

The Authenticity of Auction Minutes Drawn Up by A Notary Acting as A Class II Auction Official Within the Indonesian Auction System

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Abstract. *Auction minutes provide authentic evidence of voluntary non-execution auctions and support legal certainty in payment, delivery, transfer of rights, and protection of auction participants. This article analyzes the legal construction of the authenticity and evidentiary force of auction minutes prepared by a notary acting as a Class II Auction Officer. The study employs normative legal research using statutory, conceptual, and analytical approaches to examine the Civil Code, notarial legislation, auction regulations, legal doctrines, and judicial decisions. The findings show that authenticity derives primarily from the special public authority of the Class II Auction Officer rather than merely from the notarial office. It requires compliance with competence *ratione personae*, *ratione materiae*, *ratione loci*, and *ratione temporis*, together with the prescribed form and procedure. As an *ambtelijke akte* characterized as a *relaasakte*, auction minutes possess external, formal, and material evidentiary force, although material force is limited to facts performed, observed, or witnessed by the Auction Officer. The article proposes a four-layer authenticity test covering official status, limits of authority, form and procedure, and scope of proof. This test distinguishes correctable clerical errors, fundamental formal defects, defects of authority, and procedural violations affecting auction validity.*

Keywords: Auction; Authenticity; Judicial; Officer.

1. Introduction

Indonesia is a state governed by law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.¹ Every exercise of public authority must derive from law and be carried out within legally prescribed limits. This principle also applies to auction administration, which involves sellers, buyers, owners of goods, creditors, debtors, and Auction Officers. An auction, as a public

¹ Anwar Usman, The Role of Indonesian Constitutional Court in Strengthening Welfare State and The Rule of Law, *Lex Publica* 7, No. 1 (2020): 11-27, DOI: <https://doi.org/10.58829/lp.7.1.2020.11-27>

sale, is conducted through open bidding to obtain the highest price, followed by payment, delivery of the goods, and transfer of rights over the auctioned object.² The entire process is recorded in the auction minutes, which contain the legal basis of the sale, the identities of the parties, the object, the reserve price, the bids, the final price, and the designation of the successful bidder. The auction minutes serve as an official record and as evidence that the sale has been conducted in accordance with auction procedures.³ Their legal position is directly related to certainty of payment, delivery of the object, registration of the transfer of rights, and legal protection for parties acquiring rights through an auction.⁴

Indonesian auction law continues to rely on the 1908 Vendu Reglement and the 1908 Vendu Instructie, supplemented by implementing regulations.⁵ Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines regulates auction categories, objects, requirements, bidding, payment, and settlement. Minister of Finance Regulation Number 86 of 2024 concerning Auction Minutes governs their form, structure, execution, correction, preservation of originals, and issuance of derivative copies. The regulation defines auction minutes as an official record prepared by an Auction Officer, classifies them as an authentic deed, and grants them perfect evidentiary force. The legal issue consequently concerns the source and limits of authenticity, since the legal quality of a deed is determined by the authority of the official, the prescribed form, territorial competence, and the procedure followed in its preparation. Such normative recognition constitutes the starting point for examining the position of auction minutes under civil evidentiary law rather than a final conclusion that all requirements of an authentic deed have necessarily been fulfilled.⁶

A notary is a public official authorized to draw up authentic deeds concerning legal acts, agreements, determinations, and legal events. Article 15 paragraph (2) letter g of the Notary Office Law includes the authority of a notary to draw up an auction

² Muhammad Afif Bobby Wijaya and Edith Ratna M.S., Akibat Hukum Pemenang Lelang dan Kesalahan Membuat Akta Risalah Lelang, *Notarius* 15, No. 1 (2022): 553–565, DOI: <https://doi.org/10.14710/nts.v15i1.46062>

³ Garry Gerrson Riwu, I Ketut Kasta Arya Wijaya, and Ida Ayu Putu Widiati, Perolehan Hak Milik atas Tanah Melalui Proses Lelang, *Jurnal Preferensi Hukum* 3, No. 3 (2022): 551–556, DOI: <https://doi.org/10.55637/jph.3.3.5587.551-556>

⁴ Christin Natalia Tambunan and Atik Winanti, Perlindungan Hukum bagi Pemenang Lelang Eksekusi Hak Tanggungan yang Tidak Dapat Menguasai Objek Lelang (Studi Kasus Putusan No. 3/Pdt.G/2018/PN.Lgs), *Jurnal Interpretasi Hukum* 5, No. 1 (2024): 821–829, DOI: <https://doi.org/10.22225/juinhum.5.1.8528.821-829>

⁵ Agung Laksono, Abdul Aziz Nasihuddin, and Siti Kunarti, Notary Authority in Making Auction Minutes as Authentic Deed in the Implementation of Voluntary Auctions, *Journal of Law, Politic and Humanities* 5, No. 4 (2025): 2381–2392, DOI: <https://doi.org/10.38035/jlph.v5i4.1404>

⁶ Ahnia Septya Karina, Sukarmi, and Endang Sri Kawuryan, Keabsahan Akta Risalah Lelang sebagai Akta Otentik dalam Pelaksanaan Lelang Elektronik oleh Kantor Pelayanan Kekayaan Negara dan Lelang, *Jurisdictie: Jurnal Hukum dan Syariah* 11, No. 1 (2020): 1–15, DOI: <https://doi.org/10.18860/j.v11i1.7421>

minutes deed. This authority must be understood in conjunction with the specific regulation of auction offices because a notary may conduct an auction only after satisfying the applicable requirements and being appointed as a Class II Auction Officer.⁷ Minister of Finance Regulation Number 189/PMK.06/2017 defines a Class II Auction Officer as a private auction officer authorized to conduct non-execution voluntary auctions within the territorial scope of office. Such appointment creates two distinct legal capacities in the same individual. Notarial deeds are drawn up by virtue of the notarial office, whereas the determination of auction implementation, receipt of bids, designation of the successful bidder, closure of the auction, and preparation of the auction minutes are carried out by virtue of the office of Class II Auction Officer.⁸

Article 1868 of the Burgerlijk Wetboek provides that an authentic deed must be drawn up in the form prescribed by law, by or before a competent public official, and within the place where that official is authorized to exercise official duties. The requirements of form, authority, and territorial competence must be fulfilled cumulatively. Auction minutes constitute an official deed or ambtelijke akte with the character of a relaasakte because the Auction Officer records events personally performed, observed, and witnessed during the auction process. This character differs from a partijakte, which primarily records the intentions or statements of appearing parties.⁹

The legal issue arises because the authority to draw up an auction minutes deed is provided under the Notary Office Law, whereas the authority to conduct an auction derives from a special appointment as a Class II Auction Officer. The relationship between these two sources of authority determines whether the authenticity of auction minutes originates from the notarial office, the office of Class II Auction Officer, or a combination of both. The answer also determines the competent supervisory institution, the applicable form of liability, and the limits of authority of the official preparing the deed.¹⁰

⁷ Fatria Hikmatiar Al Qindy, Inkonsistensi Pengaturan Kewenangan Pembuatan Risalah Lelang oleh Notaris, *Notaire* 4, No. 3 (2021): 355–372, DOI: <https://doi.org/10.20473/ntr.v4i3.30136>

⁸ Ni Made Ayu Sintya Dewi and Made Gde Subha Karma Resen, Harmonisasi Kewenangan Pembuatan Risalah Lelang antara Notaris dengan Pejabat Lelang, *Acta Comitatus: Jurnal Hukum Kenotariatan* 6, No. 1 (2021): 40–52, DOI: <https://doi.org/10.24843/AC.2021.v06.i01.p04>

⁹ Yudhana Hendra Pramapta, Interpretasi Hukum Pasal 15 Ayat (2) Huruf g Undang-Undang Jabatan Notaris, *Officium Notarium* 2, No. 2 (2022): 344–353, DOI: <https://doi.org/10.20885/JON.vol2.iss2.art16>

¹⁰ Durra Aliefa Susilo et al., Analisis *Onrechmatige Daad* sebagai Kausa dalam Pembatalan Risalah Lelang, *Officium Notarium* 5, No. 1 (2025): 26–49, DOI: <https://doi.org/10.20885/JON.vol5.iss1.art2>

The evidentiary force of auction minutes is directly related to the fulfillment of the requirements of authenticity, which comprise:¹¹

1. External evidentiary force, referring to the ability of the document to present itself as an authentic deed based on its form and the official who prepared it.
2. Formal evidentiary force, covering the truth of the time, place, bidding process, designation of the successful bidder, and actions performed or witnessed by the Auction Officer.
3. Material evidentiary force, applying to facts personally observed, performed, or witnessed by the official within the scope of authority.

Statements by the seller concerning ownership, the condition of the object, or the validity of documents may still be rebutted through contrary evidence because they fall outside the Auction Officer's direct observation. Article 1869 of the Burgerlijk Wetboek provides that a deed prepared by an unauthorized official or containing formal defects may have the evidentiary value of a private deed if it is signed by the parties. The application of this provision to auction minutes requires a specific assessment because auction minutes constitute a *relaasakte* and their contents do not entirely originate from the intentions of the parties.¹²

The central issue of this research concerns the relationship between the notarial office, the office of Class II Auction Officer, and the requirements for the formation of an authentic deed. The Notary Office Law grants notaries the authority to draw up auction minutes deeds, whereas the authority to conduct an auction arises from a special appointment as a Class II Auction Officer. Regulations governing auction minutes already classify such instruments as authentic deeds with perfect evidentiary force. The relationship among these three legal foundations does not yet fully clarify whether authenticity derives from the notarial office, the office of Class II Auction Officer, or their combined operation.¹³ A further issue arises when auction minutes are prepared by an unauthorized official, outside the territorial scope of office, after the expiration of the term of office, or in a form that fails to comply with statutory requirements. Such circumstances may affect the authentic character of the deed and reduce its evidentiary force because official authority and compliance with the prescribed form constitute essential requirements of an

¹¹ Almi Qodarrahan, Febrian, and Anna Sagita, Tanggung Jawab Notaris terhadap Akta yang Dibuat Terkait Pemalsuan Tanda Tangan Penghadap oleh Notaris, *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 11, No. 2 (2022): 208–220, DOI: <https://doi.org/10.28946/rpt.v11i2.2434>

¹² Annisa Indira Hondhe Hudsaha and Kholis Roisah, Akibat Hukum Akta Autentik yang Terdegradasi Menjadi Akta di Bawah Tangan, *Notarius* 18, No. 4 (2025): 1015–1033, DOI: <https://doi.org/10.14710/nts.v18i4.67331>

¹³ Linta Ulinnuha Bahraini, Kewenangan Pengawasan dan Pembinaan Notaris sebagai Pejabat Lelang Kelas II Berdasar Undang-Undang Jabatan Notaris, *Officium Notarium* 4, No. 1 (2024): 111–119, DOI: <https://doi.org/10.20885/JON.vol4.iss1.art8>

authentic deed.¹⁴ These defects may also affect the validity of the auction result and legal certainty regarding the transfer and control of rights by the successful bidder.¹⁵

Previous studies have examined several aspects of this issue. Muhammad Haris examined the authority of notaries acting as Class II Auction Officers to provide legal advice concerning the contents of auction minutes.¹⁶ Vina Putri Salim and Bambang Sugeng Ariadi Subagyono analyzed the validity of online non-execution voluntary auctions conducted without an Auction Officer and the legal protection arising from breach of contract, thereby focusing on the validity of the sale and the contractual relationship between the parties.¹⁷ Fatihatul Husna Maulida discussed the role of notaries as Class II Auction Officers following amendments to auction implementation guidelines. These studies primarily focus on official authority and auction administration.¹⁸ The research gap addressed in this study lies in the absence of an analysis specifically connecting the separation of the notary's legal capacity from the source of authenticity of auction minutes, their character as a *relaasakte*, and the limits of their external, formal, and material evidentiary force following the entry into force of the latest regulation on auction minutes.

The novelty of this research lies in positioning auction minutes as a product of the office of Class II Auction Officer prepared by an individual who also practices as a notary. The authenticity of auction minutes derives from the special authority of the Class II Auction Officer to conduct and record auction events, together with compliance with the form prescribed by auction law. Notarial status does not automatically confer authority to conduct an auction but provides professional expertise in the preparation of authentic deeds. This study aims to analyze the legal construction of the authenticity of auction minutes prepared by a notary acting in the capacity of a Class II Auction Officer and to examine the legal certainty of their evidentiary force where defects of authority or form are present. The

¹⁴ Hanifah Indriyani Anhar, Akibat Hukum Akta Notaris yang Tidak Memenuhi Pasal 38 Undang-Undang Nomor 2 Tahun 2014 tentang Jabatan Notaris, *Officium Notarium* 4, No. 2 (2024): 316–339, DOI: <https://doi.org/10.20885/JON.vol4.iss2.art8>

¹⁵ Salsabila Fathimah Azzahra and Siti Malikhatun Badriyah, Perlindungan Hukum terhadap Pemenang Lelang atas Objek Eksekusi Hak Tanggungan, *Lex Renaissance* 8, No. 1 (2023): 167–184, DOI: <https://doi.org/10.20885/JLR.vol8.iss1.art10>

¹⁶ Muhammad Haris, Kewenangan Notaris sebagai Pejabat Lelang Kelas II dalam Memberikan Penyuluhan Hukum atas Akta Risalah Lelang yang Dibuatnya, *Syariah Jurnal Hukum dan Pemikiran* 17, No. 1 (2017): 53–63, DOI: <https://doi.org/10.18592/sy.v17i1.1502>

¹⁷ Vina Putri Salim and Bambang Sugeng Ariadi Subagyono, Keabsahan Lelang Non Eksekusi Sukarela Secara Online Tanpa Pejabat Lelang, *Notaire* 5, No. 1 (2022): 155–178, DOI: <https://doi.org/10.20473/ntr.v5i1.33641>

¹⁸ Fatihatul Husna Maulida, Lelang Non Eksekusi oleh Pejabat Lelang Kelas 2 Notaris dalam Peraturan Menteri Keuangan Republik Indonesia Nomor 122 Tahun 2023 tentang Petunjuk Pelaksanaan Lelang, *Eksekusi Jurnal Ilmu Hukum dan Administrasi Negara* 3, No. 1 (2025): 275–290, DOI: <https://doi.org/10.55606/eksekusi.v3i1.1790>

analysis is limited to auction minutes arising from non-execution voluntary auctions within the competence of Class II Auction Officers so that the discussion remains focused and consistent with the legally prescribed limits of the office.

2. Research Methods

This study employs normative or doctrinal legal research, which conceptualizes law as a body of norms, principles, and doctrines to examine the authenticity and evidentiary force of auction minutes. The primary legal materials comprise the Burgerlijk Wetboek, the Notary Office Law, the Vendu Reglement, the Vendu Instructie, and regulations governing Class II Auction Officers, auction implementation, and auction minutes. Secondary legal materials consist of books, journal articles, research findings, and expert opinions, while tertiary legal materials include legal dictionaries and encyclopedias. The study applies statutory, conceptual, and analytical approaches to examine the relationship between notarial authority, the office of Class II Auction Officer, the requirements of authentic deeds, the characteristics of ambtelijke akte and relaasakte, and the legal consequences of defects in authority or form. All legal materials are analyzed qualitatively through inventory, classification, interpretation, and normative harmonization, and the findings are subsequently formulated prescriptively to explain the source of authenticity and the legal certainty of the evidentiary force of auction minutes in non-execution voluntary auctions.

3. Result and Discussion

3.1. The Legal Construction of the Authenticity of Auction Minutes Prepared by a Notary Acting as a Class II Auction Officer

Auction minutes occupy a central position in auction administration because they record a sequence of legal events from the examination of the legal basis for the sale to the designation of the successful bidder. The document contains the seller's identity, a description of the object, the reserve price, the bidding method, the highest bid, the buyer's identity, and the actions taken by the Auction Officer throughout the process.¹⁹ These elements connect the conduct of the auction with payment of the purchase price, delivery of the goods, and registration of the transfer of rights. Minister of Finance Regulation Number 86 of 2024 defines auction minutes as an official record prepared by an Auction Officer, classifies them as an authentic deed, and grants them perfect evidentiary force. Such legal status provides proof of a public sale and ensures that the auction result can be

¹⁹ Vira Mildasari and Aisyah Ayu Musyafah, Kewenangan Notaris Selaku Pejabat Lelang Kelas II Ditinjau dari Sudut Pandang Perundang-undangan, *Notarius* 17, No. 2 (2024): 1267–1282, DOI: <https://doi.org/10.14710/nts.v17i2.53969>

implemented by the parties and relevant authorities.²⁰ An excerpt of the auction minutes may serve as the basis for registering a transfer of rights, while the original minutes constitute a state archive that preserves continuity between the auction process and its derivative documents.²¹ The accuracy of their content and form, together with the authority of the drafter, determines their capacity to protect sellers and buyers in disputes concerning bidding, payment, possession of goods, or transfer of rights. Auction minutes therefore constitute a legal instrument that validates and proves the sale rather than merely an administrative record prepared after its completion.

A Class II Auction Officer is a private auction official who obtains public authority through appointment within the Ministry of Finance. The scope of authority is limited to non-execution voluntary auctions involving goods owned by individuals, legal entities, or business entities. Appointment to this office requires selection, professional training, formal appointment, an oath of office, and inauguration. The term and territorial scope of office are also specifically determined.²² Limitations concerning the type of auction, period of office, and territorial jurisdiction demonstrate that the validity of auction minutes follows the validity of the official act through which they are produced. Minutes arising from an auction conducted beyond the official's authority face questions of authenticity because the officer has exceeded the mandate conferred by the appointment. Every official act must therefore be traceable to the appointment decision to ensure that the authority exercised corresponds to the legal basis of the office.

A notary serves as a public official authorized to draw up authentic deeds in order to guarantee certainty regarding the date, identity of the appearing parties, content of the legal act, and preservation of the original deed. Article 15 paragraph (2) letter g of the Notary Office Law includes the authority to prepare an auction minutes deed. This provision must be interpreted together with the specific regulations governing the auction office. The notary's authority to draw up deeds does not automatically include the power to announce an auction, examine the seller's requirements, receive bids, determine eligible participants, designate the successful bidder, and close the sale. These acts may only be performed after the notary has been appointed as a Class II Auction Officer.²³ Notarial status provides

²⁰ Lavetta Ferels, Zainal Muttaqin, and Muhammad Akyas, Sinkronisasi Pengaturan Pemindahan Hak atas Tanah Melalui Lelang dalam Perspektif Teori Kepastian Hukum, *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan* 7, No. 2 (2024): 175–192, DOI: <https://doi.org/10.23920/acta.v7i2.1742>

²¹ Hartina Ruth Manora, Abdul Rachmad Budiono, and Endang Sri Kawuryan, Kewenangan Pejabat Lelang Kelas II terhadap Minuta Risalah Lelang yang Lebih Batas Waktu, *Jurnal Cakrawala Hukum* 13, No. 1 (2022): 96–106, DOI: <https://doi.org/10.26905/idjch.v13i1.7096>

²² Ida Bagus Agung Putra Santika, Nengah Renaya, and Kresna Yoga Mahaputra, Notary Authority as a Class II Auction Official in the Perspective of the Notary Office Act, *Jurnal Notariil* 8, No. 2 (2023): 98–104, DOI: <https://doi.org/10.22225/jn.8.2.2023.98-104>

²³ Tomy Indra Sasongko, Kewenangan Notaris dalam Pembuatan Akta Risalah Lelang Pasca Berlakunya Peraturan Menteri Keuangan Nomor 90/PMK.06/2016 tentang Pedoman Pelaksanaan

professional competence in identity verification, deed preparation, preservation of originals, and evidentiary law. Appointment as a Class II Auction Officer grants the authority to conduct the legal event recorded in the auction minutes. The distinction between competence in deed preparation and authority to conduct an auction provides the basis for identifying the office from which the authentic character of the resulting document derives.

The appointment of a notary as a Class II Auction Officer creates two distinct official capacities in the same individual. Deeds concerning agreements, declarations, or determinations are prepared under the Notary Office Law. The scheduling of the auction, examination of requirements, receipt of bids, designation of the buyer, and completion of the auction minutes are carried out under auction law. This distinction affects the source of authority, territorial jurisdiction, term of office, supervision, and liability.²⁴ The obligation to separate the original auction minutes from the notarial protocol confirms that the document constitutes a product of the office of Class II Auction Officer, even though its drafter also practices as a notary. This separation also determines the competent supervisory institution, examination procedure, and applicable sanctions when violations occur during the preparation of the minutes or at any stage of the auction process.²⁵

The source of authenticity of auction minutes lies in the integration of the authority of the Class II Auction Officer and compliance with the form prescribed by auction law. Notarial status provides professional competence in deed preparation, while appointment as a Class II Auction Officer grants authority to conduct and record a public sale. The official preparing the minutes must have been duly appointed, sworn in, inaugurated, remain within the term of office, conduct an auction falling within the assigned authority, and act within the designated territorial jurisdiction.²⁶ The minutes must also comply with the prescribed structure, mandatory content, execution, correction, and management of the original deed. These two elements cannot be separated. Authority without compliance with the required form produces a formally defective document, while

Lelang dengan Penawaran Secara Tertulis Tanpa Kehadiran Peserta Lelang Melalui Internet, *Lex Renaissance* 3, No. 1 (2018): 206–225, DOI: <https://doi.org/10.20885/JLR.vol3.iss1.art9>

²⁴ Muhammad Ferri Ardiansyah, Legality and Limits of Authority of Notaries Who Also Serve as Class II Auction Officials in the Settlement of Auction Disputes, *Justisi* 12, No. 1 (2026): 121–140, DOI: <https://doi.org/10.33506/js.v12i1.4965>

²⁵ Yudha Cahya Kumala, Rekonstruksi Keberadaan Pejabat Lelang Kelas II Berasal dari Notaris dalam Perkembangan Lelang di Indonesia, *Jurnal Review Pendidikan dan Pengajaran* 7, No. 3 (2024): 11500–11511, DOI: <https://doi.org/10.31004/jrpp.v7i3.32688>

²⁶ Mahdalena, H. Sudiarto, and Muhaimin, Notary Authority in Making Auction Minutes Deeds Based on the Regulation of the Minister of Finance No. 90/PMK.06/2016, *Journal of Law, Policy and Globalization* 128 (2023): 1–7, DOI: <https://doi.org/10.7176/JLPG/128-01>

a complete form cannot cure the absence of official authority.²⁷ The drafter's status as a notary cannot substitute for special appointment as a Class II Auction Officer because the notarial office does not confer authority to conduct bidding or designate the successful bidder. Authenticity arises when a duly authorized official records an event falling within the scope of office through the legally prescribed form. This construction positions notarial status as the basis of professional expertise, while the office of Class II Auction Officer constitutes the source of public authority that produces authentic auction minutes.

Article 1868 of the *Burgerlijk Wetboek* establishes three criteria for an authentic deed: it must be prepared in the form prescribed by law, drawn up by or before a competent public official, and executed within the territorial jurisdiction of that official.²⁸ These criteria apply to auction minutes through four dimensions of official authority. *Ratione personae* examines whether the drafter has been validly appointed as a Class II Auction Officer and remains in office. *Ratione materiae* assesses whether the object and type of sale fall within the scope of non-execution voluntary auctions. *Ratione loci* examines whether the auction was conducted within the official's territorial jurisdiction. *Ratione temporis* determines whether the authority remained valid when the auction was conducted and the minutes were completed. These four dimensions form a complete basis of authority and distinguish an administrative error from an excess of authority capable of affecting the authentic character of the deed.²⁹

Minister of Finance Regulation Number 86 of 2024 divides auction minutes into the heading, body, and closing sections. The heading contains the legal basis, time, place, identity of the official, identity of the seller, and preliminary requirements. The body records the object, participants, bids, and price formed during the auction. The closing section contains the final result, the designated buyer, attached documents, and required signatures. This structure ensures traceability from the preparation stage to the closing of the auction. Numbering, attachments, corrections, issuance of derivative copies, and preservation of the original minutes maintain consistency between the original document and its copies or excerpts.

²⁷ I Nengah Gowinda Wijaya, Sanctions for Not Being Read Out by the Auction Office, *Jurnal Cakrawala Hukum* 13, No. 2 (2022): 164–174, DOI: <https://doi.org/10.26905/idich.v13i2.5896>

²⁸ Ali Arben and Andrew Shandy Utama, Kedudukan Akta Notaris sebagai Akta Autentik dalam Hukum Perdata Berdasarkan Undang-Undang Jabatan Notaris, *Andrew Law Journal* 3, No. 1 (2024): 1–11, DOI: <https://doi.org/10.61876/alj.v3i1.26>

²⁹ Sri Nur Hari Susanto, Metode Perolehan dan Batas-Batas Wewenang Pemerintahan, *Administrative Law and Governance Journal* 3, No. 3 (2020): 430–441, DOI: <https://doi.org/10.14710/alj.v3i3.430-441>

Each section performs a different evidentiary function and must form an integrated whole so that the auction result can be fully verified.³⁰

Auction minutes constitute an official deed or *ambtelijke akte* characterized as a *relaasakte*. The Auction Officer prepares the deed on the basis of events personally performed, observed, and witnessed, including the examination of requirements, opening of bidding, recording of prices, identification of the highest bidder, and designation of the buyer. This character differs from a *partijakte*, which primarily records the intentions or declarations of the appearing parties.³¹ The evidentiary force of auction minutes as a *relaasakte* principally covers the formal truth of the auction process and the official actions undertaken during its implementation.³² Statements by the seller concerning the origin of ownership, physical condition of the goods, economic value, or absence of disputes remain within the sphere of party declarations to the extent that they are not directly examined by the Auction Officer. This distinction determines the limits of material evidentiary force. Authenticity guarantees that statements were made and actions occurred as recorded by the official, while the truth of information originating from the parties may still be rebutted by contrary evidence.³³ The classification of auction minutes as a *relaasakte* also explains why official authority forms the core of authenticity, as the deed derives its force from the presence, actions, observations, and records of the official acting within the legally defined scope of office.

The French auction system provides a comparative basis for examining the relationship between official authority and the authenticity of auction documents. Voluntary public auctions of movable property are conducted by qualified *commissaires-priseurs* or *maisons de vente* whose activities must be declared to and regulated by the *Conseil des maisons de vente*.³⁴ Judicial auctions of movable property fall within the authority of the *commissaire de justice*, who acts as a

³⁰ Melisa Pranata and David Hardjo, Ambiguitas Frasa Akta Jual Beli dalam Risalah Lelang sebagai Dasar Penyerahan Hak Milik atas Tanah dan Bangunan kepada Bank, *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, No. 3 (2025): 1406–1417, DOI: <https://doi.org/10.61104/alz.v3i3.1345>

³¹ Andini Bunga Pradipta and Ana Silviana, Penggunaan Teleconference dalam Perancangan Akta Notaris, *Notarius* 17, No. 2 (2024): 857–874, DOI: <https://doi.org/10.14710/nts.v17i2.45480>

³² Felita Agripinia and Aminah, Penyelesaian Permasalahan Notaris dan Pejabat Pembuat Akta Tanah dalam Gugatan Perdata, *Notarius* 18, No. 3 (2025): 828–844, DOI: <https://doi.org/10.14710/nts.v18i3.64818>

³³ Selvi Dhian Padma Sari, Pertanggungjawaban Notaris terhadap Akta yang Memuat Keterangan Palsu, *Officium Notarium* 1, No. 3 (2021): 572–582, DOI: <https://doi.org/10.20885/JON.vol1.iss3.art18>

³⁴ French Republic, Law No. 2022-267 of 28 February 2022 on the Modernization of the Regulation of the Art Market and Articles L.321-4, L.321-18, and L.321-23 of the *Code de commerce*, 1 July 2026, <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000045268693/>

public and ministerial officer in sales ordered by a court or required by law.³⁵ Notaries may organize voluntary auctions involving immovable property, including houses, apartments, commercial premises, and land.³⁶ Each professional derives authority from a distinct legal basis and performs functions limited by the nature of the sale and the type of property involved. This division confirms that the legal character of an auction document follows the official capacity in which the auction is conducted and recorded. The comparison supports the construction adopted in Indonesia that a notary does not derive authority to conduct an auction solely from the notarial office. Such authority arises from appointment as a Class II Auction Officer, while notarial status provides professional competence in deed preparation. The French arrangement therefore strengthens the argument that clarity of official capacity, scope of authority, and institutional supervision constitutes a prerequisite for determining the authenticity of auction minutes.

The resulting legal construction places auction minutes as a product of the office of Class II Auction Officer in non-execution voluntary auctions. A notary acquires authority to conduct an auction only after appointment, taking the oath, and inauguration into that office. Notarial status provides competence in deed preparation, identity verification, management of original documents, and understanding of evidentiary responsibility. The authority to conduct the auction nevertheless derives from the office of Class II Auction Officer. The authenticity of auction minutes arises when the official satisfies the requirements of *ratione personae*, *ratione materiae*, *ratione loci*, and *ratione temporis* and prepares the document in the form prescribed by law. Their character as an *ambtelijke akte* in the form of a *relaasakte* limits the guaranteed truth to actions and events personally performed, observed, or witnessed by the official. Information concerning ownership or the condition of the object originating from the seller remains open to rebuttal. Recognition of auction minutes as an authentic deed must therefore be tested through the conformity of the official's status, scope of authority, deed form, and recorded legal event. This conclusion clarifies the different functions of notarial status and the office of Class II Auction Officer: the former supports professional competence, while the latter confers the public authority required to produce authentic auction minutes.

3.2. Legal Certainty of the Evidentiary Force of Auction Minutes Prepared by a Notary Acting as a Class II Auction Officer

Legal certainty in civil evidence requires clarity concerning the legal status of an evidentiary instrument, the scope of facts it proves, and the legal consequences

³⁵ French Ministry of Justice, Le commissaire de justice, 2022, section on valuations, inventories, and judicial auctions, <https://www.justice.gouv.fr/justice-france/acteurs-justice/professionnels-du-droit/commissaire-justice>

³⁶ Conseil supérieur du notariat, Les ventes aux enchères immobilières notariales, *Notaires de France*, 29 April 2021, <https://www.notaires.fr/fr/immobilier-fiscalite/vente-rapide/les-ventes-aux-encheres-immobilieres-notariales>

arising when the requirements for its formation are violated. Gustav Radbruch places legal certainty alongside justice and utility as the three fundamental values of law. Legal certainty enables parties to anticipate the consequences of legal acts on the basis of predetermined rules.³⁷ Auction minutes satisfy this value when the identity of the drafting official, the form of the deed, the recorded facts, and its evidentiary force can be consistently determined. Minister of Finance Regulation Number 86 of 2024 classifies auction minutes as an authentic deed possessing perfect evidentiary force. This classification must be applied together with Articles 1868 to 1871 of the *Burgerlijk Wetboek* so that the scope of truth guaranteed by the deed can be distinguished from statements of the parties that remain open to rebuttal.³⁸

External evidentiary force, or *uitwendige bewijskracht*, refers to the capacity of auction minutes to present themselves as an authentic deed without first requiring additional evidence. This force is reflected in the title of the deed, serial number, identity of the Auction Officer, territorial jurisdiction, structure of the heading, body, and closing sections, attachments, signatures, and conformity between the original minutes and their derivative copies. Auction minutes that outwardly comply with legal standards must be accepted as an authentic deed until the contesting party proves forgery, a defect of authority, or non-compliance with the prescribed form.³⁹ The burden of proof rests on the party challenging the authenticity or external validity of the document. Article 1872 of the *Burgerlijk Wetboek* also permits suspension of the enforcement of a deed where an allegation of forgery arises. External evidentiary force therefore protects confidence in auction minutes while preserving the possibility of judicial examination.

Formal evidentiary force, or *formele bewijskracht*, guarantees the truth that the recorded events were performed, declared, or witnessed by the Auction Officer at the time and place stated in the minutes. Its evidentiary scope includes the identities of the parties present, the opening of the auction, the bidding method, the bids submitted, the highest bid, the designation of the successful bidder, and the closing of the auction.⁴⁰ The character of auction minutes as a *relasakte* gives the officer's record of these events binding formal evidentiary value for the parties

³⁷ Itok Dwi Kurniawan and Souad Ezzerouali, Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism, *Nusantara: Journal of Law Studies* 3, No. 2 (2024): 137–146, DOI: <https://doi.org/10.5281/zenodo.17385496>

³⁸ Umami Maskanah, Siti Nurhasanah, and Muhammad Akhmal Avshary, Legal Power of Proof of Auction Minutes Deed in Electronic Implementation, *Golden Ratio of Data in Summary* 5, No. 1 (2025): 84–92, DOI: <https://doi.org/10.52970/grdis.v5i1.905>

³⁹ Nadhia Apriana, Kedudukan Premisse dalam Anatomi Akta Notaris, *Officium Notarium* 3, No. 1 (2023): 49–58, DOI: <https://doi.org/10.20885/JON.vol3.iss1.art6>.

⁴⁰ Rita Kartika Jayanti, Menuju Era Akta Lelang Digital: Legalitas dan Tantangan Digitalisasi Minuta Risalah Lelang di Indonesia, *Al Qodiri: Jurnal Pendidikan, Sosial dan Keagamaan* 22, No. 2 (2024): 164–177, DOI: <https://doi.org/10.53515/qodiri.2024.22.2.164-177>

and those deriving rights from them. A denial of formal facts must be supported by evidence demonstrating a discrepancy between the actual event and the official record. This evidentiary force does not transform every statement made by a seller or participant into a fact personally witnessed by the Auction Officer. Statements concerning the origin of ownership or the condition of the goods remain statements of the party where the officer merely records them on the basis of submitted documents. This limitation preserves the function of the minutes as an official record without extending the officer's responsibility beyond matters personally observed.⁴¹ Material evidentiary force, or materiële bewijskracht, attaches to the truth of content directly related to the principal auction event and falling within the Auction Officer's authority. The highest price, identity of the designated buyer, time of closure, and auction result constitute facts possessing material evidentiary force because they arise during a process led by the officer. Statements concerning ownership status, authenticity of documents, physical condition of the property, or absence of disputes occupy a different evidentiary position when originating from the seller.⁴² Article 1871 of the Burgerlijk Wetboek limits perfect evidentiary force in relation to statements that are not directly connected with the principal content of the deed. The phrase "perfect evidentiary force" in auction minutes therefore means that the court must accept lawfully recorded facts until opposing evidence successfully rebuts them, rather than treating every item of information in the minutes as absolute truth.⁴³

A defect of authority arises when a Class II Auction Officer lacks a valid legal basis for holding office or acts beyond the prescribed limits of authority. Such defects include an officer who has not been appointed, sworn in, or inaugurated; whose term of office has expired; who has been temporarily suspended; who conducts an auction outside the territorial jurisdiction; or who presides over a type of auction other than a non-execution voluntary auction.⁴⁴ Each form of defect relates to authority *ratione personae*, *ratione materiae*, *ratione loci*, and *ratione temporis*. A territorial violation may be assessed differently from an act performed by a person who has never been appointed, although both affect the requirement of official competence under Article 1868 of the Burgerlijk Wetboek. Examination of the appointment decision, inauguration record, term of office, territorial

⁴¹ Gusti Ayu Mahadewi Larashati, Pertanggungjawaban Notaris terhadap Keabsahan Akta Autentik yang Menggunakan *Surrogate*, *Morality: Jurnal Ilmu Hukum* 9, No. 1 (2023): 84–93, DOI: <https://doi.org/10.52947/morality.v9i1.335>

⁴² Nabilah Apriani, Irgi Alfian, and Melia Putri Purnama Sari, The Application of Cyber Notary in Indonesia, *Jurnal Ius Constituendum* 9, No. 1 (2024): 101–116, DOI: <https://doi.org/10.26623/jic.v9i1.8129>

⁴³ Honggo Hartono, Roles of Notary in Drawing Up Marriage Agreement After Constitutional Court Decision Number 69/PUU-XIII/2015, *Prophetic Law Review* 2, No. 2 (2020): 180–199, DOI: <https://doi.org/10.20885/PLR.vol2.iss2.art4>

⁴⁴ Refans Jaka Pratama Yudha and Rasji, Kedudukan Hukum Pejabat Lelang Kelas II Membuat Akta Risalah Lelang Terkait Harta Bank dalam Likuidasi, *UNES Law Review* 6, No. 2 (2023): 5539–5545, DOI: <https://doi.org/10.31933/unesrev.v6i2.1380>

jurisdiction, and conformity of the auction type forms the basis for determining authenticity. Minister of Finance Regulation Number 189/PMK.06/2017 remains the legal basis governing the office, while compliance is supervised by the Superintendent through the examination mechanism applicable to Class II Auction Officers.⁴⁵

A formal defect concerns non-compliance with the structure, content, execution, attachments, or procedure for completing the original auction minutes. Such errors may include inaccurate identification, an inadequate description of the object, inconsistency in the legal basis of the sale, omission of the reserve price, incorrect recording of the price or buyer, incomplete sections of the deed, or signatures that do not satisfy legal requirements.⁴⁶ Minister of Finance Regulation Number 86 of 2024 distinguishes correctable clerical errors from deficiencies affecting essential elements of the minutes. A clerical correction made after the minutes have been closed must be recorded in a correction report, noted at the bottom of the original minutes, signed by the competent officer, witnessed by two witnesses, and attached as an inseparable part of the minutes. This mechanism demonstrates that a writing error does not necessarily destroy authenticity. A defect altering the identity of the object, legal basis of the sale, bidding result, or designated buyer requires stricter assessment because it affects the substance of the legal event being proved.⁴⁷

Article 1869 of the Burgerlijk Wetboek provides that a deed losing its authentic character because of an unauthorized or legally incapable official, or because of a defect in form, may retain the evidentiary force of a private instrument if signed by the parties. Its application to auction minutes encounters a specific difficulty because the minutes constitute a *relaasakte* arising from official acts rather than a deed whose entire content derives from the parties' agreement.⁴⁸ Minister of Finance Regulation Number 86 of 2024 also regulates circumstances in which the buyer, seller, witness, or Auction Officer does not sign the minutes and provides that an official notation or a notation by the Superintendent may substitute for the signature. The regulation preserves the perfect evidentiary force of the minutes under such circumstances. The relationship between these norms

⁴⁵ 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* 3, No. 2 (2025): 2047–2056, DOI: <https://doi.org/10.62976/ijjel.v3i2.1206>

⁴⁶ Sulkifli, Yudha Cahya Kumala, and Permata Nauli Daulay, Kepastian Hukum atas Akta Risalah Lelang yang Dibuak oleh Notaris Selaku Pejabat Lelang Kelas II yang Cacat Hukum Prosedural, *AKADEMIK: Jurnal Mahasiswa Humanis* 6, No. 2 (2026): 763–776, DOI: <https://doi.org/10.37481/jmh.v6i2.2043>

⁴⁷ Fabela Rahma Moneterly and Budi Santoso, Keabsahan dan Kekuatan Pembuktian Akta Notaris: Perspektif *Cyber Notary* di Indonesia, *Notarius* 16, No. 2 (2023): 666–685, DOI: <https://doi.org/10.14710/nts.v16i2.41120>

⁴⁸ Wulan Agustini and Benny Djaja, Pertanggungjawaban Notaris terhadap Akta yang Cacat Hukum, *Journal Presumption of Law* 6, No. 1 (2024): 1–17, DOI: <https://doi.org/10.31949/jpl.v6i1.3852>

demonstrates that degradation into a private instrument cannot occur automatically. Auction minutes prepared without official authority lose their principal foundation as an official deed, while the absence of a signature covered by a legally recognized substitute may still satisfy the special form prescribed by auction law.⁴⁹ The assessment must focus on the function of the violated element, its legal basis, and its impact on the reliability of the recorded facts.

Defects in the auction minutes, defects in auction implementation, defects concerning the object, and defects in the legal relationship of the seller must be classified separately. A defect in the minutes concerns the form or content of the official record. An implementation defect arises in the announcement, participant requirements, bidding method, designation of the successful bidder, or another stage preceding completion of the minutes. A defect in the object concerns ownership, attachment, prohibition of transfer, or inconsistency in the condition of the goods. A defect in the legal relationship occurs when the seller lacks authority to transfer the property or acts beyond the power granted. Annulment of the sale depends on a violation affecting an essential element and having a causal relationship with the formation of the auction result or the loss suffered by another party.⁵⁰ A corrected clerical error leaves the auction minutes intact, whereas the absence of authority to sell may affect the legal basis of the transfer even where the minutes are formally complete.

Decisions of the Supreme Court demonstrate that the protection of a good-faith auction buyer is associated with compliance with valid procedures and documentation. Decision Number 158 K/Pdt/2005 recognized a purchaser acquiring property through auction as a good-faith party entitled to protection in the transfer of rights. Similar considerations appear in Decision Number 901 K/Pdt/2007, Decision Number 1175 K/Pdt/2007, and Decision Number 724 PK/Pdt/2008.⁵¹ Supreme Court Circular Letter Number 4 of 2016 subsequently included the acquisition of land through a public auction as one means of acquisition capable of satisfying the criteria of a good-faith purchaser, accompanied by due diligence regarding the seller's status and the object.⁵² These

⁴⁹ Uci Kartika Anggre and Siti Malikhatus Badriyah, Implementasi Penggunaan *Surrogate* sebagai Pengganti Tanda Tangan dalam Pembuatan Akta Notaris, *Notarius* 18, No. 2 (2025): 409–425, DOI: <https://doi.org/10.14710/nts.v18i2.53257>

⁵⁰ Maria Selviana Br. Sembiring and Muhammad Ilham, Akibat Hukum terhadap Pembatalan Risalah Lelang Eksekusi Hak Tanggungan: Studi Putusan Mahkamah Agung Nomor 2868 K/Pdt/2018, *Indonesia of Journal Business Law* 2, No. 2 (2023), DOI: <https://doi.org/10.47709/ijbl.v2i2.2780>

⁵¹ Nuli Bagyo and Indatirini, Application of the Principle of Good Faith in Land Buying, *YURISDIKSI: Jurnal Wacana Hukum dan Sains* 18, No. 1 (2022): 114–125, DOI: <https://doi.org/10.55173/yurisdiaksi.v18i1.129>

⁵² Aulia Haura'Aini Abdullah, Ana Silviana, and Ratna Hartanto, Perlindungan Hukum Pembeli Beriktikad Baik Sengketa Perjanjian Pengikatan Jual Beli Kota Surakarta, *Notarius* 19, No. 1 (2026): 73–90, DOI: <https://doi.org/10.14710/nts.v19i1.81731>

decisions primarily arose from land disputes and execution auctions; their application in this study is therefore limited to general principles concerning procedural compliance, documentary reliability, and buyer protection. These principles do not equate the authority of Class I Auction Officers with that of Class II Auction Officers. Protection of buyers in non-execution voluntary auctions continues to depend on the seller's authority, the competence of the officer, and the validity of the process producing the auction minutes.⁵³

A buyer may lose certainty regarding the transfer of rights or encounter refusal of registration where the identity of the object and legal basis of the sale cannot be established. The seller bears the risk of refunding the purchase price, paying damages, or facing annulment where the seller lacks authority over the property. An injured owner may seek restoration of rights on the basis of a defect in the legal foundation of the sale.⁵⁴ A Class II Auction Officer bears administrative responsibility through supervision, examination, temporary suspension, or dismissal under the applicable law governing the office. Civil liability arises where the officer's fault causes loss and satisfies the elements of an unlawful act.⁵⁵ Criminal liability depends on proof of intent, forgery, fraud, or another offense defined under criminal law.⁵⁶ Professional responsibility must be assessed according to the legal capacity in which the violation occurred so that supervision of the auction office is not confused with supervision of the notarial office.⁵⁷

The novelty of this study is formulated through a four-layer test of the authenticity of auction minutes. The official-status test examines the appointment decision, oath, inauguration, term of office, and any condition of temporary suspension. The limits-of-authority test assesses conformity of the auction type, object, territorial jurisdiction, and time of implementation with the mandate of the Class II Auction Officer. The form-and-procedure test examines the structure of the deed, mandatory content, execution, attachments, completion of the original minutes,

⁵³ Faizal Kurniawan, Xavier Nugraha, Ardhana Christian Noventri, and Qona'aha Noor Maajid, Auction Winner as a New Criteria in the Concept of Good Faith Buyer in Indonesia, *Jambe Law Journal* 4, No. 2 (2021): 171–190, DOI: <https://doi.org/10.22437/jlj.4.2.171-190>

⁵⁴ Natalia Maria Liju and Abdul Rachmad Budiono, Perlindungan Hukum terhadap Pembeli Lelang yang Tidak Menerima Objek Lelang dalam Masa Penyerahan, *Jurnal Cakrawala Hukum* 12, No. 3 (2021): 303–313, DOI: <https://doi.org/10.26905/idjch.v12i3.7095>

⁵⁵ Sita Sesaria Anjarsari and Budi Santoso, Tinjauan terhadap Perbuatan Melawan Hukum Notaris dalam Pembuatan Akta, *Notarius* 17, No. 1 (2024): 515–530, DOI: <https://doi.org/10.14710/nts.v17i1.44898>

⁵⁶ Laras Detiandri, Astim Riyanto, and I Ketut Oka Setiawan, Demarcation of Criminal Liability of Notary Publics in the Falsification of Authentic Deeds: Examination of Supreme Court Decision Number 933 K/Pid/2023, *SIGn Jurnal Hukum* 8, No. 1 (2026): 117–132, DOI: <https://doi.org/10.37276/sjh.v8i1.692>

⁵⁷ Bandhar and Benny Djaja, Role and Responsibilities of a Notary as an Auction Official in Dealing with Opportunities and Challenges of Auction Implementation in Indonesia Based on Theory of Authority, *Edunity: Kajian Ilmu Sosial dan Pendidikan* 2, No. 10 (2023): 1173–1180, DOI: <https://doi.org/10.57096/edunity.v2i10.137>

and correction mechanism. The scope-of-proof test distinguishes facts personally observed, performed, or witnessed by the officer from statements originating solely from the seller or participants. The test produces graduated legal consequences. Clerical errors may be resolved through an official correction. A fundamental formal defect that impairs identification of the legal event may reduce evidentiary force. A fundamental defect of authority may eliminate the authentic character of the deed. A defect in auction implementation may affect the validity of the sale where it has a direct relationship with the designation of the buyer, the price, or the loss suffered by an interested party. This test provides a more precise standard than an assessment based solely on the presence or absence of a single error in the document.

Legal certainty regarding the evidentiary force of auction minutes is achieved when the officer acts within the prescribed authority, the required form is fulfilled, and the scope of guaranteed truth can be properly distinguished. External evidentiary force attaches to the document's capacity to present itself as an authentic deed. Formal evidentiary force covers the actions and events recorded by the Auction Officer. Material evidentiary force is limited to facts directly related to the auction process and falling within the officer's personal observation. A defect in the minutes must be assessed according to its type, severity, and impact on the auction result and the rights of the parties. Reduction of evidentiary force, loss of authentic status, annulment of the minutes, and annulment of the sale constitute distinct legal consequences and cannot be imposed uniformly.

4. Conclusion

The authenticity of auction minutes prepared by a notary derives from the authority exercised as a Class II Auction Officer rather than solely from the individual's status as a notary. Notarial status provides professional competence in deed preparation, identity verification, and management of original instruments, while the authority to conduct non-execution voluntary auctions arises only after appointment, the taking of an oath, and inauguration as a Class II Auction Officer. Auction minutes acquire authentic character when prepared by an officer possessing authority *ratione personae*, *ratione materiae*, *ratione loci*, and *ratione temporis* and when drawn up in the form prescribed by auction law. Their status as an *ambtelijke akte* characterized as a *relaasakte* grants external, formal, and material evidentiary force in relation to acts and events performed, observed, or witnessed by the Auction Officer, whereas statements originating from the seller concerning ownership and the condition of the object remain open to rebuttal. Legal certainty regarding auction minutes depends on the nature and severity of the defect: clerical errors may be corrected, fundamental formal defects may reduce evidentiary force, defects of authority may eliminate authentic status, and violations in auction implementation may affect the validity of the sale where they are directly related to the designation of the buyer, the price, or losses suffered by the parties. The official-status test, limits-of-authority

test, form-and-procedure test, and scope-of-proof test may therefore be employed as standards for determining the appropriate legal consequences of defective auction minutes.

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