

Keabsahan lelang yang dilaksanakan oleh Kantor Pelayanan Kekayaan Negara dan Lelang (KPKNL) Bandung dikaitkan dengan kewenangan penjual dalam menentukan nilai limit objek yang akan dilelang (analisis putusan mahkamah agung nomor 471K/Pdt/2015) = Validity of auction that executed by the state property office and auction (KPKNL) Bandung related to the authority of seller in determining the reserve price of object to be auctioned (analysis the decision of supreme court no 471K/Pdt/2015)

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Abstrak

Pada pelaksanaan lelang eksekusi hak tanggungan, nilai limit ditentukan oleh kreditur sebagai pemegang hak jaminan. Nilai limit yang ditentukan oleh kreditur terhadap objek eksekusi hak tanggungan dibawah NJOP adalah salah satu alasan debitur mengajukan gugatan terhadap pembatalan lelang. Salah satu putusan yang akan dibahas dalam tesis ini adalah Putusan Pengadilan Negeri Bandung Nomor 274/Pdt.G/2013/PN.Bdg jo Putusan Pengadilan Tinggi Bandung Nomor 319/Pdt/2014/PT.Bdg jo Putusan Mahkamah Agung Nomor 471 K/Pdt/2015. Permasalahan yang dibahas yaitu bagaimanakah kewenangan penjual dalam menetapkan nilai limit objek lelang berdasarkan PMK Nomor 93/2010 dan PMK Nomor 40/2006 dalam Putusan Mahkamah Agung Nomor 471 K/Pdt/2015 serta bagaimanakah keabsahan lelang yang dilaksanakan oleh KPKNL Bandung berdasarkan Putusan Mahkamah Agung Nomor 471 K/Pdt/2015. Penelitian ini merupakan yuridis normatif dengan tipe deskriptif analitis.

Berdasarkan hasil penelitian ditarik kesimpulan bahwa kewenangan penjual dalam menentukan nilai limit objek lelang dalam Putusan Mahkamah Agung Nomor 471 K/Pdt/2015 berlaku ketentuan Pasal 35 ayat 2 jo Pasal 36 PMK Nomor 93/2010, dimana dalam menentukan nilai limit objek lelang tidak hanya didasarkan pada NJOP saja, akan tetapi juga dipengaruhi oleh faktor-faktor lain. Sedangkan apabila perkara diajukan pada saat berlakunya PMK 40/2006, maka berdasarkan Pasal 29 ayat 4 angka 2, harga limit barang yang dimaksud dalam pasal ini, dasar penilaiannya dapat dilakukan oleh Penilai Internal dengan memperhatikan NJOP, dan berdasarkan ketentuan Pasal 1 ayat 1, Pasal 35 ayat 2, Pasal 36, Pasal 91 PMK Nomor 93/2010, Pasal 1 angka 3 UU PBB, dan Pasal 4 ayat 2 huruf b PP Nomor 71/2008, nilai limit objek lelang yang berada dibawah NJOP sama sekali tidak mempengaruhi sah atau tidaknya pelaksanaan lelang yang dilakukan oleh KPKNL Bandung.

*The execution of auction of mortgage execution, reserve price is determined by the creditor as a guarantee rights holder. The reserve price that determined by the creditor to the object of mortgage execute under NJOP is one of the reasons the debtor filed a lawsuit to against the cancellation of the auction. One of those Decision that will be discussed in this thesis is The Decision of Bandung District Court No. 274 Pdt.G 2013 PN.Bdg jo The Desicion of Bandung High Court No. 319 Pdt 2014 PT.Bdg jo The Decision of Supreme Court No. 471 K Pdt 2015. The issues that will be discussed are how was the authority of the seller in determining the reserve price of the object auction based on PMK No. 93 2010 and PMK No. 40 2006 on The Decision of Supreme Court No. 471 K Pdt 2015 as well as how was the validity of the auction conducted by KPKNL Bandung based on The Decision of Supreme Court No. 471 K Pdt 2015. This*

research is a juridical normative with research type of descriptive analytic.

Based on the results of the research, we can conclude that the authority of the seller to determine the reserve price of the object auction in The Decision of Supreme Court No. 471 K Pdt 2015 applicable the provisions of Article 35 paragraph 2 jo Article 36 of PMK No. 93 2010, whereby in determining the reserve price of the object auction not only based on NJOP, but also influenced by other factors. Meanwhile, if the case is submitted when PMK 40 2006 is applicable, based on Article 29 paragraph 4 point 2, the reserve price that referred in this article, the basic assessment can be carried out by the Internal Appraiser regarding to NJOP, and based on the provisions of Article 1 paragraph 1, Article 35 paragraph 2, Article 36, Article 91 of PMK No. 93 2010, Article 1 paragraph 3 of PBB Act, and Article 4 paragraph 2 point b Government Regulation No. 71 2008, the reserve price of the object auction that under NJOP did not affect the validity of the auction that conducted by KPKNL Bandung.</i>