

ABSTRAK

Atas lelang yang telah dilaksanakan, tidak dapat dibatalkan oleh Kantor Lelang, hal ini ditegaskan dalam Keputusan Menteri Keuangan No. 304/KMK 01/2002 jo. No. 450/KMK 01/2002 yang berbunyi “Pelelangan yang telah dilaksanakan sesuai dengan ketentuan yang berlaku tidak dapat dibatalkan”. Permasalahan pokok adalah bagaimana kompetensi Badan Peradilan Umum dan Badan Peradilan Tata Usaha Negara dalam pembatalan Risalah Lelang dan bagaimana kepastian hukum Risalah Lelang bilamana terdapat putusan badan Peradilan Umum dan Badan Peradilan Tata Usaha Negara yang saling bertentangan. Metode penelitian yang digunakan adalah penelitian kepustakaan dengan tipe penelitian eksploratoris serta rancangan penelitian *case study desain* untuk memperoleh informasi secara menyeluruh dan terintegrasi yang terkait dengan kasus dalam putusan pengadilan yang diteliti dan didukung dengan bahan hukum primer, sekunder dan tersier. Data dihimpun melalui studi dokumentasi. Hasil penelitian menunjukkan bahwa pada kasus tersebut ternyata Risalah Lelang bukan merupakan penetapan pejabat Tata Usaha Negara melainkan Berita Acara hasil penjualan barang tereksekusi. Oleh karenanya Risalah Lelang bukan keputusan Badan/Pejabat Tata Usaha Negara dan bukan objek gugatan Tata Usaha Negara melainkan masuk dalam lingkup kewenangan Badan Peradilan Umum. Apabila terdapat putusan badan Peradilan Umum dan Badan Peradilan Tata Usaha Negara yang saling bertentangan mengenai pembatalan Risalah Lelang maka demi terwujudnya kepastian hukum para pihak dapat memohon fatwa kepada Mahkamah Agung.

Kata kunci: Kompetensi Badan Peradilan, Risalah Lelang

ABSTRACT

Upon the auction that has been executed, it shall not be cancelled by The Auction Office, this is firmly stated in the Decree of Finance Minister Number 304/KMK 01/2002 in connection with Number 450/KMK 01/2002, sound that "Any Auction has been executed in compliance with the prevailing provision could not be canceled". The primary issue is how the competency of Public Judicial Board and State Administration Judicial Board in canceling the Minutes of Auction, and how the law conviction of the minutes of auction whenever there is adjudication of the Public Judicial Board and State Administration Judicial Board in which they are contrary each other. The research method adopted herein shall be library research with the research type of exploratory using the design research of case study design in order to obtain the information entirely, integrated in connection with the researched court adjudication, and supported by the primary, secondary and tertiary law materials. The data are collected by documentation study. The research outcome transpires that in fact on such case the Minutes of Auction is not a determination of the an Official of the State Administration but as a Minutes of Sales outcome of executed property. Therefore the Minutes of Auction is not the adjudication of the Board/Officials of the State Administration and not an accusation object of the State administration but rather than include in the authority of Public Judicial Board. In the event of occurring any adjudication of Public Judicial Board and State Administration Judicial Board concerning canceling the Minutes of Auction, in which they are contrary each other, therefore in the interest of law conviction the parties could request a binding ruling to The Supreme Court.

Key Word: Judicial Competency, The Minutes of Auction.