it has fulfilled the four elements of unlawful acts in Article 1365 Bulgerlijk Wetboek. Creditors holding dependent rights have preferred rights, which are positions that take precedence over repayment from the proceeds of the sale of objects that have been encumbered with dependent rights. The creditor of the holder of the insured also has the right to sell the object of the insured on his own power through a public auction without court fiat.[8]

C. Discussion of Legal consequences regarding the sale of substandard auction land

We often find that the problem of debts does not work according to what is stated in the credit agreement and the number of debtors who renege on their achievements makes creditors take over what is guaranteed by the debtor. Credit agreements that occur between creditors and debtors usually arise because of an agreement from the parties, then the creditor will ask for guarantees from the debtor in order to fulfill the principle of trust between creditors and debtors.[9] The provision of credit with a guarantee of Right to Cover is a guarantee agreement that is accessoir to the principal agreement, namely the credit agreement. This guarantee agreement is necessary because in addition to guaranteeing repayment or implementation of the debtor's obligations to creditors, it also provides an ease in resolving disputes if the debtor defaults. This is because the law gives the right to parties who feel themselves aggrieved to act directly at the stage of forced realization of rights (execution) if the counterparty reneges on its obligations.10 In principle, the creditor will give a reprimand 3 times and if the debtor does not fulfill properly, the creditor has the obligation to execute the guarantee through the Court. After the guarantee is in the creditor, the guarantee becomes a dependent right, in principle, not all guarantees are called dependent rights, this is only devoted to objects such as land and houses. In principle, the most considered safe as an object of guarantee on the part of the debtor as collateral for his debt or credit is the right to land. The use of land rights guarantees is very important in providing credit because land in addition to being considered very safe as collateral or collateral, land is generally very easy to sell. Land has a value or price that tends to rise or always increase, is not easily destroyed or lost and has proof of rights, and can be encumbered as a dependent right.

In general, this happens in an Execution Auction because it is a "forced sale", so the bid becomes limited and the price of the object becomes relatively lower than the market price. However, the question is, if the purchase price becomes too low and unreasonable, PMK 213/2020 does not specifically regulate the procedure for submitting an auction cancellation after the auction is held. Article 39 PMK 213/2020 states: Cancellation of the auction after the auction has started can only be done by the Auction Officer in the case of:

a. Force majeure or force majeure; or
b. There are technical problems that cannot be resolved in the implementation of the auction without the presence of the Bidder
c. The limit value stated in the auction announcement is not in accordance with the limit value determination letter made by the seller

[8] H. Salim H.S., Development of Guarantee Law in Indonesia, Jakarta: RajaGrafindo Persada, 2004, page. 115

[9] Burhan Sidabariba, Auction of Execution of Dependent Rights, Depok, Papas Sinar Sinanti, 2019, page. 2.

[10] Mochammad Dja'is, Basic Thoughts of Execution Law, Faculty of Law, Diponegoro University, Semarang, 2004, page.8

While Article 4 PMK 27/2016 governs: Auctions that have been carried out in accordance with applicable regulations, cannot be canceled. In practice, claims for cancellation of auctions due to the assessment of the Limit Value below the market price that harms the debtor often occur and are carried out on the basis of Unlawful Acts ("PMH") based on Article 1365 of the Civil Code which governs: Every act that violates the law and brings harm to others, requires the person who caused the loss because of his fault to compensate for the loss.

According to Satjito Rahardjo, legal protection is an effort to protect one's interests by allocating a human right power to him to act in the framework of his interests. With the theory of legal protection proposed by Satjipto Raharjo for the provision of certainty and legal protection to creditors can be carried out when creditors can carry out the execution process on guarantees that have been given to creditors to ensure effective and efficient repayment of debtor debts, So that creditors can recover their rights to be able to receive credit returns or payments optimally The execution process is carried out when the debtor does not perform his obligations / defaults on his agreement by the parties to the credit agreement, therefore the way that can be done by creditors to obtain their rights in repaying debtor debts is by auctioning collateral objects which are then determined as debt repayment from the auction results. The winner of the auction in the auction process has good faith by carrying out and complying with all applicable procedures and regulations, Therefore, legal protection must be given, namely being able to claim back the right in the form of purchase money and costs that have been incurred as the winner of the auction for these guarantees submitted separately to the competent authority

In the credit agreement, when using collateral, the term deed of granting rights is known as a property agreement where registration is carried out and then a certificate of rights of dependents is carried out. Based on "Article 10 paragraph (1) of the Law on Rights of Dependents (UUHT)" says if the grantor of the Right of Liability is based on a promise to provide the Right of Liability as security for the repayment of the debt and is an inseparable part of the relevant debt agreement or other agreement that gives rise to the debt.12 Material security that can be bound by the right of Liability in accordance with the UUHT aims to make creditors as strong security holders and juridically recognized. The guarantee must be bound by registration with the local National Land Agency (BPN) according to the object located. With the existence of the right of dependents, the institution has authorized creditors as holders of collateral rights. The process that can be carried out to auction the execution of dependent rights must be in accordance with written regulations, then it must be stated that the object belonging to the debtor can be executed so that it has been agreed by the parties. In "Article 6 paragraph (2) of the Decree of the Minister of Finance jo. Article 6 paragraph (2)" 'Decree of the Directorate General of State Receivables and Auctions' gives the seller the right to determine special auction conditions It cannot contradict the general auction rules or existing laws and regulations. So that if the auction sale is carried out not in public by the auction official, the auction execution is declared null and void, all conditions and processes for executing the auction object are based on applicable regulations with the approval of the authority of the Government.

3. Conclusion

A. Determination of the selling price of auction land in determining the limit value based on the appraisal of the appraiser or the estimator of the estimator, the estimator here is the internal party of the seller or the party appointed by the seller to make an assessment based on a method that can be accounted for based on the amount of the estimated value of the selling price of goods, which is used to obtain accurate estimated calculation results. Thus, the mechanism for determining the auction price of land as follows, the seller can determine the market value as the first priority (upper limit) and the liquidation value as the last alternative (lower limit) to get the limit value. Second, the limit value must be determined first by the seller based on the assessment results of the appraiser where the auction limit value as low as possible must be in accordance with the liquidation value so that the auction office has the authority to reject the auction application submitted by the seller if it is not in accordance with predetermined standards so as to ensure a sense of fairness for the parties. Third, if the auction price is determined by an internal estimator of the bank or creditor, it must follow a similar procedure of determining the value of the lien, market value and liquidation value in terms of the highest price. And the execution of the right of liability carried out with a limit value below the market price is permissible and valid according to applicable laws and regulations because the offer becomes limited and the price of the object becomes relatively much lower than the market price.

B. The modus operandi in determining auction prices carried out by banks, first banks use liquidation value as limit value, is, banks initially set a limit value above the liquidation value, but at the time of auction there is no auction buyer, then at the time of re-auction the limit value price continues to be lowered, besides that the market value is usually used as a reference when buying and selling occurs at that time and there is a will between the buyer and seller reasoned because In PMK regarding Auction Implementation Guidelines, it is not regulated regarding the determination of limit values, must use market value first or not. PMK Number 213 / PMK.06 / 2020 concerning Auction Implementation Guidelines does not regulate whether in determining the limit value must first use market value or not, this is a loophole that is often used by bidders to determine the limit value below the fair price or in accordance with the liquidation value. By auctioning the object of liability with a liquidation value where the price becomes cheaper, the bank thinks it will be easier to find the winner / buyer of the auction and the debtor's debt is immediately paid off.

C. The determination of the limit value of the execution auction carried out far below the market price will harm the debtor as explained in article 1365 of the Indonesian Civil Code which discusses Unlawful Acts (PMH) so that the basis for consideration is the unlawful act and can be the basis for canceling the execution auction of the collateralized object so that it can be stated that there is a loss and causal relationship between the act and loss for the debtor as the owner of the object, the reason also becomes invalid and violates the fairness of the limit value and the KPKNL must fully uphold the principle that to determine the execution auction must be in accordance with applicable regulations. The determination of the auction price limit must have a principle of fairness, which is meant by the principle of justice is justice which includes procedural justice and justice for each party, procedural justice is applied not to the output but to the system (rule of law).

4. Advice

In order to realize the principle of legal protection for creditors when the debtor defaults, in determining the limit value of the execution auction carried out far below the market price, it is expected to use execution based on execution parameters. In order for the rights and obligations of each party to be protected fairly, in PMK it is regulated that the determination of the limit value must first use a market value and a limit value of at least 50% of the liquidation price, unless the owner of the goods agrees to it. And the KPKNL should have strict sanctions in the event of games or arbitrariness in determining the limit value, with strict sanctions it is hoped that the bidder will maximize the limit value of the auction item, so that procedural justice is achieved and can guarantee its rights and obligations fairly for each party so that it can realize peace, order and fairr as a whole and thoroughly.

5. References

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