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LEGAL REMEDIES FOR THE TRANSFER OF OWNERSHIP RIGHTS OF MOVABLE AUCTIONED GOODS IN DECISION NUMBER 30/Pdt.G/2019/PN.Tte

Rania Nahda Athaya[1], Dr. Sri Laksmi Anindita[2]
rania.athaya@ui.ac.id[1], sri.laksmi.a@gmail.com[2]

[1] Faculty of Law, Universitas Indonesia, Depok, Indonesia
[2] Faculty of Law, Universitas Indonesia, Depok, Indonesia

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Abstract

Auction is one of the mechanisms of trade aimed at transferring ownership of goods, particularly movable property. As evidence that the auction has complied with all procedures and has indeed been executed, an official report of the auction proceedings, known as the minutes of auction, is prepared by the auction official. The minutes of auction are categorized as an authentic deed and hold conclusive evidentiary power; therefore, if the validity of the minutes is disputed, its legal force must be challenged.

This study employs a doctrinal research method and adopts a descriptive-analytical typology by utilizing secondary data through document and literature review. The findings of this study indicate that the legal force of the minutes of auction concerning movable property one example being motor vehicles possesses binding and conclusive evidentiary power, as it complies with the provisions stipulated in the Minister of Finance Regulation (PMK) Number 27/PMK.06/2016 on Auction Implementation Guidelines, the Regulation of the Indonesian National Police Number 5 of 2012 on Motor Vehicle Registration and Identification (Perpol No. 5 of 2012), and the Indonesian Civil Code (KUHPerdata). Consequently, there is no valid reason for the Motor Vehicle Registration Center (Samsat) to refuse processing or issuing original documents related to auctioned movable property.

Should the Samsat persist in refusing to process or issue such original documents, thereby causing harm to the winning bidder, legal remedies may be pursued by filing a lawsuit in the district court on the grounds of unlawful conduct, by examining whether the elements of unlawful acts as stipulated in Article 1365 of the Indonesian Civil Code have been fulfilled.

I. Introduction

The term "auction" is commonly heard in everyday life; however, many people still lack a comprehensive understanding of its scope and procedures. The word “auction” derives from the Latin terms auctio or auctus, which mean “increase” or “addition,” referring to the gradual rise in price (Dhaniarto, 2022). Historically, auctions were known long before the Common Era as a method of selling goods, particularly those acquired as spoils of war from conquered territories, as well as for the sale of slaves, livestock, diamonds, and other valuable items. This practice emerged as a response to the inherent greed of human nature during that era. Through competitive bidding, auctions provided an open and fair mechanism that granted equal opportunities for all members of society to purchase desired goods. Consequently, those who were willing to offer the highest price would ultimately obtain the item being auctioned (Tista, 2013).

In general, an auction is defined as a public sale of goods conducted to achieve the highest possible price, which is preceded by a public announcement of the auction (Tanaya, 2022). Christopher L. Allen, an auctioneer from Australia, defines an auction as:

> “*The sale by Auctions involves an invitation to public for the purchase of real or personal property offered for sale by making successive increasing offers until, subject to the sellers reserve price the property is knocked down to the highest bidder*.” (Tista, 2013)

The institutional history of auctions has long been recognized in Indonesia, as *evidenced* by the enactment of auction regulations, namely the Vendu Reglement (Staatsblad 1908 No. 189) and the Vendu Instructie (Staatsblad 1908 No. 190) (Sena, 2020). Within the Indonesian legal system, the position of auctions is regarded as a special procedure of sale, whose process differs from that of general sales. The distinctive characteristics of auctions are reflected in their public nature commonly referred to as built-in control since they must be preceded by a public announcement, and in their objectivity, as auctions do not grant priority to any particular buyer or applicant, Furthermore, auctions are characterized as competitive, as they inherently establish a bidding mechanism based on free competition among participants without external coercion. They are also considered authentic, as the execution of an auction produces official evidence of the sale conducted in accordance with auction procedures, known as the *Minutes of Auction*. The notion of authenticity in auctions refers to Article 1868 of the Indonesian Civil Code (KUHPerdata), which stipulates that an authentic deed must be drawn up in a form prescribed by law and executed by a duly authorized public official in this case, the Auction Officer.

PMK Number 27/PMK.06/2016 concerning Auction Implementation Guidelines, Article 1 paragraph 14, stipulates that an Auction Officer is an individual granted special authority to conduct auctions. Furthermore, Article 9 of the same regulation classifies Auction Officers into two categories: Class I Auction Officers, who are authorized to conduct all types of auctions, and Class II Auction Officers, who are authorized to conduct Voluntary Non-Execution Auctions. The types of auctions referred to therein include, among others, Execution Auctions, Compulsory Non-Execution Auctions, and Voluntary Non-Execution Auctions (Kumala, 2020).

An Execution Auction is defined as an auction conducted to enforce court decisions or determinations, other equivalent documents, and/or to implement provisions stipulated in laws and regulations (Article 1 paragraph 4, PMK Number 27/PMK.06/2016). Meanwhile, a Compulsory Non-Execution Auction refers to an auction carried out for the sale of goods that, under prevailing laws and regulations, must be sold through auction, such as state-owned assets (Article 1 paragraph 5, PMK Number 27/PMK.06/2016). In

contrast, a Voluntary Non-Execution Auction refers to an auction for the sale of privately-owned goods whether belonging to individuals, legal entities, or business entities conducted voluntarily, in other words, without seizure or coercion (Article 1 paragraph 6, PMK Number 27/PMK.06/2016).

The auction institution in Indonesia is not merely a judicial execution body, as commonly perceived by the general public, but also an institution authorized to conduct auctions of non-execution objects as an alternative method of sale alongside ordinary transactions. In practice, however, voluntary auctions that is, auctions conducted outside judicial execution are underutilized by society, despite the benefits such sales could provide to the community. The limited public awareness of auctions has hindered the government's expectation that the public would take greater advantage of auction institutions, thereby preventing society from fully realizing the potential benefits of auctions (Alfara, 2020).

The auction process gives rise to legal consequences in the form of the transfer of rights over the auctioned object from the seller to the winning bidder. This demonstrates the existence of rights and obligations among the parties involved in the auction. Accordingly, Article 1457 of the Indonesian Civil Code (KUHPerdata) fully applies in the auction process, wherein the Article stipulates that a sale and purchase is an agreement by which one party binds itself to deliver an object, and the other party to pay the agreed price.

The winning bidder is the auction participant declared as such by the Auction Officer for having submitted the highest bid for a given object. A bidder who has fulfilled the requirements of participation and placed the highest bid may be considered a winning bidder in good faith. Good faith is understood as honesty or sincerity (Meliala, 1987). According to R. Subekti, a buyer in good faith is one who is entirely unaware that the seller is not, in fact, the rightful owner; thus, such a buyer is deemed the legal owner, and any subsequent acquirer of the goods from them shall be protected under the law (Subekti, 2014).

A winning bidder who has fulfilled their obligations is entitled to legal protection. Such protection is necessary to uphold the principle of justice and to provide legal certainty for the winning bidder regarding their right to possess and own the auctioned object. Legal protection for auction buyers signifies the assurance of legal certainty over the rights of the winning bidder to the object acquired through auction. The auction process itself creates legal consequences, namely the transfer of ownership rights over the auctioned object from the seller to the winning bidder. In the case of motor vehicle auctions, in addition to obtaining the vehicle as the auctioned object, the winning bidder must also receive the legal documentation of the motor vehicle as proof that the vehicle is not illegal. PMK Number 27/PMK.06/2016, Article 1 paragraph 24, stipulates that:

> "The Formal Legality of Auction Subjects and Objects refers to a condition in which the auction requirement documents have been fulfilled by the seller in accordance with the type of auction, and no discrepancies in the data exist. It demonstrates the legal relationship between the seller and the goods to be auctioned, thereby assuring the Auction Officer that the auction subject is entitled to auction the object, and that the auction object is eligible to be auctioned."

In the auction process, the principle of efficiency is also recognized as one of its underlying principles, whereby the auction is expected to be conducted swiftly and effectively. However, any ambiguity regarding the ownership status of an auctioned object that has already been sold may give rise to a "legal vacuum," which in turn disrupts the implementation of the auction itself (Adityanata and Bagiastra, 2020).

One illustrative case can be found in Decision Number 30/Pdt.G/2019/PN.Tte, which involved a dispute between DAP, as the winning bidder, against the Directorate of

Traffic of the North Maluku Regional Police (Samsat Joint Office of Ternate City), the Regent of Morotai Island Regency as the owner of the auctioned objects, and the Office of the State Assets and Auction Service (KPKNL) Ternate as the seller and/or auction applicant. The case concerned a dispute over ownership rights to the auctioned objects on the basis of an unlawful act claim. In this case, DAP purchased eight (8) four-wheeled vehicles (cars) from the Regent of Morotai Island Regency through an auction organized by the KPKNL Ternate Office under Auction Minutes No. 089/79/2018. DAP, acting in good faith, settled the payment for the eight vehicles, despite the fact that five (5) of them were not accompanied by ownership documents. The vehicles were then delivered, along with Certificate No. 900/16/Setda/2018, which stated that the government vehicles in question did not possess ownership documents such as vehicle registration certificates (*BPKB*) and vehicle registration plates (*STNK*), and that any subsequent disputes concerning ownership would be the responsibility of the Regent of Morotai Island Regency. However, when DAP attempted to process the ownership documents at the Samsat Office of Ternate City, it was discovered that four (4) of the eight vehicles were not registered in the Motor Vehicle Registration and Identification system (*Regident Ranmor*), and thus ownership documents (*BPKB* and *STNK*) could not be issued. As a result, DAP suffered losses and filed a lawsuit in court on the grounds of unlawful conduct. Since DAP's lawsuit was deemed lawful and well-founded, the court partially granted the claim.

This case raises important legal questions, such as: What is the legal force of the auction minutes in relation to the ownership of movable property? And what legal remedies may be pursued if the Samsat office refuses to issue a vehicle registration certificate (*BPKB*) on the basis of auction minutes?.

2. Research Method

This study employs a doctrinal research method. The typology of research applied is descriptive-analytical. The data utilized in this study are secondary in nature. The data collection instrument used is document or literature study, which includes statutory regulations such as the Indonesian Civil Code (KUHPerdata), Minister of Finance Regulation Number 27/PMK.06/2016 on Auction Implementation Guidelines, Minister of Finance Regulation Number 122 of 2023 on Auction Implementation Guidelines, and Regulation of the Indonesian National Police Number 5 of 2012 on Motor Vehicle Registration and Identification. The method of data analysis in this study is qualitative, while the form of research results is descriptive-analytical.

3. Results and Discussion

3.1 Legal Strength of Auction Minutes Regarding Ownership of Movable Objects in Decision Number 30/Pdt.G/2019/PN.Tte.

In principle, an auction is classified as one of the methods of sale transactions, conducted by means of bidding to obtain the highest price. This is regulated under Article 1 paragraph 1 of PMK Number 27/PMK.06/2016, which stipulates that:

> "An auction is the sale of goods open to the public through written and/or oral bids that increase or decrease in order to reach the highest price, which is preceded by an auction announcement."

An auction may be conducted in several types as regulated in Article 5 of the PMK Number 27/PMK.06/2016, which stipulates that auctions consist of execution auctions, non-execution compulsory auctions, and non-execution voluntary auctions. An execution auction is an auction carried out to enforce a court decision or stipulation and/or to

implement provisions under the law, or in other words, the object executed is property encumbered with fiduciary security. A non-execution compulsory auction is an auction conducted for the sale of goods that, by virtue of statutory regulations, are required to be sold through auction, or in other words, it is not related to debt obligations but involves property owned by the state. A non-execution voluntary auction is an auction of goods belonging to private parties, individuals, or legal entities that is conducted voluntarily, or in other words, it concerns privately owned property not encumbered with fiduciary security and carried out on the owner's own free will without seizure or coercion.

The procedure for conducting auctions as regulated in the PMK Number 27/PMK.06/2016 is broadly divided into three (3) stages, namely the auction preparation stage, the auction implementation stage, and the post-auction stage. These stages must be carried out to prevent errors in the auction process, particularly with regard to movable property.

The preparation stage for movable property auctions consists of the submission of an auction application by the Seller to the State Asset and Auction Service Office (KPKNL) and/or an auction house in accordance with the type of auction, for the purpose of obtaining an auction schedule, by fulfilling the auction requirements stipulated by laws and regulations and completing the formal legality of both the subject and the object of the auction. Article 13 of the Minister of Finance Regulation Number 27/PMK.06/2016 stipulates that the KPKNL as well as Class II Auction Officials may not reject an auction application submitted to them insofar as the auction documents submitted fulfill the formal legality of both the subject and the object of the auction.

M.T.G Meulenberg, an auction scholar from the Agricultural University Wageningen, the Netherlands, asserted that "Auctions are an intermediary between buyers and sellers. Their main objective is price discovery," whereby from this definition, M.T.G Meulenberg explains that an auction constitutes a mechanism that functions as an intermediary between buyers and sellers, with its principal objective being the discovery of an optimal price in situations of uncertainty regarding value or price (Dhaniarto, 2022).

Based on this opinion, it can be inferred that the execution of an auction necessarily involves both the legal subjects of the auction and the object of the auction. The legal subjects of the auction consist of the seller and the buyer. The seller is the applicant for the auction but is not necessarily the legal owner of the auction object, as the seller may be the owner of the auction object, an attorney-in-fact acting under a power of attorney granted by the owner of the auction object, or an individual/legal entity vested with authority by statutory provisions to sell goods through auction. This is underscored in Article 17 paragraph (4) of the PMK Number 27/PMK.06/2016, which provides that the seller must have physical control over the movable goods to be auctioned, except in the case of intangible property. Furthermore, the seller determines the method of bidding, may stipulate additional requirements such as *aanwijzing*, and bears the responsibility for the determination of the reserve price as part of the auction preparation stage. Meanwhile, the buyer is the participant in the auction who submits the highest bid and is declared by the auction official as the successful bidder. The object of the auction refers to the goods to be auctioned, which may consist of tangible movable or immovable property (Dhaniarto, 2022).

At the auction preparation stage concerning movable objects, the seller is required to present and submit the original documents evidencing physical possession of the goods to be auctioned to the auction officer and/or auction participants no later than prior to the execution of the auction, as stipulated in Article 21 of PMK Number 27/PMK.06/2016. This requirement is exempted for execution auctions, which are not obliged to present or submit

the original ownership documents, and may nevertheless proceed even if the seller does not possess the originals. Furthermore, for movable objects with a reserve price exceeding Rp1,000,000,000 (one billion rupiah), the seller must conduct an *aanwijzing* and provide prospective bidders the opportunity to inspect the goods, the results of which shall be recorded in the minutes and submitted to the auction officer prior to the execution of the auction. Prospective bidders who are absent during the *aanwijzing* are deemed to have acknowledged and accepted the results thereof.

Once the documents and the formal legality of both the subject and object of the auction have been fulfilled, the State Asset and Auction Service Office (KPKNL) or Class II Auction Officer is required to determine the place and time of the auction. Pursuant to Article 22 of PMK Number 27/PMK.06/2016, the venue for the auction must be located within the working area of the KPKNL or within the jurisdiction of the Class II Auction Officer where the goods are situated. With respect to the timing, Article 24 of PMK Number 27/PMK.06/2016 stipulates that auctions must be conducted during the working hours and days of the KPKNL, except for execution auctions and mandatory non-execution auctions involving perishable, easily damaged, or expired goods, which must be notified to the head of the local regional office prior to the auction, as well as voluntary non-execution auctions, which may be conducted outside working hours and days with the written approval of the head of the local regional office.

The final step in the auction preparation stage requires the seller to make a public auction announcement and submit proof of such announcement in accordance with the provisions of the Auction Officer prior to the execution of the auction, as regulated in Article 51 of PMK Number 27/PMK.06/2016. The auction announcement must be issued on the working days of the State Asset and Auction Service Office (KPKNL) and published in a daily newspaper that is printed and/or circulated in the city or regency where the goods are located or in the nearest area, and/or in the provincial capital or the capital city of the state that is circulated within the working area of the KPKNL or Class II Auction Officer.

For execution auctions concerning movable objects, the announcement shall be published only once in a daily newspaper no later than six (6) days prior to the execution of the auction. Furthermore, auction announcements for the execution of mandatory non-execution auctions and voluntary non-execution auctions of movable objects that are sold jointly with immovable objects shall be published only once in a daily newspaper no later than seven (7) days prior to the auction, whereas for movable objects alone the announcement shall be published only once in a daily newspaper no later than five (5) days prior to the auction.

Subsequently, in the stage of conducting the auction of movable objects, the auction is carried out and presided over by the Auction Officer in accordance with the subject and object of the auction, whereby pursuant to Article 9 of PMK Number 27/PMK.06/2016, Auction Officers are classified into Class I Auction Officers, who are authorized to conduct all types of auctions (execution auctions, mandatory non-execution auctions, and voluntary non-execution auctions) upon the request of the seller, and Class II Auction Officers, who are authorized to conduct voluntary non-execution auctions upon the request of the auction house or the seller. However, in its implementation, the auction may be assisted by an auctioneer's assistant, whose appointment shall be notified in writing by the seller or the auction house to the head of the KPKNL or the Class II Auction Officer no later than three (3) working days prior to the execution of the auction.

Auction proceedings, once officially opened through the brief reading of the draft minutes of auction and the striking of the gavel three (3) times by the auction officer, are followed by the bidding session, which may be conducted in three (3) forms: oral bidding

(ascending or descending), written bidding, or written bidding continued with oral bidding in the event the highest written bid has not reached the reserve price (nilai limit). Such bidding methods may be proposed in writing by the seller to the KPKNL or auction house prior to the auction announcement. Bids submitted by auction participants are recorded by the auction officer and cannot be withdrawn by the respective participants, except in the case of written bids submitted via the internet. Each participant is required to bid at least equal to the reserve price if such reserve price has been announced.

Upon determination and confirmation of the highest bidder during the auction, the process then proceeds to the post-auction stage. Pursuant to Article 75 of PMK No. 27/PMK.06/2016, the buyer is obligated to fulfill payment of the auction price along with applicable taxes or other lawful charges, failing which the buyer is prohibited from retrieving or taking possession of the purchased goods. Furthermore, under Article 72 of PMK No. 27/PMK.06/2016, each auction is subject to an auction fee. Full payment of the auction price and auction fee must be made in cash, check, and/or bank draft no later than five (5) business days after the auction. Should the buyer fail to fulfill such payment obligations, the auction officer must revoke the confirmation of the buyer by issuing a declaration of annulment.

In the event the buyer has fulfilled all payment obligations, the auction officer and/or pursuant to Article 84 of PMK No. 27/PMK.06/2016 is required to hand over the original ownership documents and/or the auctioned goods to the buyer no later than one (1) business day after the buyer presents a receipt or proof of payment settlement, as mandated under Article 80 paragraph (3) of PMK No. 27/PMK.06/2016.

Upon completion of the delivery of ownership documents or goods, and as evidence of the auction proceedings, the auction officer is obliged under Article 85 of PMK No. 27/PMK.06/2016 to prepare the minutes of auction. The minutes of auction constitute the official record of the auction process, drawn up by the auction officer, which qualifies as an authentic deed with full probative force. It is classified as an authentic deed due to its role in authenticating the auction sale, encompassing the record of all events occurring during the auction and serving as conclusive proof that all auction procedures have been duly observed. This requirement finds its basis in Article 35 of the *Vendu Reglement*, which stipulates that every public sale conducted by an auction officer or their proxy must be accompanied by a separate record of proceedings for each day of the sale. Accordingly, each auction conducted by the auction officer must result in the preparation of such record, which is then designated as the "minutes of auction." Furthermore, the minutes of auction qualify as an authentic deed if they meet the elements stipulated under Article 1868 of the Indonesian Civil Code (KUHPerdata), namely, that an authentic deed is one made in the form prescribed by law, by or before a competent public official authorized for such purpose, at the place where the deed is executed.

The auction minutes which have fulfilled the elements or requirements of an authentic deed as stipulated in Article 1868 of the Indonesian Civil Code (KUHPerdata) render the auction minutes as an authentic deed that constitutes perfect evidence, possessing evidentiary force as follows:

a. External: that the deed possesses the power or capacity to establish itself as an authentic deed, considering that its existence complies with the provisions of an authentic deed under the Civil Code (KUHPerdata).
b. Formal: that the deed proves the truth of what was witnessed, seen, heard, and also carried out by the Auction Officer as a Public Official in the performance of his duties, guaranteeing the accuracy of its date, the signatures contained therein, the identities

of the parties and persons present, as well as the authenticity of the place where the deed was executed.

c. Material: that the statements contained in the auction minutes shall be deemed true, so that when used as evidence before the court, they are considered sufficient, and the judge is not permitted to require any other proof.

The evidentiary strength is intended to establish the law between the two parties concerning a right, so as to obtain a truth that possesses the value of certainty, justice, and legal certainty (Indonesian Civil Code, Art. 1867). Evidence may be presented either in authentic form or under private hand, both of which are made with the same purpose, namely to be used as means of proof.

The minutes of auction concerning movable goods, among them motor vehicles, may serve as proof of the transfer of ownership rights over movable property, including movable goods lacking complete ownership documents such as the Vehicle Registration Certificate (Buku Pemilik Kendaraan Bermotor / BPKB) or the Vehicle Registration Document (Surat Tanda Nomor Kendaraan / STNK). This is in accordance with Article 21 paragraph (2) of PMK No. 27/PMK.06/2016, which stipulates that the seller is not required to present or deliver the original ownership documents for execution auctions, and the auction may still be carried out even if the originals are not in the seller's possession.

The minutes of auction may function as a transfer of rights (acta van transport) over goods as well as the legal basis for the delivery of goods. The BPKB, recognized as the documentary evidence of ownership of a motor vehicle, contains detailed information regarding the vehicle such as chassis number, engine number, color, year of manufacture, and others, while the STNK contains information on the registration number and validity of tax payments. Pursuant to Article 86 letter J of PMK No. 27/PMK.06/2016, the minutes of auction for movable goods also record the quantity, type, and specifications of the goods. Furthermore, under Article 87 letter b of the same Regulation, the minutes of auction must also include the name/brand/type/model and quantity of the auctioned goods, thereby enabling the minutes of auction to serve as valid proof of ownership of a motor vehicle, which is one of the requirements for the issuance of a new BPKB and STNK by the local Samsat office.

There is therefore no legal ground for the Samsat to refuse the issuance of new ownership documents even if the minutes of auction alone are presented as proof. This is because, under Article 1 number 15 of Indonesian National Police Regulation No. 5 of 2012, valid proof of ownership of a motor vehicle is recognized as the initial evidence of ownership, which may include the minutes of auction.

Accordingly, in line with the principles of auction implementation that is efficient, effective, transparent, accountable, fair, and guarantees legal certainty, the minutes of auction must fulfill the elements or requirements under the Civil Code (KUHPerdata) and its contents must conform to the implementation of the auction that has satisfied all procedural requirements as stipulated under PMK No. 27/PMK.06/2016.

At present, PMK No. 122 of 2023 concerning Guidelines for the Implementation of Auctions has been enacted, which emphasizes the acceleration of auction services, for instance through the formulation of a streamlined procedure for auction applications that expedites the determination of auction schedules. Furthermore, with respect to the absence or non-possession of original ownership documents by the seller, this Regulation stipulates that, in addition to execution auctions, non-execution auctions may likewise proceed, provided that in both types of auctions the seller furnishes a written statement or certificate declaring that the goods are not accompanied by ownership documents or rights, including the reasons thereof. PMK No. 122 of 2023 may thus be regarded as an effort to enhance

auction services by means of information-based utilization, thereby realizing auctions that are more efficient, effective, transparent, accountable, fair, and that guarantee legal certainty.

3.2 Legal Efforts That Can Be Taken If Samsat Refuses to Issue BPKB Based on Auction Minutes in Decision Number 30/Pdt.G/2019/PN.Tte.

Protection for buyers or auction winners is essentially regulated indirectly in a preventive manner. Preventive protection for auction winners refers to safeguards provided before disputes arise concerning the auctioned object, thus serving as a preventive measure. Preventive protection under Article 42 of the Vendu Reglement stipulates that auction winners may receive an authenticated extract of the minutes of auction, referred to as an excerpt of the auction minutes. The issuance of the auction minutes in this context may be equated with a deed of sale and purchase agreement.

In addition to the auction minutes, another form of preventive legal protection by KPKNL is notifying the seller to exercise prudence with regard to documents, information, as well as the condition and circumstances of the auctioned object, thereby enabling prospective buyers to better understand the consequences and risks arising from the auctioned object.

If preventive measures are not carried out and still give rise to problems related to auctions, as in Decision Number 30/Pdt.G/2019/PN.Tte, then the aggrieved party may file a legal remedy before the District Court by submitting a lawsuit for unlawful acts. Unlawful acts as provided under Article 1365 of the Civil Code (KUHPerdata) are derived from the theory of corrective justice, which teaches that every person must safeguard their rights and be restored to their original state so as to maintain a balance between justice and legal certainty, which constitute the aims of law (Anindita, 2019).

Essentially, the provision of Article 1365 of the Civil Code (KUHPerdata) does not elaborate on the definition of unlawful acts, but only sets forth the elements that must be fulfilled if a person wishes to claim compensation for losses incurred. These elements include the existence of an unlawful act, fault, damages suffered, and a causal relationship between the damages and the act. Moreover, Article 1365 of the Civil Code (KUHPerdata) only provides that if a person suffers a loss as a result of an unlawful act, then such person may bring a claim for damages before the district court (Anindita, 2019).

In relation to the factual circumstances of Decision Number 30/Pdt.G/2019/PN.Tte, it appears that the case originated when DAP, as the Auction Winner, purchased eight (8) four-wheeled vehicles owned by the Regional Government of Pulau Morotai Regency through an auction conducted by the State Assets and Auction Service Office (KPKNL) Ternate on June 26, 2018, based on the Excerpt of the Minutes of Auction Number: 089/79/2018.

Following the handover of the vehicles by the Regional Government of Pulau Morotai Regency to DAP, a Certificate Number 900/16/Setda/2018 was issued and delivered, stating that the official vehicles belonging to the Regional Government of Pulau Morotai Regency did not possess ownership documents in the form of BPKB and STNK, and that in the event of any future ownership disputes concerning the said vehicles, responsibility would rest with the Government of Pulau Morotai Regency.

Out of the eight (8) four-wheeled vehicles purchased by DAP, five (5) were not accompanied by ownership documents. The said four-wheeled vehicles are as follows:

- Toyota Rush, Year 2010, Chassis Number MHFE2CJ2JCK029871, Engine Number DCV8108, License Plate DG 10 KM, Engine Capacity 1,500 CC;
- Toyota Rush, Year 2012, Chassis Number MHFE2CJ2J9K012777, Engine Number DBK5868, License Plate DG 11 PM, Engine Capacity 1,500 CC;

- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK242341, Engine Number DF79529, License Plate DG 103 KM, Engine Capacity 1,300 CC;
- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK242420, Engine Number DF82335, License Plate DG 105 KM, Engine Capacity 1,300 CC;
- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK252043, Engine Number DG05893, License Plate DG 107 KM, Engine Capacity 1,298 CC.

Subsequently, DAP proceeded to process the ownership documents for all eight (8) units of motor vehicles at the SAMSAT Office of Ternate City. Upon verification, it was found that out of the eight (8) units of four-wheeled vehicles, only four (4) units were registered under the Motor Vehicle Registration and Identification (Regident Bermotor) system, whereas the remaining four (4) units could not be issued ownership documents in the form of the Vehicle Registration Certificate (STNK) and the Vehicle Ownership Book (BPKB). The four (4) units of four-wheeled vehicles that were not registered under the Motor Vehicle Registration and Identification system are as follows:

- Toyota Rush, Year 2012, Chassis Number MHFE2CJ2J9K012777, Engine Number DBK5868, License Plate DG 11 PM, Engine Capacity 1,500 CC;
- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK242341, Engine Number DF79529, License Plate DG 103 KM, Engine Capacity 1,300 CC;
- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK242420, Engine Number DF82335, License Plate DG 105 KM, Engine Capacity 1,300 CC;
- Toyota Avanza G, Year 2010, Chassis Number MHFM1BA3JAK252043, Engine Number DG05893, License Plate DG 107 KM, Engine Capacity 1,298 CC.

The SAMSAT Office of Ternate City argued that ownership documents in the form of BPKB (Vehicle Ownership Book) and STNK (Vehicle Registration Certificate) could not be issued solely on the basis of the Minutes of Auction (*Risalah Lelang*) issued by the State Wealth and Auction Service Office (*KPKNL*). As a result, DAP suffered losses and was deprived of legal certainty regarding the ownership status of the four motor vehicles purchased through auction. Consequently, DAP filed a lawsuit before the District Court of Ternate under case number 30/Pdt.G/2019/PN.Tte, naming the Directorate of Traffic of the North Maluku Regional Police (Joint Office of SAMSAT Ternate City) as the Defendant, the Regent of Morotai Island Regency as Co-Defendant I, and the State Wealth and Auction Service Office (*KPKNL*) of Ternate City as Co-Defendant II.

The lawsuit submitted by DAP was decided by the Panel of Judges of the District Court of Ternate on Tuesday, January 7, 2020, which in essence granted the Plaintiff's claim in part, declared the Defendant's act as an unlawful act, declared valid under the law the Minutes of Auction Extract No. 089/79/2018 dated June 26, 2018, and ordered the Defendant to immediately process and issue ownership documents in the form of BPKB and STNK for the four unregistered motor vehicles.

Based on the clause governing the rights of the successful bidder in an official auction institution, it can be ascertained that the said party has obtained ownership rights over the auctioned object and such rights cannot be contested under the applicable laws regulating auction implementation. This clause is embodied in an authentic deed known as the Minutes of Auction. Pursuant to Article 1 paragraph (35) of PMK Number 27/PMK.06/2016, the Minutes of Auction are defined as the official minutes of auction proceedings prepared by the Auction Officer, which constitute an authentic deed with conclusive evidentiary force. The matters contained therein must be relied upon by the Judge, deemed true, and do not require further corroborative evidence (Sianturi, 2008).

In relation to the aforementioned case, the auction winner already possesses the Minutes of Auction Extract and the receipt of settlement of the auction payment obligation.

Pursuant to Article 1 point 15 of Perpol No. 5 of 2012, it is stipulated that valid evidence of ownership of motor vehicles includes, among others, the Minutes of Auction Extract and/or purchase receipt. Furthermore, Article 55 paragraph (1) letter b and Article 56 paragraph (1) letter c of Perpol No. 5 of 2012 stipulate that the transfer of ownership of motor vehicles may occur through auction, and that proof of such transfer may consist of a duly stamped purchase receipt in the case of sale and purchase, and the Minutes of Auction and/or a court decision having permanent legal force in the case of transfer by auction. Accordingly, it is evident that the Minutes of Auction serves as valid evidence that the auction winner (the Plaintiff) has lawful ownership rights over the motor vehicles, and therefore the Samsat Office of Ternate should have processed and issued the ownership documents in the form of BPKB and STNK.

The conduct of the Samsat Office of Ternate, which lacked legal justification and caused significant harm to the auction winner, prompted the latter to file a claim for damages before the Morotai District Court. Consequently, pursuant to Article 1365 of the Civil Code (KUHPerdata), it must be examined whether the actions of the Samsat Office of Ternate fulfill the four elements of an unlawful act.

The first element is the existence of an unlawful act. To qualify an act as unlawful, four (4) conditions must be satisfied: (a) Contravention of a legal duty imposed on the actor; (b) Infringement upon the subjective rights of another; (c) Violation of morality; (d) Contravention of prudence, propriety, and due care (Agustina, 2003). In relation to the case, the failure of the Samsat Office of Ternate to process and issue ownership documents in the form of BPKB and STNK, despite the auction winner having presented valid evidence in the form of the Minutes of Auction Extract and the receipt of settlement of the auction payment, constitutes an unlawful act. This conclusion follows because, under Perpol No. 5 of 2012 and Article 1 point 35 of PMK No. 27/PMK.06/2016, it is expressly provided that valid proof of ownership of motor vehicles includes the Minutes of Auction, which itself constitutes an authentic deed possessing perfect evidentiary value.

The second element is the existence of fault. If a person is to be held liable on the basis of an unlawful act committed, then that person must be declared at fault. Fault is divided into two (2) elements, namely fault committed intentionally and fault committed due to negligence (Fuady, 2014). In relation to the case, the act of the Ternate Samsat Office in failing to process and issue proof of ownership documents in the form of BPKB and STNK constitutes negligence, as the Ternate Samsat Office failed to exercise due care and diligence by refusing to recognize and adhere to the validity of the auction minutes as stipulated in Article 1 number 35 of PMK Number 27/PMK.06/2016. As a consequence, this has evidently harmed the rights and interests of the auction winner, and therefore the Ternate Samsat Office bears liability for the fault it has committed.

The third element is the existence of damages incurred. In relation to the case, the act of the Ternate Samsat Office has caused material damages (actual losses suffered and benefits that should have been obtained) in the amount expended by the auction winner for the payment of the four motor vehicles to the owner, namely the Regent of Pulau Morotai Regency, totaling Rp185,000,000.00 (one hundred eighty-five million rupiah), as well as the auction fees paid to the seller and/or the auction applicant, namely KPKNL Ternate, in the amount of Rp3,640,000.00 (three million six hundred forty thousand rupiah). Thus, the total material loss suffered by the auction winner amounted to Rp188,640,000.00 (one hundred eighty-eight million six hundred forty thousand rupiah).

The fourth element is the existence of causality between the damages and the act. Losses resulting from an unlawful act must be losses caused by that act and not by another cause in order to establish liability. In relation to the case, the act of the Ternate Samsat

Office in failing to process and issue proof of ownership documents in the form of BPKB and STNK, despite the auction winner having presented evidence in the form of the auction minutes and proof of payment receipts, constitutes an unlawful act that infringes upon the subjective rights of another person. Such act by the Ternate Samsat Office caused material damages in the form of the payment made by the auction winner for the four motor vehicles in the amount of Rp185,000,000.00 (one hundred eighty-five million rupiah) and the auction fees of Rp3,640,000.00 (three million six hundred forty thousand rupiah), resulting in a total material loss of Rp188,640,000.00 (one hundred eighty-eight million six hundred forty thousand rupiah) suffered by the auction winner.

The actions of the Ternate Samsat Office in this case have fulfilled all elements of an unlawful act. The infringement upon the rights and obligations of the auction winner results in sanctions that must be imposed on the Ternate Samsat Office, as the office was declared by the Judge in the court ruling to have committed an unlawful act, and the auction winner prevailed in the trial. In this regard, the Judge considered that protection for the auction winner was necessary, which naturally entails legal consequences in the form of recognizing as valid, based on the excerpt of the auction minutes, the four (4) motor vehicles that were previously not registered in the Motor Vehicle Registration and Identification (Regident Ranmor) system. Consequently, the Ternate Samsat Office, as the defendant, was ordered to immediately process and issue proof of ownership documents in the form of BPKB and STNK, as well as the obligation to pay court fees, which to date have been calculated at Rp2,071,000.00 (two million seventy-one thousand rupiah).

Based on the foregoing description, it can be concluded that the unlawful act committed by the Ternate Samsat Office provided the Panel of Judges with a clear and fundamental basis for consideration in adjudicating this case. The legal protection afforded to the auction winner is through the declaration that the excerpt of the auction minutes created by the Auction Official is valid and carries binding evidentiary power pursuant to the provisions of the Civil Code (KUHPerdata) and the prevailing laws and regulations.

4. Conclusion

Protection for the auction winner regarding movable objects in the form of motor vehicles, who has fulfilled his obligations, can be established through a court declaration regarding the validity of the excerpt of the auction minutes that has been created and issued by the Auction Official pursuant to Perpol No. 5 of 2012 and Article 1 number 35 of PMK No. 27/PMK.06/2016, and determining that the actions taken by the Defendant constitute an unlawful act under Article 1365 of the Civil Code (KUHPerdata). Such protection is necessary to ensure legal certainty or the validity of the objects sold through the auction.

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