

Perlindungan Hukum Pembeli dan Pemohon dalam Pelelangan terkait Penguasaan Objek Hak Tanggungan yang Terhalang oleh Gugatan (Studi Putusan Pengadilan Tinggi Bandung No. 493/PDT/2021/BDG) = Legal Protections of Buyer and Applicant in Auction of Ownership of Mortgage Object Hindered by Lawsuit (Case Study of Putusan Pengadilan Tinggi Bandung No. 493/PDT/2021/PT BDG)

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Abstrak

Penguasaan objek lelang oleh pembeli semestinya tidak dapat dihalangi oleh adanya gugatan apabila pelaksanaan lelang telah sesuai dengan prosedur yang diatur dalam ketentuan hukum yang berlaku. Akan tetapi dalam kasus yang ditemukan pada Putusan Perdata di Pengadilan Tinggi Bandung Nomor 493/PDT/2021/PT BDG ada upaya gugatan yang dinyatakan ne bis in idem untuk menghambat proses penguasaan objek Hak Tanggungan yang telah dilelang. Dalam kasus tersebut, tidak saja pembeli lelang yang dirugikan karena objek lelang belum bisa dikuasainya meskipun harga yang telah disepakati sudah dibayarkan. Namun pemohon (penjual lelang) juga dirugikan karena proses yang harus dilaluinya untuk melepaskan objek lelang menjadi lebih panjang, terlebih apabila pembeli lelang menggugat pemohon selaku penjual lelang karena objek lelang yang tidak dapat dikuasai. Terkait hal tersebut maka permasalahan yang diteliti adalah penguasaan objek Hak Tanggungan dalam pelelangan yang terhalang oleh gugatan dan perlindungan hukum bagi pembeli dan pemohon terkait penguasaan objek lelang yang terhalang oleh gugatan yang dinyatakan ne bis in idem. Penelitian hukum doktrinal ini mengkaji hukum dalam konsepnya sebagai peraturan perundang-undangan dan putusan pengadilan. Bahan-bahan hukum yang dikaji, dikumpulkan melalui studi dokumen atau kepustakaan. Dari hasil analisis dapat dinyatakan bahwa walaupun proses eksekusi Hak Tanggungan telah dilelang sesuai prosedur namun objek dalam perkara a quo tidak dapat dikuasai oleh pembeli baik secara yuridis (proses balik nama sertipikat) maupun secara fisik (proses pengosongan objek). Selain itu, perlindungan hukum dalam pelelangan adalah perlindungan hukum yang bersifat preventif yakni melalui pembuatan Akta Risalah Lelang yang dapat dijadikan alat bukti sempurna serta perlindungan hukum secara represif, yang diberikan melalui putusan pengadilan.

.....Mastery of the auction object by the buyer should not be hindered by a lawsuit if the implementation of the auction is in accordance with the procedures regulated in the applicable legal provisions. However, in the case found in Putusan Pengadilan Tinggi Bandung No. 493/PDT/2021/PT BDG, it was found that there was an attempt to sue which was declared ne bis in idem to obstruct the process of controlling the Mortgage object that has been auctioned off. In this case, it is not only the auction buyer who is selling because the auction object has not been able to control it even though the agreed price is included. However, the applicant (auction seller) is also at a disadvantage because the process he has to go through to release the auction object becomes longer, especially if the auction buyer sues the auction applicant in full because of the auction object which the auction buyer cannot control. Related to this, the problems studied are the ownership of the Mortgage object in an auction which is hindered by persuasion and legal protection for the buyer and the dedication related to the ownership of the auction object which is hindered by seduction which is stated as ne bis in idem. This doctrinal legal research examines law in its concept as statutory regulations

and court decisions. The legal materials reviewed were collected through document or literature studies. From the results of the analysis it can be stated that although the process of executing the Mortgage has been auctioned according to the procedure, the object in the a quo case still cannot be controlled by the buyer both legally (the process of transferring the name of the certificate) and physically (the process of emptying the object). In addition, legal protection in auctions is preventive legal protection, one of which is through the Deed of Minutes of Auction which can be used as perfect evidence and repressive legal protection, in this case through court decisions.