

**LEGAL PROTECTION OF BUYERS IN GOOD FAITH IN
ONLINE AUCTIONS
(Study at the Medan City KPKNL Office)**

Violin Dwi Cahya¹⁾

Fakultas Hukum, Universitas Sumatera Utara

Email: violindwicahya@gmail.com

ABSTRACT

Online auction is a method of selling goods that is open to the public by offering written and/or verbal prices which increase or decrease to reach the highest price, which is preceded by an online auction announcement. Selling in public is by inviting people or having previously been informed about an auction being held online and then giving these people the opportunity to auction or buy to bid on the price, agree on the price and register the price. The problem formulation in this thesis is: How is the validity of online auctions in accordance with applicable regulatory provisions; What is the comparison between online and non-online (direct) auctions at the Medan City KPKNL; Legal protection for the rights of online auction buyers who have good intentions but cannot obtain the auctioned goods at the Medan City KPKNL. This research method uses empirical juridical research with a case approach, data obtained from Islamic Law data, primary data and secondary data. Then, the data is processed using qualitative analysis. The research results found that online auctions are legally regulated in accordance with Article 64 paragraph (2) of Minister of Finance Regulation Number 213/PMK.06/2020 which allows auction bidding via electronic mail, post or internet without the physical presence of participants. A comparison between online and live auctions shows that online auctions offer digital security, openness, broad access, and process efficiency, while live auctions maintain traditional processes with higher physical security risks and access limitations. Legal protection for online auction buyers who have good intentions but do not receive the goods from the auction at the Medan City KPKNL involves the possibility of demanding fulfillment of the agreement, with the help of consumer protection institutions or through court in accordance with applicable regulations. It is important for buyers to understand the rules that apply in that place to get appropriate assistance.

Keywords: Legal Protection, Buyers, Online Auctions.

A. Introduction

Auctions have long been known to the public as a means of buying and selling goods, but it is not known for certain since when auctions were used as a way of buying and selling. In its development, auctions are not only used as a means of

buying and selling, but are used as a law enforcement tool.¹ An auction is a form of buying and selling event that is packaged in different ways.

Buying and selling is an agreement, where one party binds himself to hand over an object and the other party to pay the price of the object that has been agreed upon (Article 1457 of the Civil Code). Usually, before an agreement is reached, it is preceded by bargaining, which functions as a determinant of when a permanent agreement will occur. Since the permanent agreement occurs, the sale and purchase agreement is declared valid and binding so that it must be implemented by the seller and buyer. Buying and selling is the most frequently held agreement in people's lives.²

Sale by auction is a further stage of the process of confiscation execution. The aim of the auction sale itself is to generally sell the defendant's assets so that from the sale proceeds the debt will be paid to the plaintiff in the amount specified in the decision. According to Article 200 paragraph (1) *Herzien Inlandsch Reglement (HIR)* or Article 215 *RechtReglement voor de Buitengewesten (Rbg)*, the sale of confiscated goods in public is carried out with an 'intermediary' or 'assistance' of the State Auction Office. If these two articles are connected to Article 1a of the Auction Regulations (LN 1908 No. 189), then it becomes clearer who the official who has the authority to conduct auction sales is, namely the Auctioneer.

An auction is known as an agreement that includes buying and selling, both in Civil Law and in Common Law.³ The State Property and Auction Services Office (KPKNL) always tries to carry out auctions in accordance with the provisions, so that legal certainty can be provided to auction buyers. Before carrying out the auction, the Head of KPKNL/Auction Officer appointed to carry out the auction for an object shall first verify the tender requirements documents, with the aim of providing the Head of KPKNL with information regarding the formal legality of the auction subject and object. In this way, it can be ensured that the auction carried out by the auction official

¹ Sudiarto. 2021. *Pengantar Hukum Lelang Indonesia*. Jakarta: Kencana, halaman 52-53

² Nurhilmiyah. 2020. *Hukum Perdata*. Medan: CV. Multi Global Makmur, halaman 126

³ Rachmadi Usman. 2018. *Hukum Lelang*. Jakarta: Sinar Grafika, halaman 1.

truly meets the requirements and can be carried out in accordance with applicable procedures, so that it does not cause legal defects and the appointment of the auction winner is also legally valid.

The auction winner is the buyer, either a person or a legal entity/business entity who submits the highest bid and is confirmed as the auction winner by the auction official. The winner in the auction is confirmed by the auction official and published in the auction minutes. Execution auctions as a valid legal act give rise to rights and obligations for the auction winner.

One of the obligations of the auction winner is to pay the principal auction fees and other corners/levies and one of their rights is to obtain the goods and proof of payment of the price and documents for the goods. Before the auction is held, the seller is required to announce the items to be auctioned. The publication of this announcement has provided an opportunity for third parties who feel disadvantaged to file a lawsuit before the auction. The *Vendu Regulations* regulate the rights of the auction winner related to the transfer of objects. In Article 42 of the *Vendu Reglement*, the auction winner has the right to obtain an authenticated copy or excerpt of the minutes or what is currently called an auction minutes excerpt.

Existing regulations related to auctions are sometimes unable to accommodate cases that occur in society. The transfer of rights by auction can only be registered if it is proven by a quotation from the auction minutes made by the Auction Officer in both execution auctions and voluntary auctions. As regulated in Article 94 paragraph (2) point a of Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Guidelines which states that the buyer obtains an excerpt from the auction minutes as a sale and purchase deed for the purpose of transferring the name or grosse the auction minutes as needed.

Transfer of rights through auction can be divided into two forms, namely transfer of rights by transfer and transfer of rights by transfer. The transfer of rights through auction minutes 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 auction minutes have the same position as the sale and purchase deed made by the Land Deed Making Officer (PPAT) which is usually used as a basis for registering the transfer of land rights at the land office. Regarding the submission of goods ownership documents, the auction winner has the right to obtain the original documents of ownership of the auction object.

Existing regulations related to auctions are sometimes unable to accommodate cases that occur in society. The transfer of rights by auction can only be registered if it is proven by a quotation from the auction minutes made by the Auction Officer in both execution auctions and voluntary auctions. As regulated in Article 94 paragraph (2) point a of Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Guidelines which states that the buyer obtains an excerpt from the auction minutes as a sale and purchase deed for the purpose of transferring the name or grosse the auction minutes as needed.

Transfer of rights through auction can be divided into two forms, namely transfer of rights by transfer and transfer of rights by transfer. The transfer of rights through auction minutes 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 auction minutes have the same position as the sale and purchase deed made by the Land Deed Making Officer (PPAT) which is usually used as a basis for registering the transfer of land rights at the land office. Regarding the submission of goods ownership documents, the auction winner has the right to obtain the original documents of ownership of the auction object.

An auction includes an agreement to buy and sell goods, therefore the terms and conditions for the validity of the agreement apply. An agreement in an auction sale is formed when the auction official, in the interests of the seller, appoints the highest bidder and reaches the limit price as the auction buyer. Therefore, considering the auction as an agreement, the law only regulates it if it is not specifically regulated

in the agreement. The auction as an agreement in its implementation is subject to the clauses of the auction minutes. The auction minutes clauses are determined unilaterally by the Auction Office, which has a stronger bargaining position and the auction buyer does not have the possibility to change the auction minutes clauses, so the auction minutes are a standard agreement or standard contract.⁴

All clauses in the auction minutes come from the Auction Office, which may not provide enough space for the rights of auction buyers. Article 35 of the *Vendu Reglement* regulates that the Minutes of Auction have the same meaning as the "Minutes" of the Auction. Auction minutes are the basis for authenticating auction sales, auction minutes record all events that occur during auction sales.

Preventive legal protection for auction winners is a form of protection given to auction winners before a dispute occurs regarding the auction object. *Vendu Reglement* provides preventive legal protection for auction winners regarding the transfer of rights to auction objects. This is in accordance with the provisions in Article 42 of the *Vendu Regulations*, that the auction winner has the right to obtain an excerpt from the auction minutes as a deed of sale and purchase of the auction object.

Preventive legal protection for auction winners is also contained in the auction minutes, which are minutes of the auction held by auction officials as authentic deeds and have perfect evidentiary power. Behind this, legal protection through juridical control, namely the handling of protection by judicial bodies, both civil and special administrative justice bodies, is repressive legal protection. Philpus M. Hadjon, stated that in the Netherlands, which adheres to a civil law system, currently the bodies that handle legal protection for the people are repressive, including: *rechtspraak van de gewonerechtster* (ordinary justice), *rechtspraak administratief* ("special"

⁴ Mukhidin. 2021. *Seluk Beluk Lelang Hak Tanggungan*. Bojong: PT. Nasya Expanding Management, halaman 108

administrative justice), administrative beroep, nationale ombudsman.⁵

The government has provided legal protection to auction buyers who have good intentions who participate in the auction in accordance with the applicable provisions, namely those which are expressly regulated in Article 4 of the Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Instructions, which confirms that the auction has been carried out in accordance with applicable provisions, cannot be cancelled. From this formulation, it reflects the principle of legal certainty for the auction winner.

The principle of good faith is known in agreements, which means that everyone who makes an agreement must do so in good faith. Muhammad Faiz stated that: "Good faith is an abstract meaning and difficult to formulate, so people mostly formulate it through events in court. Good faith in implementing agreements is related to issues of decency and appropriateness.

Good faith is the intention of one party in an agreement not to harm the promised partner or to harm the public interest. The principle of good faith is stated in Article 1338 paragraph (3) of the Civil Code which reads: Agreements must be implemented in good faith. This principle is the principle that the parties, namely the first and second parties, must carry out the substance of the agreement based on firm trust or belief and the good will of the parties.

Buyers who purchase an item through a public auction by the Medan City KPKNL, either in person or online, are buyers in good faith and must be protected by law. Auction buyers who have good intentions must be protected to provide legal certainty and justice for auction buyers. Through Article 4 of the Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions, the State, in this case the Medan City KPKNL, has provided legal protection for auction buyers who have good intentions even though the auction buyers are

⁵ I Dewa Gede Atmadja dan I Nyoman Putu Budiarta. 2018. *Teori-Teori Hukum*. Malang: Setara Press, halaman 169

conducting online.

B. Research Methods

A research cannot be said to be research if it does not have a research method.⁶ Research methods are one of the factors of a problem that will be discussed.⁷ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

C. Analysis And Discussion

1. Validity of Online Auctions in Accordance with Applicable Regulatory Provisions

The legal regulations for conducting online auctions are contained in Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions. Based on Article 1 point (12) of the Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions, an Auction Without the Attendance of Participants is an Auction that is not physically attended by the Bidder at the auction venue or is carried out via the Auction Application or e-Platform. Marketplace Auctions. With the issuance of regulations regarding online auctions, auctions are no longer just sales of goods that are open to the public directly, but sales of goods that are open to the public indirectly, namely through internet-based auction applications. Online auctions are regulated in Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions. The definition of an online auction is explained in Article 1 number (17) of the Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions, namely the sale of goods open to the public with written price offers without the presence of Bidders to achieve the

⁶ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁷ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

highest price which is carried out through Auction Application. The types of auctions that can be carried out using online auctions (e-auctions) are Execution Auctions, Mandatory Non-Execution Auctions, Voluntary Non-Execution Auctions.

The Auction Officer can determine the winner of the auction after the auction is finished and there are bids, witnessed by the Seller, 1 (one) witness from the online auction organizer, and 1 (one) witness from the seller. The system automatically sorts incoming offers based on the value of the offer and the time the offer was entered.

2. Comparison of Online and Non-Online Auction Implementation (Directly) at the Medan City KPKNL

The development of the times and the increasing mobility of society high levels result in everything in people's daily activities being required to be more practical in order to support community mobility. Therefore, the auction is designed to be easier and can be participated in by everyone wherever they are. Then an innovation arose to make auctions more practical and easier for the public so that it attracted many interested people, thereby causing auctions to be carried out using digital media and given the name online auctions.⁸

After the issuance of Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions, online auctions were carried out at the Medan City KPKNL based on directions from the Head Office and the Minister of Finance to carry out innovations related to the implementation of goods sales auctions at the Medan City KPKNL. The current digital era encourages people to do work easily and thoroughly and in the shortest possible time, so that effectiveness and efficiency in doing a job are taken into account.

The online auction itself is held with the aim of simplifying and shortening the auction process, because buyers do not have to be present in person at the auction. Buyers only need to monitor via the official application, namely Auction Indonesia or

⁸ Haryanto, "Syarat dan Ketentuan Pelaksanaan Lelang Dengan Penawaran Melalui Surat Elektronik Di Kantor Pelayanan Kekayaan Negara dan Lelang", *Jurnal Hukum*, Vol. II, No. 1, 2020, halaman 54

via the official website of the Directorate General of State Assets (DJKN) for online auctions, namely www.lelang.go.id.

The Indonesian Auction Application and website www.lelang.go.id are the official DJKN applications, which are a forum for online auction organizers, both KPKNL and Private Auction Halls. Online auctions are held to mitigate risk, because up to now the implementation of auctions has always been synonymous with anarchy, because usually debtors do not want to hand over their assets voluntarily, then avoid the risk of suspicion that the auction can be arranged, because if it is carried out online it all depends on the system, the winner of the auction determined automatically by the system based on the highest bid amount.

Nowadays, people are increasingly encouraged to become more familiar with auctions that are held online, people are introduced to the advantages and benefits of participating in online auctions. Moreover, the Medan City KPKNL is also slowly starting to replace offline auctions by requiring all applications to be submitted online. This certainly encourages an increase in the frequency of online auctions at the Medan City KPKNL. The reasons for implementing online auctions at KPKNL are very diverse, starting with the increasingly high mobility of society and rapid technological advances, requiring everything to be done effectively and efficiently.

The Minister of Finance directed the auction to be carried out online, which was then followed up by the Director of DJKN Auctions by issuing an Official Memorandum for the Director of DJKN Auctions Number ND 1284/KN.7/2019 dated 21 August 2019 concerning the Implementation of Online Auction Applications. Implementation of online auctions aims to make things easier and more comfortable for both applicants and auction participants. Auctions are held online in essence to develop auction implementation to be more modern, effective and efficient so that the public does not think that auction implementation is difficult and can be manipulated, as well as increasing auction users' sense of trust in the performance of the Medan City KPKNL.

3. Legal Protection for the Rights of Online Auction Buyers Who Have Good Faith but Cannot Obtain Auction Items at the Medan City KPKNL

Legal protection for auction buyers means legal certainty the rights of the auction winner to the object purchased through the auction. The auction process that has been carried out will give rise to legal consequences, namely the transfer of object rights auction from the seller to the auction winner. Problems in auctions occur when the auction winner, before carrying out his obligations regarding paying off the auction price, first looks at the auction object he purchased and the auction object does not match the specifications or photos/pictures in the auction announcement, as happened during the online auction at the City KPKNL Medan. Regarding this problem, the auction winner made a complaint to the online auction organizer. Buyers who have good intentions but do not receive the goods from the auction have legal rights that need to be protected. At the Medan City KPKNL, special rules governing the auction and bidding process are important in guaranteeing the buyer's rights. This protection allows buyers to sue the seller or auction organizer to fulfill the agreement they have made. This process involves the assistance of consumer protection agencies or courts, and a clear understanding of the rules that apply in that place.

Auction laws and regulations, both offline auctions and online auctions, give the same treatment to auction objects. The auction buyer is deemed to have full knowledge of the auction object being offered. In offline auctions, it is possible for auction participants to see the auction object first, whereas in online auctions, auction participants are more likely to be based on trust in the specifications of the goods listed in the auction announcement uploaded by the Auction Officer based on data from the Seller. In this case, the correctness of the specifications of the auction object, the latest photos/images of the auction object are the responsibility of the seller, and there are no regulations that explain how to treat sellers who provide invalid data on the object to be auctioned. Of course, this is detrimental to auction buyers, especially if there is a mismatch between the auction object and actual conditions.

Protection for online auction buyers means that the auction buyer is given protection where he can take part in the auction in accordance with the rules and procedures for carrying out the auction, until he is determined as the winner of the auction and receives the goods in good condition according to with those in the auction announcement, after he has carried out his obligations, namely paying off the auction price. Meanwhile, so far, it's appropriate Based on the research results, there are still some auction buyers who do not receive goods in good condition/according to the announcement auction. There are several auctions including office inventory sold using the term "package", which is not described in the list of auction items, so that after the buyer has fulfilled his obligation to pay off, he will see that the condition of the goods is incomplete or not in accordance with the auction announcement. This is the reason why some buyers choose not to pay the auction price that has been set or is called the buyer default.

D. Conclusion

The validity of online auctions is in accordance with the provisions of applicable regulations where the implementation of online auctions is regulated in Article 64 paragraph (2) of Minister of Finance Regulation Number 213/PMK.06/2020 concerning Auction Implementation Instructions which states that auction offers are written without the presence of auction participants, Bidders submit bids using electronic mail (e-mail), via postal drum, or via the internet either openly (open bidding) or closed bidding (closed bidding).

Comparison of online and non-online (direct) auctions at the Medan City KPKNL as online auctions offer openness, digital security, wide accessibility and better process efficiency with participation from anywhere. In contrast, live auctions tend to maintain the traditional process of physical presence, but have higher physical security risks and limited access for participants who are far from the auction location. While live auctions still rely on the transparency of the supervised process, online

auctions offer a digital track record that strengthens the transparency of bids and auction results to participants and authorities.

Legal protection for online auction buyers who have good intentions but do not receive the goods from the auction at the Medan City KPKNL includes being able to sue the seller or auction organizer to fulfill an agreement. This can be done with the help of consumer protection agencies or through the courts in accordance with applicable regulations. At KPKNL Medan City, there are special rules that can help buyers in this situation, so it is important for buyers to understand the applicable rules.

References

- Ismail Koto, “Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme”, *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.
- Ida Hanifah, Ismail Koto, “Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19”, *Jurnal Yuridis* 8.1, (2021): 23-42.
- I Dewa Gede Atmadja dan I Nyoman Putu Budiarta. 2018. *Teori-Teori Hukum*. Malang: Setara Press.
- Mukhidin. 2021. *Seluk Beluk Lelang Hak Tanggungan*. Bojong: PT. Nasya Expanding Management.
- Nurhilmiyah. 2020. *Hukum Perdata*. Medan: CV. Multi Global Makmur.
- Rachmadi Usman. 2018. *Hukum Lelang*. Jakarta: Sinar Grafika.
- Sudiarto. 2021. *Pengantar Hukum Lelang Indonesia*. Jakarta: Kencana.