

Tinjauan yuridis tentang peranan balai lelang terhadap penyelenggaraan lelang objek hak tanggungan = The role of judicial review auctioneer auction operation against object encumbrance / Aristyo Rahadiyan

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Abstrak

[Di dalam praktek sehari-hari, sering kita jumpai hutang piutang antara Debitor kepada Kreditor yang dijamin dengan Hak Tanggungan. Hubungan hutang piutang mensyaratkan adanya kewajiban dari Debitor untuk membayar utang beserta bunganya yang menjadi hak Kreditor. Jika Debitor wanprestasi, Kreditor mempunyai hak untuk menuntut pemenuhan piutangnya (hak eksekusi) terhadap harta kekayaan Debitor yang dipakai sebagai jaminan hutang. Dalam kaitannya dengan Hak Tanggungan tersebut, kalau terjadi wanprestasi, jalan keluarnya adalah dengan cara dilelang sesuai dengan ketentuan Pasal 6 UUHT maupun peraturan lelang. Lelang Hak Tanggungan dapat dilakukan berdasarkan Pasal 6 dan Pasal 14. Sesuai Pasal 6, permohonan lelang harus diajukan sendiri oleh bank langsung kepada Kantor Lelang, apabila Pasal 6 tidak dapat digunakan karena barangnya digugat pihak lain maka Lelang Hak Tanggungan akan dilaksanakan melalui Pengadilan (Pasal 14), dalam hal pelaksanaan lelang Hak Tanggungan, Balai Lelang dapat berperan sesuai dengan kesepakatan dengan Kreditor. Jika lelang melalui Pengadilan, Balai Lelang dapat membantu Pengadilan yang bertindak sebagai pemohon, disini Balai Lelang dapat berperan dengan memberikan bantuan jasa-jasa pra dan pasca lelang kepada Kreditor untuk memperlancar pelelangan. Tetapi ternyata dalam peraturannya masih kurang jelas dan masih terdapat beberapa hambatan. Penelitian ini menggunakan metode pendekatan yuridis normatif dengan teknik pengumpulan data melalui data primer dan sekunder. Untuk menghimpun data primer dilakukan dengan penititian lapangan dengan menggunakan wawancara. Sedangkan data sekunder diperoleh dengan mengkaji bahan hukum primer dan bahan hukum sekunder, yang kemudian dianalisis dengan menggunakan teknik analisis kualitatif dan ditafsirkan secara logis dan sistematis yang kemudian ditarik kesimpulan.;

In the daily practice, we often encounter between Debtor accounts payable to creditors secured by a Mortgage. Accounts payable relationship entails the obligation of the debtor to pay the debt with interest to consumption into creditor rights. If the debtor defaults, creditors have the right to demand the fulfillment of its accounts receivable (right execution) of the assets of the Debtor is used as collateral. In relation to the Mortgage, in case of default, the solution is to be auctioned in accordance with the provisions of Article 6 UUHT and auction rules. Auction Encumbrance can do under Article 6 and Article 14. According to Article 6, the petition must be filed by the auction bank directly to the Office of the Auction, if Article 6 can not be used because the goods digugat other party then Auctions Encumbrance will be implemented through the Court (Article 14), in the case of auction Encumbrance, Auctioneer may act in accordance with an agreement with creditors. If the auction through the Court, Auctioneer may assist the Court that acted as the applicant, here Auctioneer may play a role by providing support services to the pre and post auction creditors to expedite the auction. But it turns out in the regulations are still unclear and there are still some obstacles. This study uses empirical juridical approach to data

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