



RECONSTRUCTION ON THE EXISTENCE OF NOTARY AUCTION OFFICERS IN THE DEVELOPMENT OF AUCTIONS

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ARTICLE INFO

Keywords:

Auction; Notary; Officer;
Professionalism;
Reconstruction.

DOI :

10.26532/jh.41.i3.48041

ABSTRACT

This research aims to discuss the reconstruction of the position and authority of notaries as auction officials in filling the legal vacuum and strengthening the legitimacy of auction minutes. The goal is to realize legal certainty and encourage a more modern, fair, and responsive auction system that meets the needs of the community. This research used doctrinal legal methods, relying on secondary data as library research. The research findings indicate that the existence of auction officials is still weak due to irrelevant colonial legacies, limited numbers, short terms of office, narrow authority, lack of authenticity in auction minutes, and outdated regulations and supervision. Reconstruction of the authority of auction officials from notaries is necessary to eliminate dualism, align regulations with the Notary Law, and strengthen legal certainty through the establishment of a new Auction Law that grants full authority to notaries with a certification mechanism, so that auction minutes have authentic legal force and can support the development of the auction system in Indonesia. This model adopts the pattern of appointing Notaries as Cooperative Deed Making Officials, thereby increasing professionalism and ensuring legal certainty in auction practices.

1. Introduction

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia¹ expressly states that "the Republic of Indonesia is a state based on law."² As a state based on law, all aspects of society, nationality and state affairs, including government, must always be based on law.³ According to Simorangkir,⁴ A state

1 Andri Winjaya Laksana, et, al., Criticism of Legal Protection for Victims of Drug Abuse: The Disharmonyin Legal Substance Regulation, *Legality: Jurnal Ilmiah Hukum*, Vol.33 No.1, 2025, page. 93-109

2 Leli Tibaka and Rosdian Rosdian., The Protection of Human Rights in Indonesian Constitutional Law after the Amendment of the 1945 constitution of the Republic of Indonesia. *Fiat Justisia: Jurnal Ilmu Hukum*, Vol.11 No.3, 2017, page. 266-288.

3 Ginting, Yuni Priskila., Perspektif Pluralisme Hukum Pasca Pembentukan Undang Undang Cipta Kerja. *Majalah Hukum Nasional*, Vol.51 No.1, 2021, page. 59-71.

of law is defined as a state that applies the principle of legality, namely that all state actions are carried out through, based on and in accordance with the law. The law has the highest position so that the implementation of state power does not deviate from the law, thus power will be subject to the law, not the other way around.⁵

Auctions are a buying and selling mechanism that has been known for thousands of years and has developed in various parts of the world, starting from Greece, Rome, England, until finally entering Indonesia through the *Vereenigde Oost-Indische Compagnie* (VOC).⁶ As the need for auctions grew, during the Dutch East Indies era, the legal basis for auctions was established with the issuance of the *Vendu Reglement, Ordonantie* of February 28, 1908, *Staatsblad* 1908-1909 as amended several times, most recently by *Staatsblad* 1941:3. *Vendu Reglement* (VR).⁷ In Indonesia, the legal basis for implementing auctions still uses the *Vendu Reglement* (VR) 1908, a legacy of the Dutch colonial era, which is still in effect based on Article I of the Transitional Provisions of the 1945 Constitution.⁸ This regulation was later supplemented by various derivative regulations, such as the Minister of Finance Regulation and the Director General of State Assets Regulation. These regulations are considered not fully responsive to legal developments and the needs of modern society.⁹

Auction officials in Indonesia are divided into two types, namely auction officials (from the Civil Servant element at the Ministry of Finance) and auction officials (from the private sector or notaries).¹⁰ The existence of auction officials who are notaries raises legal issues. Notaries are essentially public officials authorized to draw up authentic deeds, including auction minutes, as stipulated in the Notary Law.¹¹ However, in practice, only notaries appointed as auction officials can exercise this authority. This situation creates dualism and legal uncertainty that has the potential to hinder the development of auctions in Indonesia.¹²

4 JCT Simorangkir., *Hukum dan Konstitusi Indonesia*, Jakarta: Gunung Agung, 1983, page. 36

5 Safa'at, Rheina Aini, and Graciella Azzura Putri Ananda., Kedudukan dan Kewenangan Mahkamah Agung dalam Menyelenggarakan Kekuasaan Kehakiman di Indonesia. *Jurnal Kewarganegaraan*, Vol.8 No.1, 2024, page. 303-309.

6 Adwin Tista., Perkembangan Sistem Lelang Di Indonesia, *Al Adl Jurnal Hukum*, Vol.5 No.10, 2013, page. 46-70

7 M. Zein Hazimy, M. Zen Abdullah, Nyimas Enny FW, M. Chairul Idrah., Perlindungan Hukum Pejabat Lelang KPKNL dalam Pelaksanaan Tugas Pelelangan Hak Tanggungan Atas Tanah Hak Milik Nasabah, *Wajah Hukum*, Vol.6 No.2, Oktober 2022, page.488-498

8 P. N. H. Simanjuntak., *Hukum Lelang Di Indonesia*, Jakarta: Prenada Media, 2023, page. 7

9 Daniel Alusingsing, Sinkronisasi Aturan Kutipan Risalah Lelang Berdasarkan Peraturan Dirjen Kekayaan Negara Nomor 5/KN/2017 Tentang Risalah Lelang dengan Vendu Reglement dan PMK Nomor 27/PMK. 06/2016, *Indonesian Notary*, Vol.2 No.1, 2020, page. 22

10 Rachmadi Usman., *Hukum Lelang*, Jakarta: Sinar Grafika, 2022, page. 6

11 Nawaaf Abdullah., Kedudukan Dan Kewenangan Notaris Dalam Membuat Akta Otentik, *Jurnal Akta*, Vol.4 No.4, 2017, page. 655-664

12 Runi Viola., Notaris Sebagai Pejabat Lelang Kelas II, *ADIL: Jurnal Hukum*, Vol.8 No.2, 2017, page. 253-276

Another issue that has emerged is the weak synchronization between auction regulations and the Notary Law¹³. This creates confusion regarding the notary's authority to draft auction minutes. This lack of synchronization between the laws and regulations governing the authority of Notaries and Land Deed Officials (PPAT) in the practice of land legal services in Indonesia raises real issues of effectiveness and legal enforceability. This creates confusion regarding the authority of notaries to prepare auction minutes.¹⁴ In theory, a notary is the most appropriate public official to carry out this function because they possess the expertise, authority, and legal responsibility to ensure the certainty and authenticity of the deed. This legal vacuum has implications for inconsistent treatment and the potential for legal disputes in the auction sector.¹⁵

When compared to France, the differences are quite clear. The French auction system has undergone a more modern restructuring. Voluntary auctions of movable property are conducted by a special party licensed as an operator de ventes volontaires (OVV),¹⁶ with professional compliance obligations and strict oversight by the competent authorities. Execution auctions, on the other hand, fall under the authority of a commissioner of justice, a combined profession of a huissier de justice and a commissioner-priseur judiciaire, who acts upon a court order.¹⁷ Notaries in France retain the authority to preside over auctions for certain assets, particularly property auctions (*ventes aux enchères immobilières notariales*), and the deeds they draw up are recognized as authentic deeds with full legal force. This arrangement demonstrates a clear division of functions between voluntary, market-based auctions and judicial, execution-based auctions, with professional standards and structured oversight mechanisms.¹⁸ This differs from Indonesia, which still adheres to the *Vendu Reglement* 1908, where notaries can only act as auction officials for voluntary non-executive auctions through special appointment. This difference demonstrates the need for legal reform in Indonesia to affirm the position and authority of notaries, while simultaneously establishing a more modern institutional system to achieve legal certainty and foster the development of auction practices in Indonesia.¹⁹

Several previous studies have also highlighted the problems of auctions in

13 Ong Argo Victoria, Ade Riusma Ariyana, Devina Arifani., Code of Ethics and Position of Notary in Indonesia. *Sultan Agung Notary Law Review*, Vol.2 No.4, 2020, page. 397-407

14 Honggo Hartono., Sinkronisasi Peraturan Perundang-Undangan PPAT dan Notaris Berdasarkan Pancasila, *El-Dusturie: Jurnal Hukum dan Perundang-undangan*, Vol.4 No.1, Juni 2025, page.1-15

15 Laurensius Arliman., *Notaris dan Penegakan Hukum Oleh Hakim*, Yogyakarta: Deepublish, 2015, page. 66

16 Elisabetta Lazzaro dan Nathalie Moreau., Auctioneers vs. Commissaires-priseurs: The Carnival Mirror of Professional Regulation in the International Art Market, *European Journal of Comparative Economics*, Vol.10 No.2, 2013, page. 159-176

17 Interenchères., What is an Auctioneer or a Commissioner of Justice?, <https://help.interenchères.com/>

18 Sudiarto., *Penghantar Hukum Lelang Indonesia*, Jakarta: Prenada Media, 2021, page. 17

19 Natalia Maria Liju dan Abdul Rachmad Budiono., Perlindungan Hukum Terhadap Pembeli Lelang Yang Tidak Menerima Objek Lelang Dalam Masa Penyerahan, *Jurnal Cakrawala Hukum*, Vol.12 No.3, 2021, page. 303-313

Indonesia. Research by Moh. Djarkasih emphasized the need to reconstruct auctions for the execution of collateral to ensure fairness-based auction pricing, as auction limits have often been lower than the collateral value.²⁰ Diah Sulistyarini Ratna Sediati's research in the journal "The Role of Class II Auction Officials in the Implementation of Auctions in Indonesia" emphasizes that Class II Auction Officials play a crucial role in realizing a sense of justice through the principle of publicity, namely the announcement of auctions to protect the interests of the parties. In carrying out their duties, auction officials are required to be honest, careful, independent, impartial, and protect the interests of the parties involved. In addition, they must also provide legal certainty by preparing a true, clear, and complete Auction Minutes Deed to avoid disputes and to serve as an authentic deed that guarantees legal certainty.²¹ Unlike previous studies, this study specifically focuses on reconstructing the existence of class II auction officials originating from notaries in supporting the development of auctions in Indonesia. This study emphasizes the importance of optimizing the role of notaries as general officials who make authentic deeds to provide legal certainty in the implementation of auctions, especially voluntary non-execution auctions, so as to overcome the dualism of authority and legal vacuum that has so far been a barrier in auction practices in Indonesia.

The existence of Auction Officials in Indonesia faces various obstacles that hinder the development of auction practices. Their number is very limited due to a lengthy, strict, and costly selection process, short terms of office with heavy requirements for renewal, and authority restricted only to voluntary non-execution auctions. The purpose of this study is to examine and analyze the authority of auction officials derived from notaries, while simultaneously formulating a reconstruction of the position and authority of notaries as auction officials. This also aims to achieve legal certainty and contribute to the development of more comprehensive auction regulations, in line with the Notary Law, and able to meet the needs of auction practice in Indonesia.

2. Research Methods

Research on the Reconstruction of the Existence of Auction Officials Originating from Notaries in the Development of Auctions in Indonesia was a type of doctrinal research,²² namely research conducted by searching for data through library materials and document studies as well as legal approaches or research using theoretical or conceptual approaches and analytical methods included in

20 Moh Djarkasih., *Rekonstruksi Lelang Eksekusi Objek Jaminan Hak Tanggungan Dalam Menentukan Harga Lelang Berbasis Nilai Keadilan*. Semarang: Diss, Universitas Islam Sultan Agung, 2020.

21 Diah Sulistyarini Ratna Sediati., Peranan Pejabat Lelang Kelas II Dalam Pelaksanaan Lelang Di Indonesia, *Jurnal MMH, Fakultas Hukum Universitas Diponegoro*, Vol.39 No.2, 2010, page.20

22 Andri Winjaya Laksana, et. al., Integrating Maqasid al-Shari'ah in Contemporary Islamic Legal Reform on Drug Policy, *MILRev: Metro Islamic Law Review*, Vol.4 No.1, January-June 2025, page. 416-439

the discipline of dogmatic legal science.²³ The aim was to find theoretical truth about the problem being researched.²⁴

3. Results and Discussion

3.1 The Existence and Regulation of the Authority of Auction Officials Originating from Notaries in Indonesia

The Notary Law states that a notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in other laws.²⁵ The authority referred to in the Law relating to authentic deeds, namely in Article 15 paragraph (1) of the Law concerning the Position of Notary, which states:²⁶ "A notary has the authority to make authentic deeds regarding all deeds, agreements and stipulations which are required by statutory regulations and/or which are desired by those interested to be stated in authentic deeds, guarantee the certainty of the date of making the deed, store the deed, provide grosses, copies and extracts of the deed, all of this as long as the making of the deed is not assigned or excluded to other officials or other persons as determined by law.

Article 15 paragraph (2) of the Notary Law (UUJN) confirms that in addition to the main authority regulated in paragraph (1), notaries have additional authority in carrying out their profession.²⁷ This authority includes validating signatures and determining the certainty of the date of private letters by registering them in a special book, recording private letters by registering them in a special book, making copies or copies of the original private letters in the form of copies containing descriptions as stated in the original letter, validating the conformity of photocopies with the original letter, providing legal counseling related to the making of deeds, making deeds related to land, and making auction minutes deeds.²⁸ All of these additional authorities demonstrate the broad role of notaries in guaranteeing legal certainty in every document or legal act that requires formal legitimacy.

The provisions of Article 15 paragraph (2) letter g of the UUJN specifically give

23 Kornelius Benuf dan Muhamad Azhar., *Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer*, *Gema Keadilan*, Vol.7 No.1, 2020, page. 20-33

24 Rianto Adi., *Metodologi Penelitian Sosial dan Hukum*, Jakarta: Yayasan Pustaka Obor Indonesia, 2021, page. 12

25 Salihah Salihah, et. al., *Kewenangan Notaris Sebagai Pejabat Lelang Kelas II Dalam Penyelesaian Lelang Di Indonesia*, *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol.3 No.2, 2025, page. 2047-2056

26 Addy Pariudin., *Tanggung Jawab Notaris PPAT Dalam Pelepasan Hak Atas Tanah Dengan Ganti Rugi Yang Merugikan Pihak Lain (Studi Putusan Nomor. 09/Pdt. G/2013/PN. BJ)*. *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat*, Vol.18 No.1, 2018, page. 248-303

27 Henry Donald Lbn Toruan, *Legalitas Keberadaan Majelis Pengawas Notaris dan Majelis Kehormatan Notaris*. *Jurnal Penelitian Hukum De Jure*. Vol.20 No.3, 2020, page. 435-458.

28 Marchellino Fortuna Kano dan Khusnul Yaqin. *Sejauhmana Tanggung Jawab Notaris terhadap Surat Dibawah Tangan yang di Daftarkan pada Buku Khusus Notaris (Waarmerking)*. *Concept: Journal of Social Humanities and Education*, Vol.3 No.2, 2024, page. 111-116.

authority to notaries to draw up auction minutes deeds.²⁹ However, this authority cannot be exercised immediately. Notaries who wish to concurrently serve as auction officials must first obtain approval from the Directorate General of State Assets (DJKN) and meet the established requirements.³⁰ This shows that the position of a notary as an auctioneer is not an automatic authority, but must be through official appointment as a auction official by the DJKN.

Granting authority to a notary to draw up auction minutes is a form of professional expansion that allows a notary to carry out dual functions, both as a public official and as an auction official.³¹ This regulation not only strengthens the legitimacy of the auction deed that is made, but also guarantees administrative control from the DJKN so that the implementation of this authority is in accordance with applicable legal provisions.³²

The granting of authority to a notary to make auction minutes deeds is basically inseparable from the institutional dynamics of auction officials in Indonesia, where notaries who also serve as auction officials must comply with the applicable regulations and appointment mechanisms of the DJKN.³³ This legal construction places notaries in a unique position because they are located between the domain of the notary profession and the auction institutional system, thus giving rise to legal and practical consequences related to the existence of auction officials which until now still leaves problems in practice.

The existence of auction officials in Indonesia still faces a number of fundamental weaknesses that influence the development of the auction system.³⁴ The distinction between auction officials is a colonial legacy of the *Vendu Reglement* and *Vendu Instructie*, where auction officials come from government officials, while auction officials come from the private sector or certain state officials.³⁵ This situation creates inequality and is considered inconsistent with the principles of legal modernization.³⁶

Regarding the very limited number of auction officials, which is disproportionate to Indonesia's population and land area, this limited number of auction officials reduces public access to auction services, which has an impact on the auction

29 Yudhana Hendra Pramapta., Interpretasi Hukum Pasal 15 Ayat (2) Huruf g Undang-Undang Jabatan Notaris. *Officium Notarium*, Vol. 2, No. 2, 2022, p. 344-353.

30 P. N. H. Simanjuntak., *Hukum Lelang Di Indonesia*, Jakarta: Prenada Media, 2023, page. 88

31 Adam, Chistopher Kendrick, and Rasji Rasji., Peran Jabatan Notaris dalam Pelaksanaan Lelang Kepailitan. *UNES Law Review*, Vol.6 No.2, 2023, page. 5577-5584.

32 Irfan Hamzah Mangunsong., Kekuatan Mengikat Risalah Lelang Terhadap Hak Tanggungan Bagi Pembeli Lelang Di Kantor Pelayanan Kekayaan Negara Dan Lelang (Kpkn) Medan. *Ilmu Hukum Prima (IHP)*, Vol.3 No.2, 2020, page. 1-35

33 Ghansham Anand., Karakteristik Jabatan Notaris Di Indonesia, Jakarta: Prenadamedia Group, 2018, page. 43

34 Umami Maskanah et al., Peranan Notaris Sebagai Pejabat Lelang Kelas II Dalam Sistem Hukum Indonesia, *Innovative: Journal of Social Science Research*, Vol.4 No.6, 2024, page. 2787-2793

35 Diah Sulistyani Ratna Sediati., Peranan Pejabat Lelang Kelas II Dalam Pelaksanaan Lelang Di Indonesia, *Masalah-Masalah Hukum*, Vol.39 No.2, 2010, page. 139-146

36 Yudha Cahya Kumala., *Lelang Indonesia (Serba Serbi Lelang Dan Pelaksanaannya di Indonesia)*, Yogyakarta: Deepublish, 2021, page. 22

industry's contribution to state revenue.³⁷ The process for appointing auction officials is also considered too rigorous, lengthy, and expensive. The selection process, which includes administration, written exams, interviews, education, and on-the-job training, is often out of sync with practical needs, as many candidates come from the private sector with no experience in the auction sector. The cost of education, training, and appointment, which can reach millions of rupiah, also poses a barrier to the regeneration of this profession.³⁸

The next problem is that the term of office of auction officials is limited to only five years and can be extended with certain conditions, including the obligation to hold a minimum of 20 auctions in one period.³⁹ This regulation is considered unrealistic because not all regions experience high auction demand, resulting in many auction officials failing to extend their terms. Their authority is limited to voluntary non-execution auctions, making them unable to compete with auction officials, who have full authority to conduct all types of auctions, both execution and non-execution.⁴⁰

From a legal perspective, auction minutes prepared by auction officials are considered less authentic when viewed from the provisions of Article 1868 of the Civil Code, because their form is only regulated by ministerial regulations, not laws. This weakens the evidentiary power of auction minutes in court and creates legal uncertainty. The existence of two types of auction officials in Indonesia also raises issues of independence and neutrality, because auction officials come from government elements, while from the private sector, which has the potential to create unfairness in practice.⁴¹

From a regulatory perspective, the continued use of *Vendu Reglement* as the legal basis for auctions further demonstrates the backwardness of the Indonesian legal system.⁴² These colonial regulations no longer align with the values of Pancasila and the 1945 Constitution, particularly the principle of equality before the law for citizens. Supervision of auction officials is also carried out solely by the Ministry of Finance, which opens up the possibility of arbitrary action because it does not involve independent or professional elements.⁴³ Furthermore, the limited scope of work, which only covers a few

37 Diah Sulistyani Ratna Sediati., Peranan Pejabat Lelang Kelas II Dalam Pelaksanaan Lelang Di Indonesia, *Masalah-Masalah Hukum*, Vol.39 No.2, 2010, page. 139-146

38 Muhammad Haris., Kewenangan Notaris sebagai Pejabat Lelang Kelas II dalam Memberikan Penyuluhan Hukum atas Akta Risalah Lelang yang dibuatnya, *Syariah: Jurnal Hukum dan Pemikiran*, Vol.17 No.1, 2017, page. 76-89

39 Hartina Ruth Manora et al., Kewenangan Pejabat Lelang Kelas Ii Terhadap Minuta Risalah Lelang Yang Lebih Batas Waktu, *Jurnal Cakrawala Hukum*, Vol.13 No.1, 2022, page. 96-106

40 P. N. H. Simanjuntak., *Hukum Lelang Di Indonesia*, Jakarta: Prenada Media, 2023, page. 23

41 Vina Putri Salim dan Bambang Sugeng Ariadi Subagyo., Keabsahan Lelang Non Eksekusi Sukarela Secara Online Tanpa Pejabat Lelang, *Notaire*, Vol.5 No.1, 2022, page. 36

42 Rita Kartika Jayanti., Menuju Era Akta Lelang Digital: Legalitas dan Tantangan Digitalisasi Minuta Risalah Lelang di Indonesia. *Al Qodiri: Jurnal Pendidikan, Sosial dan Keagamaan*, Vol.22 No.2, 2024

43 Agni Prasetyawati dan Yunirman Rijan., Dasar Kebijakan Kementerian Keuangan Dalam Perbedaan Kewenangan Pelelang Dan Pejabat Lelang Kelas II Serta Akibatnya Dalam

cities or districts, also limits service coverage. All of these weaknesses indicate that the existence of auction officials still faces serious obstacles, necessitating regulatory reforms to allow this profession to develop and contribute more optimally to society and the nation.⁴⁴

3.2 Reconstruction of the Existence of Auction Officials Originating from Notaries in Supporting the Development of Auctions

The reconstruction of the authority and existence of Auction Officials, who are notaries, is driven by the need for legal certainty in Indonesian auction practices, which still rely on the *Vendu Reglement*, a legacy of colonial rule. According to Gustav Radbruch's Theory of Legal Certainty, the law is required to fulfill the values of certainty, justice, and utility.⁴⁵ Currently, certainty is disturbed by the dualism of auction officials, namely state and private, long and expensive appointment procedures, short terms of office with strict renewal requirements, supervision only from government elements, and auction minutes whose form is regulated by ministerial regulations, not laws, so that their authenticity is questioned according to Article 1868 of the Civil Code. The lack of synchronization between the Notary Law and auction regulations widens the room for multiple interpretations and erodes the principle of equality before the law.⁴⁶

Through Auction Theory, auctions are not merely the public sale of goods, but also encompass private purchasing or tender mechanisms and the selection of the most appropriate party for an object or institution.⁴⁷ These new forms create a need for authentic documents that guarantee certainty, which functionally aligns with the notary's competence as a public official who issues deeds.⁴⁸ However, the authority of Auction Officers is currently limited to voluntary non-execution auctions and a narrow scope of office, so that it is not commensurate with service needs and has an impact on the low reach and contribution of the auction sector to the economy.⁴⁹

Theory of Development Law from Mochtar Kusumaatmadja as an applied basis,

Praktek, *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan*, Vol.2 No.2, 2023, page. 482-499

44 Theoputra Yan Bawuna., Suatu Tinjauan Terhadap Pentingnya Pembaharuan Hukum Jual Beli Melalui Lelang Dalam Menjamin Kepastian Hukum Hak Pembeli Lelang, *Lex Privatum*, Vol.13 No.2, 2024, page. 45

45 Dino Rizka Afdhali dan Taufiqurrohman Syahuri., Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum, *Collegium Studiosum Journal*, Vol.6 No.2, 2023, page. 555-561

46 Chistopher Kendrick Adam Rasji Rasji., Peran Jabatan Notaris dalam Pelaksanaan Lelang Kepailitan, *UNES Law Review*, Vol.6 No.2, 2023, page. 577-584

47 Josheski, Dushko, and Elena Karamazova., Auction Theory and a Note on Game Mechanisms. *Croatian Review of Economic, Business and Social Statistics*, Vol.7 No.1, 2021, page. 43-59.

48 Rachmadi Usman., *Hukum Lelang*, Jakarta: Sinar Grafika, 2022, page. 24

49 Fatihatul Husna Maulida., Lelang Non Eksekusi oleh Pejabat Lelang Kelas 2 (Notaris) Dalam Peraturan Menteri Keuangan Republik Indonesia No. 122 Tahun 2023 tentang Petunjuk Pelaksanaan Lelang, *Eksekusi: Jurnal Ilmu Hukum dan Administrasi Negara*, Vol.3 No.1, 2025, page. 275-290

law is positioned as a means of renewal that ensures that change takes place in an orderly manner.⁵⁰ Therefore, primary legislation in the form of an updated Auction Law is needed to affirm norms, eliminate irrelevant dichotomies, and align notary authority with the auction regime. Implementing regulations should then be consistent with, rather than diminishing, the authority granted by, the Notary Law. This direction aligns with the practice of many countries that have relaxed access to the auctioneering profession through certification or registration systems to encourage market growth and tax revenue, while maintaining standards of integrity and accountability.⁵¹

Auction regulations in Indonesia, which still use Dutch heritage, have the same roots as the French legal system, so that the position of auction officials in Indonesia today is more similar to the practice in France and Continental European countries before the European Union.⁵² However, since France joined the European Union in 1998, the powers of auction officials in the country have undergone major changes with the abolition of the traditional role of commissaire-priseur.⁵³ The auctioneering profession is then seen as equal to professions in other economic sectors that contribute to state revenue, so that regulations become looser with the main aim of increasing auction and tax revenue, rather than strictly regulating auction buying and selling transactions.⁵⁴ To become an auctioneer, there are no specific requirements other than certification or registration with a professional association. Even without these requirements, one can still practice within a limited scope. This change marks a shift in the orientation of auction law in France from strict state control to a more flexible and economically oriented approach.⁵⁵

Captain James Cook proclaimed the eastern coast of Australia as part of the British Crown in 1770, followed by the establishment of the colony of New South Wales in 1788 under the doctrine of *terra nullius*, which denied the

50 M. Zulfa Aulia., Hukum Pembangunan dari Mochtar Kusuma-atmadja: Mengarahkan Pembangunan atau Mengabdikan pada Pembangunan? *Undang: Jurnal Hukum*, Vol.1 No.2, 2018, page. 363-392

51 M. Syahrul Borman., Kedudukan Notaris Sebagai Pejabat Umum Dalam Perspektif Undang-Undang Jabatan Notaris, *Kedudukan Notaris Sebagai Pejabat Umum Dalam Perspektif Undang-Undang Jabatan Notaris*, Vol.3 No.1, 2019, page. 112

52 Yossi Astuti dan Beta Pandu Yunita., Pelaksanaan Lelang Asset Debitur Dalam Upaya Penyelesaian Pembayaran Hutangnya Kepada Kreditur, *Datin Law Jurnal*, Vol.3 No.2, 2022, page. 67

53 Dong, Youyou., The Impact of French Auction Regulatory Policies on the Art Market: Take the Development of Paris Drouot in Nineteenth-Century as an Example. Master's thesis, Sotheby's Institute of Art-New York, 2022.

54 Prasetyawati, Agni, and Yunirman Rijan., Dasar Kebijakan Kementerian Keuangan Dalam Perbedaan Kewenangan Pelelang Dan Pejabat Lelang Kelas II Serta Akibatnya Dalam Praktek." *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan*, Vol.2 No.2, 2023, page. 482-499.

55 Richo Andi Wibowo., *Tata Kelola Pemerintahan Yang Baik Dan Pengadaan Barang Jasa Pemerintah: Pendekatan Perbandingan Hukum*, Yogyakarta: UGM Press, 2022, page. 37

ownership rights of the indigenous people.⁵⁶ Initially, land was distributed through grants, but this policy failed to stimulate economic growth, leading to the adoption of a land auction system in 1826, with proceeds used to finance migration from Britain. However, high land prices, weak enforcement, and the substantial benefits of illegal occupation led many settlers to seize Crown lands unlawfully, which was later legalized through the *Australian Lands Act* of 1845 granting 14-year leases. The expansion of sheep farming made Australia the world's largest wool producer, which in turn spurred the development of wool auctions that were originally centered in London but shifted to Australia by the late 19th century, thanks to local wool brokers such as Thomas Mort and Richard Goldsbrough. This shift benefited farmers by allowing faster payments from sales and was supported by the creation of a national wool auction system across major Australian port cities in the early 20th century.⁵⁷

The reconstruction⁵⁸ of Auction Officials in Indonesia requires the involvement of notaries due to their significantly greater number, longer terms of office, and the authority to create authentic deeds recognized by law, thereby addressing the various weaknesses in the current auction system. A notary's responsibilities as an auction official include duties that must be carried out in accordance with the law, civil liability, and criminal liability.⁵⁹ Notaries possess the education, experience, and integrity of neutral public officials supervised by a multi-tiered supervisory body, making them better equipped to carry out the function of creating auction minutes compared to auction officials, whose authority, jurisdiction, and term of office are limited. Auction minutes prepared by notaries will have perfect authentic force, unlike auction minutes produced by auction officials, which are only regulated by ministerial regulations. Through the establishment of a new auction law and the simplification of the appointment mechanism, notaries can be optimized as auction officials with full authority, thereby achieving legal certainty, maintaining public order, and contributing to the auction sector's contribution to national development.

The reconstruction of the authority and existence of Auction Officials carried out by notaries has strategic value in realizing legal certainty, justice, and benefits in auction practices in Indonesia. A notary is a public official who is authorized to make authentic deeds, one of which is to make auction minutes deeds in accordance with the Notary Law, but in other provisions, namely the Auction Regulations, it states that the person authorized to make auction minutes deeds is the Auction Official, so that it raises the problem of who is authorized to

56 Alan Dye dan Sumner La Croix., The Political Economy of Land Privatization in Argentina and Australia, 1810-1850 : A Puzzle, *The Journal of Economic History*, Vol.73 No.4, 2013, page. 901-936.

57 Simon Ville., The Relocation of the International Market for Australian Wool, *Australian Economic History Review*, Vol.45 No.1, 2005, page. 73-95

58 Andri Winjaya Laksana, et. al., Reconstruction of Law Enforcement Regulation Against Criminal Actions Performed by Children Based on The Value of Justice of Pancasila, *Russian Law Journal*, Vol.11 No.5, 2023, page.2489-2497.

59 Salihah, Amelia, Amanda, Yeny Enjang Wiji Utami, Kewenangan Notaris Sebagai Pejabat Lelang Kelas II dalam penyelesaian Lelang di Indonesia, *IJIJEL: Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol.3 No.2, 2025, page.2047-2056

make auction minutes deeds.⁶⁰ This value is evident in the effort to eliminate the dualism of authority auction officials that has caused uncertainty and discrimination in law enforcement. This reconstruction will provide added value in the form of strong legitimacy for auction minutes, because deeds prepared by notaries are recognized as authentic deeds in accordance with Article 1868 of the Civil Code.

The idea of renewing auction regulations in Indonesia through the establishment of a Law on Auctions that is more modern and adaptive to current developments, while simultaneously synchronizing its implementing regulations with the Law on the Position of Notary. This novelty element is realized by providing space for Notaries to be able to play a direct role as Auction Officials without having to go through an internship mechanism or PNBP levies, but rather through certification and special training facilitated by the Ministry of Finance in collaboration with professional organizations. This model adopts the pattern that has been applied in the appointment of Notaries as Cooperative Deed Making Officials, thereby expanding the authority of Notaries in preparing auction minutes while increasing professionalism and legal certainty in auction practices in Indonesia.

4. Conclusion

The existence and regulation of the authority of Auction Officials in Indonesia still face various weaknesses, both in terms of number, term of office, authority, and the legal force of the auction minutes they produce, thus creating legal uncertainty and hampering the development of the national auction system. Reconstruction through the involvement of notaries as auction officials is seen as a strategic solution because notaries have sufficient numbers, longer terms of office, and the authority to create authentic deeds recognized by law, thus ensuring legal certainty, expanding the reach of services, and increasing the contribution of the auction sector to development. Supported by the establishment of a new Auction Law and amendments to implementing regulations to align with the Notary Law, it is hoped that the role of notaries in organizing auctions can provide stronger legitimacy, eliminate irrelevant dualism of authority, and present a more modern, fair, and benefit-oriented auction system for the community and the state.

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