

Legal Protection for the E-Auction System for the Purchase of Pledge Objects at Office Services and State Wealth Auctions (KPKNL) in an Islamic Perspective

Helena Margaret

Master of Notarial Law, Faculty of Law, Universitas Airlangga, Ong.helena.margaret-2022@fh.unair.ac.id

ABSTRACT

Indonesia is known as a country whose people experience many problems related to debt receivables. However, education regarding collateral rights is still minimal. Therefore, the government provides solutions related to education on the auction of objects through socialization. The purpose of this study discusses the process and protection of legal certainty related to E-Auction of purchasing pawn objects at the KPKNL service seen in its Islamic perspective. This type of research is qualitatively narrative by examining various literature to be discoping into research results. Thereason is, there is socialization related to E-Auction because there is still minimal trust from the E-Auction system. It was seen that there were many cases of irresponsible auctions and plus the majority of Indonesians were Muslims, so the KPKNL office provided progress from collaboration between managers Syar'i-based which is still categorized as new. However, the collaboration process between KPKNL and BSI fosters confidence and trust if the implementation of the E-Auction is in accordance with Minister of Finance Regulation No. 106 / PMK. 06/ 2013 on E-Auction and No. 93/PMK. 06/2010 i.e. preventive protection of auction winners

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PRELIMINARY

Auction is one of the activities that is usually carried out offline, where collateral goods that have become the property of creditors to be traded because the debtor does not pay off the debt. The offer can be done directly or via broadcast. In the original agreement, it has been agreed if, goods that have been pledged but cannot pay off their debts will be included in the auction item. It applies in the form of a right of use. So what is meant by this right of use, movable goods that people can directly reverse the name according to their buyer on the basis of the consent of the court that actually The item has entered the auction category.¹ The auction in this study is a system of banning the object of liens. Auction benda pawn is one way to obtain land rights. The transfer of land use rights through auction to pay off the pledged debt is equal to the right as collateral.²All stipulated in UUHT article 14 paragraph 2 clearly provides a

¹ A Djauharuddin, "... PROBLEMS BETWEEN EMPLOYEES AND CUSTOMERS AT PT. SHARIA PAWN SHOP (PERSERO) SIDRAP BRANCH (SHARIA MANAGEMENT ANALYSIS)," ... : *Journal of Islamic Economics and Banking*, 2021, <http://jurnal.umpar.ac.id/index.php/ginaa/article/view/854>.

² S Suhardi, *AUCTION OF PAWN GUARANTEE OBJECTS AT PEGADAIAN SYARIAH UNIT SULTAN ADAM* (idr.uin-antasari.ac.id, 2021), <https://idr.uin-antasari.ac.id/id/eprint/16765>.

statement if the certificate of right to use business has the power of implementation and the court's decision has a magnitude. ³Bidding is carried out by submitting an auction at the State Wealth and Auction Service Office (KPKNL) which has been given an operating permit and is regulated in article 54 of the MenKeu rules (PMK) No. 93 / PMK . 06 / 2010 and updated to No 106/PMK.06/2013 regarding offline and online auction guidelines. If the auction is held offline, KPKNL must provide an auction venue which will later be attended by various auction participants directly. Meanwhile, if it is carried out online (E-Auction) the KPKNL must upload the auction item on its website lelang.go.id. So that the enthusiasts of the auction item can intensely see the description and match it with the reality.

The legal or illegal scale of bidders who follow the auction process exceeds the standards determined by the course of the E-Auction in PMK No. 106 / PMK. 06 / 2013 regarding auction guide. In rule 54 (3) the explanation on the offer is in writing and does not have to be present the bidder can be by email; mail; or the Internet. Supported by the enactment of the Law on Electronic Information and Transactions (ITE) No.11 Yr. 2008. Rule 1 number 4 of the ITE Law if an electronic archive is any electronic information generated, transmitted, sent, received, or stored in analog, digital, coaxial, electromagnetic / electronic system form, not only from text, images, drafts, sounds, photos and even maps and other forms such as numbers, symbols, codes, letters that can be understood by everyone⁴. Based on the insufficiency of the auction conditions and mechanisms, it has received expansion, especially from the media used to hold auctions.

The leagle system is not the only facet of selling goods that is disclosed to the public, but also indirectly, through internet means, and legitimate electronic documents. This is in accordance with the online auction law based on article 54 paragraph (3) of PMK No. 106 / PMK. 06 / 2013, this was also posted in the media and KPKNL has collaborated with various banks for the implementation process such as BNI, BRI, Mandiri and BTN. The existence of an online auction system is not a guarantee of legal certainty or the principles attached to it, such as transparency, competition or the⁵ highest price setting will be respected. So, E-Auction can be a new invention of the existence of conventional auctions so that it can be a loophole for people who have no sense of responsibility in taking advantages from it obstacles and solutions. However, judging from the current progress, the novelty of E-Auction is to expand its wings in collaboration with BSI which forms the trust of potential consumers of this auction from an Islamic perspective. ⁶

Mayoritas from the Indonesian people is an Islamic religion and there are many problems that arise in the offline or online auction system that make consumers not believe if the e-auction is not in accordance with sharia law. It is evident from djkn.kemenkeu.go.id post that provides education and collaboration about this E-Auction which was held at the Cirebon KPKNL on Monday, December 13, 2021. Because there are many scams circulating in the name of the sharia system. To address the issue of non-compliance with Sharia rules, a framework for ⁷E-auction based s yariah has been created that can be used as a guide to

³ Dwi Nugrohandhini and Etty Mulyati, "Legal Consequences of Lawsuits and Resistance to Auctions of Execution of Dependent Rights," *Journal of Bina Mulia Law* 4, no. 1 (2019).

⁴ A S Nasution, *Online Branded Goods Auction Held at Pirateauction Instragram@. Id (Analysis of Islamic Law Perspectives of Imam Shafi'i)* (repository.uinsu.ac.id, 2021), <http://repository.uinsu.ac.id/id/eprint/14514>.

⁵ R Fahmi, "Auction of Murabahah Guarantee Objects at Bank Syariah Mandiri Banda Aceh Branch Through the State Wealth Auction Office and Auction in Perspective ...," *SMALL*, 2018, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/petita3§ion=9.

⁶ B W P Adya, N N Habibah, and ..., "Insolvency Auction Financing Cooperation Between State-Owned Banks and State Curators as Legal Innovation in Accelerating Case Settlement ...," *Jurnal Right Invention* ..., 2021, <https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/view/641>.

⁷ H T Yanggo, "Application of Multi-Contract in Pawn Contracts at Sharia Pawnshops and East Java Sharia Bank Sampang Madura," *Repository.Uinjkt.Ac.Id*, n.a., <https://repository.uinjkt.ac.id/dspace/handle/123456789/44213>.

address emerging issues. In order for potential bidders to believe that they are also interested in the use of the sharia-based E-auction system, they must pay attention to how the trust of protection under the law can provide a level in terms of confidence. and the soul of the consumer's desire to always use E-Auction basis syariah.⁸ Like the previous research from (Sudikno Mertokusumo) Legal certainty is one of the conditions that must be met for the implementation of the state of law. Legal certainty is a protection against justifiable arbitrary actions, which means that a person must be able to achieve something expected under certain circumstances.⁹

By giving confidence to the public that this E-Auction is a safe auction system supported by the management of BSI and the management has been applied to all BSI branches, thus providing positive things for future progress. With the conclusion that the existence of this E-Auction provides an effective, efficient and even more forward belief that is not only a conventional base but provides a sharia base in accordance with islamic perspectives.¹⁰

METHOD

This research is a normative-based descriptive qualitative research. Which raises social-legal which relates social issues and applicable legal rules related to the online auction system (E-Auction). Furthermore, researchers took research from various journals that discussed E-Auction using the Publish or Persih (PoP) application and produced more than 100 journals by entering *keywords* "E-Auction" and saved it into Mendeley. Then, the researcher re-sorted the journals that fit this research topic by raising issues related to the E-Auction system in the KPKNL.

RESULTS AND DISCUSSION

Implementation of Sistem E-Auction Pembelian Object of Liens on KPKNL

The process of guarantee rights requires an easy and efficient execution. Such as the rules of article 6 concerning the right of guarantee which in the case of the pekesekusian object of guarantee through a bank or non-bank (pawnshop).¹¹ However, the follow-up process can be done independently or assisted by related institutions. The existence of many problems mentioned in the guarantee items that have passed the court is expected to benefit both parties, both debtors and creditors. Naturally, auction items will be traded directly to people who are interested in becoming auction participants. Automatically, the situation is carried out offline. With the development of the times that continue to mutate, it has become more ideal. Therefore, one of the Institutions launched a new idea for the implementation of an online auction system or called E-Auction. One of the institutions that

⁸ W Wira and Y S Adiputra, "Economic Crisis, Welfare and Good Governance: An Islamic Perspective," *RUDDER...* (download.garuda.kemdikbud.go.id, 2021), [http://download.garuda.kemdikbud.go.id/article.php?article=2984776&val=12010&title=Krisis Welfare Economics and Good Governance Islamic Perspective](http://download.garuda.kemdikbud.go.id/article.php?article=2984776&val=12010&title=Krisis+Welfare+Economics+and+Good+Governance+Islamic+Perspective).

⁹ Sudikno Mertokusumo, *Getting to Know the Law of an Introduction, Cet, 4th, (Liberty, Yogyakarta, 2008)*, 2019.

¹⁰ A S Karina, S Sukarmi, and ..., "The Validity of the Deed of Auction Minutes as an Authentic Deed In The Implementation Of Electronic Auctions By The Office Of State Wealth Services And Auctions," ... *Journal of Law and Sharia* (scholar.archive.org, 2020), <https://scholar.archive.org/work/imj5c7jbtngx3izuzwxio5wbtu/access/wayback/http://ejournal.uin-malang.ac.id/index.php/jurisdictie/article/download/7421/pdf>.

¹¹ D Alusingsing, A Y Dhaniarto, and ..., "Synchronization of Auction Minutes Quotation Rules Based on the Regulation of the Director General of State Assets Number 5/KN/2017 on Auction Minutes with Vendu ...," ... *Indonesian* (download.garuda.kemdikbud.go.id, 2020), <http://download.garuda.kemdikbud.go.id/article.php?article=2983996&val=26769&title=danielalusingsinggmailcom>.

implements the process is the State Service and Auction Office (KPKNL).¹² KPKNL is spread throughout Indonesia with 71 branches. So that each province and city can make an askes at the nearest service office. One of the forms of activities carried out by KPKNL to the community to get to know more about what E-Auction is by conducting socialization.

KPKNL offices at all branch levels simultaneously held E-Auction socialization with only from the Internet Auction App (ALI) on Thursday, March 26, 2015. Socialization activities at KPKNL are carried out to fulfill the main task activities of the Directorate General of State Assets (DJKN) in the Auction Sector. Its mission is the embodiment of an efficient, responsible, transparent, competitive, fair auction and as a buying and selling advice to serve the interests of the legitimate and legally certified public. Socialization participants include¹³ BUMN, SKPD, Bank, K/L, auction venues, and BUMDs in the KPKNL Working Area of all branches. The event was opened directly by the Head of KPKNL of each branch. The explanation of E-Auction can be interpreted for all types of auction systems, including performance, required non-execution, and voluntary non-execution. However, the auction system d the use of internet applications can be accessed through google, chrome, mozilla and so on and enter the address <https://www.lelangdjkn.kemenkeu.go.id>. Apart from PCs and laptops, the application can also be accessed through mobile Android/IOS base. The procedure is the first step to register, upload the requirements for auction participants (KTP, NPWP and account number), select the auction item to be bid until a VA number is issued to replace the account number to be bid. At the end of the event, the Handover of the Auction Service Charter to 5 (six) auction service users, namely: Bank Rakyat Indonesia, Bank Negara Indonesia, Bank Mandiri, Bank Tabungan Negara and Bank Syariah Indonesia. In the arenaof the basic internet, auctioneers can be¹⁴ followed from E-Auction anywhere at any time and are not required to be present at the auction venue. The E-Auction system makes auctions easier (accessible anytime, anywhere), more efficient, transfer and storage more time-practical (get bids directly at per-second time), ensured safe (auctionbids get legal certainty auction) and help optimize auction results.¹⁵ E-Auction participants have the ability to submit multiple private auctions and know the auction number as other participants are not known in real time, transparent there is no interference of various parties that can occur in a regular auction. The price offered is later executed until the end of the specified period, so that an optimal price is formed. The existence of this system creates hope and a new thing for the course of the auction business. Theinauguration of the E-Auction system is an effort to agenda the government to create an auction that appears transparent, efficient, reliable and accountable according to the the era of digital base and answering the needs of society. At the same time, it raises hopes of the possibility of optimizing the results of the auction will increase non-tax state revenues in the form of auction fees.

Legal Protection of C2C Business Model on E-Auction System

This research is based on the C2C business model where, from consumers reselling to other consumers. Basically, the KPKNL office is a provider for its operational facilities. Thus, this E-Auction system gives confidence to people who want to use it because it already

¹² M F NASRULLOH, "Legal Protection for Debtors in Determining the Price of Unilateral Auction Objects Conducted at the State Wealth and Auction Service Office (KPKNL) ...," *Eprints.Walisongo.Ac.Id*, n.a., <http://eprints.walisongo.ac.id/id/eprint/13109/>.

¹³ A I P Sari, *The Effect of The Quality Of Auction Services Via The Internet (E-Auction) On The Satisfaction Of Auction Applicants At KPKNL Metro* (repository.metrouniv.ac.id, 2021), <https://repository.metrouniv.ac.id/id/eprint/4429/>.

¹⁴ D R Shahdu, *Implementation of e-Auction on the auction of collateral objects belonging to banks in the perspective of Bai'al-Muzayadah (Case Study on the Office of Wealth Services ...* (repository.ar-raniry.ac.id, 2020), <https://repository.ar-raniry.ac.id/id/eprint/14065/>.

¹⁵ Helen Alder, "Introduction to E-Auctions," *Cips* 44, no. 0 (2018).

has official legality from the government. Supported by the regulation of the online auction law based on the form of 54 points (3) PMK No. 106 / PMK. 06/2013 so that the public gets certainty in legal protection under the auspices of the government.¹⁶

Peand is said to be the winner i.e. the highest price category as the legitimate winner has a disadvantaged audience in relation to the said E-Auction. Article 67 of the Minister of Finance No. 93 / PMK. 06 / 2010 is given a rule of legal certainty measures in terms of protecting preventively for the owner of the object. On the basis of these regulations, the winner of the auction must fulfill his obligations so that he is entitled to control the object. This research explains the legal certainty for those who have goods and who sell (lenders) after payment of the auction proceeds by the winner in the auction. In addition, the certainty of the facet protects preventative law, the victorious at the auction is entitled to protection against the repressive imposition of collateral rights. The protection of repressive auction winners for the implementation of HT is regulated in Form 200 HIR. Furthermore, on the terms of article 200 paragraph (11) of the HIR. If a who is a champion in an auction that exercises a dependent right that cannot be ruled on an object purchased through the auction process, it is reasonable according to the law. The auction champion can then ask the district court for help in returning the items. This regulation creates the principle of legal certainty so that the winner of the auction can master the object of the auction. In Form 42 of the Auction Rules, the auction champion is entitled to receive the auction minutes as proof of the process of buying and selling auction objects.

E-Auction viewed from an Islamic perspective

According to the Islamic perspective, traditional auction transactions known as *almuzayadah* are allowed. However, the conversion of traditional auctions to online auctions led to changes in rules and characteristics, making it a problem from an Islamic point of view. So, the issue of E-Auction from the perspective of sharia and related questions about the legitimacy of the basic *syar'i* e-auction must be dealt with with the concept of Islamic Sharia which finally the KPKNL appointed BSI as the service of the Islamic model. In accordance with previous research on Auctions i.e. not the main process in the way of transacting, automatic *perrule* should be considered as a category of *syar'i* principles. Furthermore, Islam also does not allow anything uncertain (*gharar*), gambling / speculation (*maisir*) and interest (usury) on commercial activities, including including auctions. Gambling¹⁷ has the opposite meaning to the basic principles of justice, justice, justice, morality and morality, which are imperative values for Islam. The aspect of uncertain conditions can refer to working passionately in the absence of sufficient knowledge and with an element of risk¹⁸.

Based on the results of the analysis of problems in E-Auction and based on previous research on the concept of a basic *syar'i* auction, there are 4 important factors in the use of the *syar'i* base E-Auction price building include: High buyer trust, proof of confidence and certainty of auction prices, confidence in the existence of a certificate of legality. So it is explained that many users have used the E-Auction system.¹⁹ Thus, the cooperation of BSI as the manager of the E-Auction system adds confidence to prospective auctioneers that the implementation of this system is in accordance with Islamic perspectives.

¹⁶ Alusinsing, Dhaniarto, and ..., "Synchronization of Rules for Quotation of Auction Minutes Based on the Regulation of the Director General of State Assets Number 5/KN/2017 on Auction Minutes with *Vendu*"

¹⁷ Mohammed Al-aaidroos, Norleyza Jailani, and Muriati Mukhtar, "Expert Validation on a Reference Model for E-Auctions That Conform to Islamic Trading Principles," *Journal of King Saud University - Computer and Information Sciences* 31, no. 1 (2019), <https://doi.org/10.1016/j.jksuci.2017.10.008>.

¹⁸ Shahdu, *Implementation of e-Auction on the auction of collateral objects belonging to banks in the perspective of Bai'al-Muzayadah (Case Study on the Office of Wealth Services*

¹⁹ N R Febriandika, J Nurzaman, and M R A Arkiang, "Potential Fraud on Online Auction Business Via Instagram: Overview of Islamic Law and Indonesian Statutory Law," *Various Justice*, 2022, <http://journal.unimma.ac.id/index.php/variajusticia/article/view/6640>.

CLOSING

Based on the scope of the problem above, it can be concluded that, judging from the Minister of Finance regulation No. 106 / PMK.06 / 2013 regarding guidelines for offline and online auctions. Seeing that there was a change in transformation to be effective and efficient, so the Ministry of Finance appointed the KPKNL office to provide a forum in the form of E-Auction facilities officially under the auspices of the government. Supported by managers in the form of Bank services starting from BNI, BRI, Mandiri, BTN and BSI. So that the public is protected from the irresponsible online auction system. Not to forget, the collaboration with BSI convinced the Indonesian people to believe that the E-Auction system has carried out the process in accordance with the Islamic perspective. In addition, Article 67 of the Minister of Finance regulation No. 93 / PMK. 06 / 2010 regulates on preventive protection for the owner of the object. The existence of such a rule, the winner of the auction must fulfill his obligations, so that the subject can be examined. This rule provides legal certainty for the owner of the object and who lends in case of payment of the proceeds of the sale in the winning auction.

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