


Auction Procedure for Dependent Rights as an Effort to Resolve Non-Litigation of Non-Performing Loans by Banks

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Abstract

Introduction: Non-performing loans are a major challenge in banking operations that can affect the financial stability and operational performance of banks. One of the non-litigation solutions pursued by banks to resolve such issues is through the auction of mortgage rights over the debtor's collateral.

Purposes of the Research: This study aims to examine in detail the procedure for conducting mortgage right auctions as a means of resolving non-performing loans and to assess their effectiveness in providing legal protection for banks.

Methods of the Research: The research method used is normative juridical with a statutory and case study approach. Normative Juridical Approach is chosen because the main focus of the research is to analyze and examine the applicable legal norms related to the procedure of mortgage right auctions as a solution for resolving non-performing loans.

Findings of the Research: The results show that the auction of mortgage rights is carried out through the State Assets and Auction Service Office (KPKNL) based on Law Number 4 of 1996 on Mortgage Rights and relevant Minister of Finance Regulations. The procedure includes stages such as notification, collateral assessment, auction announcement, auction execution, and distribution of auction proceeds. Although this process offers a more efficient alternative compared to litigation, practical obstacles still exist, such as debtor objections, lengthy auction processes, and administrative hurdles. Therefore, regulatory harmonization and improved coordination between banks, KPKNL, and relevant parties are necessary to enhance the effectiveness of mortgage right auctions as a non-litigation solution for non-performing loans.

Keywords: Mortgage Right Auction; Non-Performing Loans; Non-Litigation Resolution; Bank.

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INTRODUCTION

Credit activities are one of the main functions in the banking industry which plays an important role in supporting national economic growth. Through the provision of credit, banks distribute funds to productive sectors to encourage economic development. However, in practice, not all loans disbursed can run smoothly. Some debtors have difficulty fulfilling their payment obligations, resulting in non-performing loans (NPLs). Non-performing loans not only harm banks financially, but also have an impact on the stability of the national financial system.¹

In an effort to reduce the level of non-performing loans, banks have several settlement strategies, both litigation and non-litigation. Litigation settlements through the courts often take a long time and are expensive. Therefore, banks tend to choose non-litigation settlement alternatives, one of which is through the implementation of auctions of collateral

¹ Wibowo, A., & Hidayat, M. Dampak Kredit Bermasalah Terhadap Stabilitas Sistem Keuangan Nasional. *Jurnal Ekonomi Makro*, 18 no. 4 (2019): 34-50

objects that are burdened with dependents. Auction of dependents is a legal mechanism that gives creditors the authority to sell collateral objects to pay off debts of defaulting debtors.²

The right of dependency as a material guarantee institution is regulated in Law Number 4 of 1996 concerning the Right of Dependency over Land and Objects Related to Land (UUHT). The provision explains that if the debtor defaults, the creditor holding the dependent rights has the executory right to sell the collateral object through a public auction. This auction procedure is part of the guarantee execution effort that is carried out without going through a lawsuit process in court, so that it is more efficient and effective for the bank.³

The implementation of the auction of dependent rights is carried out through the Office of State Property and Auction Services (KPKNL) as an institution that has the authority to hold auctions based on laws and regulations. This auction process starts from the submission of an auction application by creditors, an assessment of the collateral object, the announcement of the auction to the public, to the implementation and deposit of the auction results⁴. The Bank as the holder of the right of dependency acts as the party requesting the implementation of the auction on the basis of the certificate of the right of dependency that has been given by the debtor when the credit agreement is made.

However, although normatively the auction of the right of dependency is a legally recognized non-litigation settlement solution, its implementation in the field is not uncommon to encounter various obstacles. These obstacles can be in the form of objections from the debtor, slow administrative processes at KPKNL, to difficulties in attracting auction participants to the auction object of collateral. In addition, there is still a misperception in the community that auctions are always synonymous with forced confiscation by the state, thus causing resistance in its implementation.⁵

The effectiveness of the auction of dependent rights as a means of resolving non-performing loans is highly determined by legal certainty and procedural smoothness. Therefore, it is important for banks to carefully understand each stage of the auction procedure, from notifying the debtor, issuing an auction request letter, to the process of submitting the auction results. In addition, coordination between banks and KPKNL is an important aspect that must be considered so that the auction process can run in accordance with the provisions and not cause new disputes.⁶

Several previous studies have also revealed that the success of the auction of dependents as an instrument for settling problematic loans is highly dependent on the quality of the guarantee documents and the completeness of the administration submitted by the bank. If there is an administrative defect or lack of documents, then KPKNL can postpone the auction which has an impact on the length of time it takes to settle non-performing loans⁷.

² Hasibuan, T. Mekanisme Hukum Lelang Hak Tanggungan Sebagai Solusi Non-Litigasi. *Jurnal Hukum dan Kebijakan Publik*, 1 no. 3 (2020): 67-80.

³ Saragih, F. (2018). Hak Eksekutorial Kreditur Berdasarkan UU No. 4 Tahun 1996 tentang Hak Tanggungan. *Jurnal Hukum Agraria*, 16 no. 3 (2018): 112-125

⁴ Ismail, R. Prosedur Pelaksanaan Lelang Hak Tanggungan Melalui KPKNL. *Jurnal Administrasi Negara*, 19 no. 4 (2021): 89-102

⁵ Yuliana, S., & Maulida, R. Hambatan pelaksanaan lelang hak tanggungan di lapangan. *Jurnal Hukum Praktis*, 13 no. 2 (2020): 101-115.

⁶ Arifin, Z. (2022). Koordinasi antara bank dan KPKNL dalam pelaksanaan lelang hak tanggungan. *Jurnal Hukum Perbankan*, 14(2), 123-135.

⁷ Rahmawati, D. (2021). Pengaruh Kelengkapan Dokumen Terhadap Keberhasilan Lelang Hak Tanggungan. *Jurnal Administrasi dan Kebijakan Publik*, 14 no. 2 (2021): 56-70.

In addition, transparency in the auction process and adequate access to information for auction participants also determine the economic success of the auction.

The auction of dependents in the context of legal protection, also provides clarity of legal positions for creditors and debtors. Creditors have a legal basis to execute the guarantee without having to file a lawsuit in court, while the debtor gets assurance that the execution process is carried out according to a fair and open procedure. Therefore, the auction of dependents is a mechanism that is not only economically efficient, but also in line with the principle of justice in resolving debts and receivables disputes⁸. However, the problem that often arises is the debtor's lack of understanding of the legal consequences of default and the process of executing the guarantee through auction. The case that occurred was against debtors who refused to hold the auction even though they had been legally notified, thus slowing down the settlement and potentially causing new legal conflicts. Therefore, education to debtors and socialization of auction procedures are important steps to prevent misunderstandings and resistance to the implementation of auctions⁹. In addition, in terms of regulations, there is still a need for harmonization between the Law, the Regulation of the Minister of Finance regarding auctions, and the implementation rules at KPKNL so that there is no overlap or legal vacuum in the implementation of the auction of dependent rights. The absence of adequate technical regulations can lead to multiple interpretations in implementation and weaken the bank's legal position as a creditor¹⁰.

Based on this background, it is important to conduct an in-depth study on the procedure for the implementation of the auction of dependent rights as a form of non-litigation settlement of non-litigation loans by banks. This study aims to systematically describe the stages of auction procedures, examine their effectiveness in practice, and identify obstacles faced in their implementation. Through this study, it is hoped that it can contribute to the understanding of banking law, especially in the context of non-litigation settlement of non-litigation non-litigation loans, as well as provide recommendations for improving regulations and the implementation of auctions of dependent rights in the future.

METHODS OF THE RESEARCH

This research uses a normative juridical approach, which is an approach that relies on the applicable legal norms as a basis for analyzing the legal issues being studied. This approach is considered relevant because the main focus of the research is on the legal procedures for the auction of dependent rights in the settlement of non-performing loans regulated by laws and regulations¹¹. Through this approach, the researcher examines laws and regulations related to dependents, auctions, and settlement of non-performing loans, both substantive and procedural. The main source of data in this study is secondary data obtained through literature studies. Secondary data consists of primary legal materials, namely relevant laws and regulations such as Law Number 4 of 1996 concerning Dependent Rights, Law Number 10 of 1998 concerning Banking, and Regulation of the Minister of Finance related to the implementation of auctions. In addition, secondary legal materials are also used in the form

⁸ Fadillah, R., & Wahyuni, S. (2023). Perlindungan Hukum Bagi Kreditur Dan Debitur Dalam Proses Lelang Hak Tanggungan. *Jurnal Hukum Ekonomi*, 21 no. 1 (2023): 45-60.

⁹ Sutrisno, H. (2018). Edukasi Debitur Untuk Mencegah Resistensi Terhadap Pelaksanaan Lelang Hak Tanggungan. *Jurnal Sosial dan Hukum*, 11 no. 3 (2018): 78-90.

¹⁰ Putri, A., & Ramadhan, T. (2022). Harmonisasi Regulasi Pelaksanaan Lelang Hak Tanggungan Di Indonesia. *Jurnal Legislasi Nasional*, 10 no. 1 (2022): 33-47.

¹¹ Marzuki, P. M. *Metodologi Penelitian Hukum*. (Jakarta: Kencana Prenada Media Group, 2017).

of legal literature, scientific journals, textbooks, results of previous research, and legal articles that discuss problems related to dependents and the settlement of non-performing loans¹². In addition to the normative approach, this study also utilizes a case study approach to the implementation of the auction of dependent rights in one of the national banks that experienced non-performing loans. This approach aims to provide an empirical overview of how the auction procedure for dependent rights is carried out, what obstacles are faced, and solutions carried out by the bank and the State Wealth and Auction Service Office (KPKNL). This case study reinforces the results of normative analysis with the realities of practice in the field¹³. The data collection technique is carried out by documentation, namely collecting and reviewing official documents such as copies of certificates of dependents, auction applications, auction minutes, and related legal decisions. In addition, semi-structured interviews were conducted with several informants who were considered to have in-depth knowledge of auction procedures, including bank officials in the non-performing credit section, KPKNL officials, and banking law practitioners. This technique aims to obtain more detailed and in-depth data related to the implementation of the auction of dependent rights as a non-litigation solution¹⁴. The data that has been collected is then analyzed qualitatively, namely by interpreting the content of legal documents, expert opinions, and interview data to draw conclusions based on legal logic. This analysis technique is used to connect legal norms with practice in the field, as well as to identify the fit between theory and reality. This analysis is also directed to examine the effectiveness of auction procedures as an alternative solution to the settlement of non-performing loans without going through the court¹⁵. This research is expected to make a scientific contribution to the development of banking law studies, especially regarding the role and effectiveness of the auction of dependent rights as a non-litigation mechanism. The results of the analysis will be presented in the form of an analytical descriptive, namely a systematic presentation of the auction procedure, legal and administrative obstacles faced, as well as the potential for improvement of regulations and coordination between institutions.

RESULTS AND DISCUSSION

A. Characteristics of Non-Performing Loans and Their Settlement Efforts in Banking

Non-performing loans (NPLs) are conditions where the debtor is unable to meet principal and/or interest payment obligations in accordance with the credit agreement. In the context of banking, non-performing loans are an important indicator in assessing the level of financial health of a bank, as it has a direct impact on the profitability and financial stability of the institution¹⁶. Bank Indonesia and the Financial Services Authority (OJK) classify non-performing loans into two categories, namely loans under special attention (DPK) and non-performing loans, which consist of non-current, doubtful, and non-performing loans¹⁷. The main characteristics of non-performing loans can be seen from various aspects, including: repeated late payments, lack of communication from the debtor, deteriorating business

¹² Husni, A. *Pendekatan Normatif Dalam Penelitian Hukum: Studi Kasus Lelang Hak Tanggungan*. (Bandung: Pustaka Hukum Nasional, 2020).

¹³ Susanti, E., & Efendi, R. *Pendekatan Studi Kasus Dalam Penelitian Hukum Perbankan*. (Surabaya: Universitas Airlangga Press, 2022).

¹⁴ Yuliana, S. Teknik Wawancara Dalam Pengumpulan Data Hukum Perbankan. *Jurnal Penelitian Hukum Perbankan Nasional*, 15 no. 4 (2021): 89-102.

¹⁵ Anwar, M. *Analisis Efektivitas Prosedur Lelang Sebagai Solusi Alternatif Penyelesaian Kredit Bermasalah*. (Jakarta: Penerbit Hukum Indonesia, 2018).

¹⁶ Sari, N. (2020). Karakteristik Kredit Bermasalah Dan Dampaknya Terhadap Stabilitas Keuangan Bank. *Jurnal Keuangan dan Perbankan*, 24 no. 1 (2020): 89-103.

¹⁷ OJK (Otoritas Jasa Keuangan). *Klasifikasi kredit bermasalah di Indonesia*. (Jakarta: OJK Press, 2018).

conditions of the debtor, and the failure to achieve the previously agreed restructuring targets¹⁸. In addition, the existence of collateral whose value is not proportional to the loan amount is also a complicating factor in the credit recovery process. This situation makes banks have to take strategic and careful steps in handling NPLs, so as not to cause further losses.

The factors that cause non-performing loans are very diverse, both from the internal and external sides of the bank and external debtors. From the debtor's side, the main cause is the inability to pay due to decreased income, business failure, and poor financial management. From the bank side, weaknesses in credit analysis, lack of supervision over the use of loan funds, and weak risk mitigation systems also aggravate the situation¹⁹. Therefore, it is not enough to prevent NPLs only in the final stage, but must start from the initial process of granting credit.

Banks in dealing with non-performing loans have several settlement strategies, both litigation and non-litigation. Litigation settlement, i.e. through the courts, is considered less efficient because it takes a long time and costs a lot of money. Therefore, the non-litigation approach is the main choice for banks in dealing with non-performing debtors. Non-litigation strategies include direct collection, renegotiation, credit restructuring, and collateral execution through the auction of dependents²⁰.

One of the most common forms of non-litigation handled by banks is through credit restructuring, which is the readjustment of credit conditions so that debtors are able to meet payment obligations. The form of restructuring can be in the form of term extensions, interest rate reductions, reduction of principal and interest arrears, or conversion of loans into capital participation²¹. However, not all restructuring was successful. When the debtor is still unable to pay, the bank must take follow-up actions, one of which is through the execution of the guarantee.

The execution of guarantees, especially guarantees in the form of dependency rights over land and buildings, is carried out through an auction facilitated by the Office of State Wealth and Auction Services (KPKNL). This process allows the bank to recover part or all of the credit value that the debtor has not repaid through the proceeds of the sale of collateral legally and officially²². The auction of dependents is a mechanism specifically regulated in Law Number 4 of 1996 concerning Dependent Rights, and is a form of settlement of non-performing loans that do not go through the courts. From a legal point of view, dependency rights are property security rights over land that give preferential position to creditors. This means that in the event of default, the creditor can sell the object of the dependent right without the consent of the debtor or through a court process, as long as it has been regulated in the certificate of dependent rights through *an executory title*²³. This is in line with the principle of ease and legal certainty in resolving non-performing loans quickly and

¹⁸ Wibowo, T. (2019). Analisis Faktor-Faktor yang Mempengaruhi Non Performing Loan (NPL) pada Bank Umum Konvensional di Indonesia Periode 2014-2018. *Jurnal Ekonomi dan Bisnis*, 23 no. 1 (2018): 55-72.

¹⁹ Nurjanah, L. (2021). Faktor Penyebab Kredit Bermasalah Di Perbankan Nasional. *Jurnal Ekonomi dan Keuangan*, 15 no. 3 (2021): 145-157.

²⁰ Putra, A., & Rachmadi, D. (2019). Strategi Non-Litigasi Dalam Penyelesaian Kredit Bermasalah Di Perbankan. *Jurnal Manajemen Risiko*, 12 no. 2 (2019): 78-90.

²¹ Ardiyani, D. (2018). Penerapan Eksekusi Hak Tanggungan Parate Executie Terhadap Debitur Wanprestasi (Studi Kasus Putusan Nomor 134/Pdt.G/2017/PN.Bks). *Jurnal Magister Hukum*, 7 no. 3 (2018): 269-280.

²² Sihombing, E. Z. (2020). *Penyelesaian Kredit Macet Melalui Lelang Hak Tanggungan*. (Jakarta: Universitas Kristen Indonesia, 2020)

²³ Latifah, M. (2022). Eksekusi Objek Hak Tanggungan Melalui Lelang Terhadap Debitur Wanprestasi. *Jurnal Penelitian Hukum De Jure*, 22 no. 3 (2022): 421-434.

efficiently. Although a non-litigation mechanism is legally available, in practice banks still face a number of challenges in settling NPLs. One of them is the resistance of debtors who refuse the auction process, either deliberately buying time, filing a lawsuit in court, or even eliminating collateral. In addition, there are also technical obstacles in the auction process such as the mismatch of the collateral value with the market, the lack of auction enthusiasts, and a fairly long administrative process²⁴. Therefore, the non-performing loan settlement strategy must be carried out comprehensively by paying attention to legal, economic, and social aspects.

The role of bank officers, especially the non-performing credit handling department, is very decisive in this process. They are required to understand legal aspects related to guarantees and auctions, have the ability to negotiate with debtors, and maintain the quality of communication so that the settlement process does not cause prolonged conflicts²⁵. Training and capacity building of human resources in the field of credit risk management are supporting factors in increasing the effectiveness of non-litigation non-litigation resolution of non-litigation non-performing loans.

In addition, collaboration between banks and other agencies such as KPKNL and notaries also plays an important role. In the auction process, for example, synergy is needed between banks as auction applicants, notaries as the parties who make the deed of dependents, and KPKNL as the auction implementer. Good coordination between agencies can speed up the settlement process and minimize administrative obstacles that often arise in the field²⁶. Banks are also encouraged to strengthen credit monitoring systems from the beginning, so that potential non-performing loans can be detected as early as possible. The implementation of an *early warning system* (EWS) is very important to minimize NPL risks. This system includes monitoring debtor payment behavior, fluctuations in business conditions, and assessing collateral quality. With this system, banks can more quickly take preventive measures, such as early collection or adjustment of credit terms²⁷.

As a macroprudential policy framework, the Financial Services Authority has also issued various regulations that support the reduction of non-performing loans, including strengthening governance aspects, transparency of debtor information, and stricter supervision mechanisms. All of these measures aim to maintain the stability of the national financial system and encourage banks to be more selective in disbursing credit²⁸. By taking into account the complexity of the causes and impacts of non-performing loans, their resolution requires an approach that is not only legalistic, but also pragmatic and humane. The auction procedure for dependent rights as one of the non-litigation solutions is a strategic choice that can be optimized by banks. However, its effectiveness is highly dependent on strong regulatory support, officer professionalism, and synergy between related institutions.

B. Stages of Implementation of the Auction of Dependent Rights by the Bank

²⁴ Rohmah, N. (2018). Aspek Perlindungan Hukum Bagi Para Pihak Dalam Perjanjian Kredit Dengan Jaminan Hak Tanggungan. *Jurnal Akuntansi Dan Hukum*, 8 no. 1 (2018): 1-14.

²⁵ Gunawan, A. (2021). Kepastian Hukum Lelang Eksekusi Hak Tanggungan Melalui Media Online. *Jurnal IUS Kajian Hukum Dan Keadilan*, 9 no. 3 (2021): 515-529.

²⁶ Saputra, I. W. G. L. A. (2022). Analisis Yuridis Pelaksanaan Lelang Eksekusi Hak Tanggungan Terhadap Debitur Wanprestasi. *Jurnal Preferensi Hukum*, 3 no. 1 (2022): 129-135.

²⁷ Iskandar, D. (2020). Analisis Hukum Terhadap Pelaksanaan Lelang Hak Tanggungan Yang Tidak Memenuhi Unsur Itikad Baik (Good Faith). *Jurnal Yuridis*, 7 no. 2 (2020): 413-430.

²⁸ OJK (Otoritas Jasa Keuangan). *Statistik Perbankan Indonesia*. (Jakarta: OJK Press, 2023)

Auction of dependents is a mechanism for the execution of guarantees carried out by creditors (in this case banks) against debtors who are in default or unable to fulfill their obligations. This auction is carried out based on the executory power possessed by the certificate of dependency rights as stipulated in Law Number 4 of 1996 concerning Dependent Rights on Land and Objects Related to Land. The implementation of this auction is carried out through the Office of State Wealth and Auction Services (KPKNL) in accordance with the provisions of laws and regulations²⁹.

The stages of implementing the auction of dependent rights by banks begin with the process of identifying non-performing loans. In this stage, the bank through the credit division monitors debtors who have passed the payment deadline and do not show good faith to settle their obligations. If after collection, restructuring, or persuasive approaches do not yield results, the bank can make a decision to execute the guarantee through the auction process³⁰. The next step is to give a warning or summons to the debtor. Banks are required to provide written warnings in stages, usually three times, to give the debtor a chance to settle his obligations. This reprimand is the legal basis that the debtor has been given the opportunity to settle the debt voluntarily before the execution process is carried out³¹. The granting of this summons reflects the principles of fairness and transparency in the process of settling non-performing loans.

If after the summons the debtor still does not fulfill his obligations, the bank will proceed to the auction preparation stage, including preparing supporting documents such as: certificate of right of dependency, power of attorney of sale from the debtor (if any), deed of encumbrance of dependent rights (APHT), land certificate, identity of owner, and other relevant documents. All of these documents will be submitted to the KPKNL as an institution that has the authority to carry out state auctions³². After the completeness of the documents is verified, the bank submits an application for the implementation of the auction to the KPKNL. This application must be accompanied by legal reasons for the execution, including evidence of default and previous settlement efforts. KPKNL then conducts an administrative review and determines the schedule for the implementation of the auction in accordance with the applicable procedures³³. The KPKNL will also announce auction information through official media, such as lelang.go.id websites and other print or electronic media, at least 7 days before the auction.

The next stage is the announcement of the auction which is open to the public. This announcement must include clear and complete information regarding the auction object, the limit value (the basic auction price), the security deposit, the time and place of the auction, and other applicable special provisions. This announcement is important to ensure healthy competition and openness in the auction process³⁴. The determination of the limit value is usually determined based on the results of an independent appraisal or appraisal, to reflect the fair market value of the object to be auctioned. After the announcement period

²⁹ Susanti, F. Akibat Hukum Pelaksanaan Lelang Hak Tanggungan Yang Tidak Diumumkan Dalam Surat Kabar Harian. *Jurnal Ilmu Hukum*, 3 no. 1 (2020): 88-103.

³⁰ Ramadhani, R. Analisis Yuridis Terhadap Pelaksanaan Lelang Eksekusi Hak Tanggungan Yang Objeknya dikuasai Pihak Ketiga. *Jurnal Ilmu Hukum*, 12 no. 1 (2021): 1-18.

³¹ Putri, R. A. Pelaksanaan Eksekusi Hak Tanggungan Apabila Debitur Pailit. *Jurnal Hukum Ekonomi Syariah*, 3 no 1 (2019): 49-65.

³² Wulandari, D. Analisis Yuridis Terhadap Pelaksanaan Lelang Hak Tanggungan Atas Tanah Dan Bangunan. *Jurnal Justitia*, 4 no. 1 (2020): 1-14.

³³ Fadillah, S. N. Analisis Yuridis Pelaksanaan Lelang Eksekusi Hak Tanggungan Berdasarkan Pasal 6 Undang-Undang Hak Tanggungan. *Jurnal Ilmu Kenotariatan*, 2 no. 1 (2021): 67-86.

³⁴ Anshari, M. F. Analisis Yuridis Pelaksanaan Lelang Hak Tanggungan Yang Tidak Sesuai Prosedur (Analisis Putusan Nomor 110/Pdt.G/2020/PN.Mdn). *Jurnal USM Law Review*, 5 no. 2 (2022): 447-459.

is over, the KPKNL will hold an electronic auction through the official auction website owned by the Directorate General of State Assets (lelang.go.id). Interested auction participants are required to deposit a security deposit according to the provisions, and follow the online bidding process. The auction winner is the participant who makes the highest bid above the predetermined limit value³⁵. This process is considered more transparent and accountable because it can be directly supervised by all interested parties.

After the auction winner is announced, the next stage is the settlement of the auction price and the issuance of the auction minutes. The winner is required to pay off the entire auction value within a certain period of time (usually 5 working days). After that, KPKNL issued the auction minutes as valid proof that the object had transferred ownership to the winner. This treatise is then used for the transfer of rights at the land office and as a basis for emptying the object if it is still controlled by the debtor³⁶. The auction proceeds are then handed over to the bank as repayment of debtors' debts.

However, the implementation of the auction of dependent rights does not always run smoothly. Some obstacles are often faced, such as objections from the debtor who files a lawsuit against the court, or the process of emptying objects that require the assistance of the court or security forces. Some auction cases are also canceled because there are no interested parties, or the bids do not reach the limit value. Therefore, banks must conduct a careful evaluation before deciding to go the auction route³⁷. To anticipate these obstacles, banks are advised to establish good communication with debtors during the pre-auction process. Offering alternative solutions such as voluntary sales by debtors or cooperation in the execution of auctions can speed up the process and avoid legal conflicts³⁸. In addition, increasing bank officers' understanding of the legal and technical procedures for conducting auctions is also important so that there are no administrative errors that can cancel the process.

In general, the implementation of the auction of dependent rights by banks is a structured procedure and has a strong legal basis. Its implementation must follow the principles of prudence, transparency, and efficiency so that the goal of recovering bank assets can be achieved without violating the rights of debtors. Banks as creditors are also required to be professional at every stage so as not to cause adverse legal and social impacts³⁹. With the development of electronic auction technology and systems, the auction process today has become more open and accessible to the wider community. This innovation has a positive impact on increasing auction participant participation and accelerating the process of settling non-performing loans. In the future, increasing legal literacy and strengthening coordination between related institutions is expected to reduce obstacles in the implementation of the auction of dependent rights⁴⁰.

³⁵ Handayani, I. G. A. K. R. Akibat Hukum Jual Beli Objek Hak Tanggungan Yang Tidak Dilakukan Di Hadapan Pejabat Pembuat Akta Tanah (PPAT). *Jurnal Interpretasi Hukum*, 3 no. 2 (2022): 329–334.

³⁶ Amalia, R. (2018). Analisis Yuridis Pelaksanaan Lelang Eksekusi Hak Tanggungan Atas Tanah. *Jurnal Akuntansi Dan Hukum*, 8 no. 2 (2018): 109–122.

³⁷ Siregar, B. R. (2020). Tinjauan Yuridis Pelaksanaan Lelang Hak Tanggungan Dalam Penyelesaian Kredit Bermasalah. *Jurnal Hukum Kaidah*, 19 no. 3 (2020): 338–349.

³⁸ Prasetyo, B. (2021). Analisis Yuridis Eksekusi Hak Tanggungan Yang Tidak Memenuhi Syarat Formil. *Jurnal Verstek*, 9 no. 1 (2021): 103–117.

³⁹ Nuraini, S. Analisis Yuridis Terhadap Pelaksanaan Lelang Eksekusi Hak Tanggungan Yang Dilakukan Di Bawah Harga Pasar. *Jurnal Lex Lata*, 5 no. 1 (2023): 177–194.

⁴⁰ Hendrawan, A. Tanggung Jawab Hukum Notaris Dalam Pembuatan Akta Pemberian Hak Tanggungan (APHT) Atas Objek Yang Tidak Memenuhi Syarat. *Jurnal Reformasi Hukum*, 2 no. 2 (2022): 209–217.

C. The Role of the State Wealth and Auction Service Office (KPKNL) in the Auction Process

The Office of State Wealth and Auction Services (KPKNL) is a government institution under the Directorate General of State Assets (DJKN), Ministry of Finance of the Republic of Indonesia, which has the authority to carry out auction services at the request of government agencies, SOEs/BUMDs, individuals, and legal entities including financial institutions such as banks. In the context of the implementation of the auction of dependent rights, the role of KPKNL is very crucial as a party that ensures that the entire auction process runs in accordance with the applicable legal provisions and upholds the principles of openness, accountability, and justice⁴¹.

One of the main roles of KPKNL is as an organizer of execution auctions based on the request of creditors, in this case banks. When the bank has gone through the initial stages of collateral execution and wants to carry out the auction, the application is submitted to the KPKNL which has administrative and technical authority in determining the schedule, limit value, and mechanism for conducting the auction. KPKNL not only acts as a facilitator, but also as a legal guardian who ensures that the auction process does not violate the rights of debtors and complies with the principle of legality⁴².

KPKNL in its implementation, verifies and validates auction application documents submitted by banks. Verified documents include a certificate of dependent's rights, deed of encumbrances of dependents, proof of debtor's default, summons letter, and power of attorney (if required). This verification is important to avoid potential legal disputes in the future and ensure that the auction object can actually be auctioned legally and openly⁴³. This process also reflects the prudence so that there is no violation of the civil rights of debtors who still have the right to defend themselves through legal channels.

After the documents are declared complete, KPKNL has an important role in announcing auction information to the public. Announcements are made through official media such as lelang.go.id websites and designated daily newspapers. This announcement is made at least seven days before the auction is held, with the aim of providing the widest possible opportunity for the public to participate in the auction process and create healthy competition⁴⁴. This is also a form of public transparency over the implementation of the auction of collateralized personal property.

Furthermore, KPKNL carries out a technical role as an implementer of electronic auctions (e-auctions). Since the enactment of the online auction system, the entire auction process has been carried out digitally through the official platform lelang.go.id. KPKNL regulates the implementation time, auction method (closed or open), and facilitates all auction participants to be able to follow the process fairly and equally. This provides assurance that there is no intervention or manipulation in the bidding process, and that the winner of the auction is truly determined by an objective market mechanism⁴⁵. After the auction process

⁴¹ Fadillah, S. N. (2021). Analisis Yuridis Pelaksanaan Lelang Eksekusi Hak Tanggungan Berdasarkan Pasal 6 Undang-Undang Hak Tanggungan. *Jurnal Ilmu Kenotariatan*, 2 no 1 (2021): 67-86.

⁴² Siregar, B. R. Tinjauan Yuridis Pelaksanaan Lelang Hak Tanggungan Dalam Penyelesaian Kredit Bermasalah. *Jurnal Hukum Kaidah*, 19 no 3 (2020): 338-349.

⁴³ Anshari, M. F. (2022). Analisis Yuridis Pelaksanaan Lelang Hak Tanggungan Yang Tidak Sesuai Prosedur (Analisis Putusan Nomor 110/Pdt.G/2020/PN.Mdn). *Jurnal USM Law Review*, 5 no. 2 (2022): 447-459.

⁴⁴ Handayani, I. G. A. K. R. (2022). Akibat Hukum Jual Beli Objek Hak Tanggungan Yang Tidak Dilakukan Di Hadapan Pejabat Pembuat Akta Tanah (PPAT). *Jurnal Interpretasi Hukum*, 3 no. 2 (2022): 329-334.

⁴⁵ Ramadhani, R. (2021). Analisis Yuridis Terhadap Pelaksanaan Lelang Eksekusi Hak Tanggungan Yang Objeknya dikuasai Pihak Ketiga. *Jurnal Ilmu Hukum*, 12 no. 1 (2021): 1-18.

is completed and the winner is determined, KPKNL carries out the task of issuing the Auction Minutes. This document becomes authentic evidence of the transfer of rights to the auction object to the winner. This auction minutes have legal force and can be used as a basis for taking care of the name of land rights at the land office. In addition, KPKNL is also responsible for distributing the auction results to creditors, after deducting the administrative costs of conducting the auction in accordance with applicable provisions⁴⁶.

KPKNL in its implementation, also has the function of supervision and handling objections. If there are parties who feel aggrieved by the auction process, such as debtors or third parties, they can submit objections through the specified procedures. KPKNL will review the objection and, if necessary, temporarily suspend the auction process or reject the objection if it is not supported by strong legal evidence. This shows that KPKNL does not solely carry out administrative functions, but also as a guardian of rights and justice in execution⁴⁷.

In addition to carrying out technical functions, KPKNL also has an educational and consultative role to banks and the general public regarding auction procedures, administrative requirements, and rights and obligations in the auction process. KPKNL often provides technical guidance, training, or socialization regarding the implementation of execution auctions so that there are no procedural errors that can harm the parties⁴⁸. This educational approach is important in improving the quality of public legal understanding in the execution of dependent rights.

However, the effectiveness of the role of KPKNL is also greatly influenced by coordination with banks and related agencies, such as the National Land Agency (BPN) and law enforcement officials. In some cases, the auction must be continued with the emptying of objects that are still controlled by the debtor, which requires legal assistance or an order from the court. Therefore, KPKNL must establish good synergy with external parties so that the implementation of the auction can run without obstacles⁴⁹. Overall, KPKNL is a key actor in ensuring that the implementation of the auction of dependent rights runs in accordance with legal and state administrative principles. Without the presence of KPKNL, the implementation of auctions is prone to abuse or does not meet the principles of justice. Therefore, optimizing the role of KPKNL is not only important for creditors such as banks, but also for the sake of legal certainty and protection of the rights of the community at large⁵⁰.

D. The Effectiveness of Auction of Dependent Rights as an Alternative to Non-Litigation Settlement of Non-Litigation of Non-Performing Loans

Auction of dependents is a form of execution of material guarantees used by banks as a means of resolving non-performing loans without having to go through a judicial process. In practice, this mechanism is an effective instrument because it is fast, efficient, and has legitimate executory power based on laws and regulations. Provisions regarding the

⁴⁶ Wulandari, D. Analisis Yuridis Terhadap Pelaksanaan Lelang Hak Tanggungan Atas Tanah Dan Bangunan. *Jurnal Justitia*, 4 no. 1 (2020): 1-14.

⁴⁷ Susanti, F. Akibat Hukum Pelaksanaan Lelang Hak Tanggungan Yang Tidak Diumumkan Dalam Surat Kabar Harian. *Jurnal Ilmu Hukum*, 3 no. 1 (2020): 88-103.

⁴⁸ Hendrawan, A. Tanggung Jawab Hukum Notaris Dalam Pembuatan Akta Pemberian Hak Tanggungan (APHT) Atas Objek Yang Tidak Memenuhi Syarat. *Jurnal Reformasi Hukum*, 2 no. 2 (2022): 209-217.

⁴⁹ Putri, R. A. Pelaksanaan Eksekusi Hak Tanggungan Apabila Debitur Pailit. *Jurnal Hukum Ekonomi Syariah*, 3 no. 1 (2019): 49-65.

⁵⁰ Nuraini, S. Analisis Yuridis Terhadap Pelaksanaan Lelang Eksekusi Hak Tanggungan Yang Dilakukan Di Bawah Harga Pasar. *Jurnal Lex Lata*, 5 no. 1 (2023): 177-194.

implementation of the auction of dependent rights are generally regulated in Law Number 4 of 1996 concerning Dependent Rights, and are supported by the Regulation of the Minister of Finance and technical regulations from the Directorate General of State Assets⁵¹.

The effectiveness of the auction of dependent rights can be seen from its ability to resolve non-performing loans directly through the execution of collateralized assets. Compared to settlement through litigation, the auction process provides a more concise solution because it does not require a court decision first if there is a clause for the execution *parate* in the certificate of dependent's rights. This is in line with the bank's goal of prioritizing time and cost efficiency in handling non-performing loans⁵².

In its implementation, the success of the auction process is highly determined by the readiness of complete and valid legal documents, cooperation between banks and the State Wealth and Auction Service Office (KPKNL), and the support of an open auction information system. The implementation of the e-auction system by KPKNL, for example, is an innovation that accelerates and simplifies the bidding process and expands the reach of auction participants, thereby increasing the potential for successful sales of collateral assets⁵³.

Furthermore, the effectiveness of the auction of dependent rights also lies in the legal certainty it provides to the parties. With a valid and binding auction minutes, the auction buyer obtains legal protection for the object he purchased, while the creditor (in this case the bank) can immediately cover the losses of the non-performing loans that occur. This process reflects the principles of legal certainty and utility as required in the Indonesian civil law system⁵⁴.

However, it cannot be ignored that the effectiveness of the auction of dependent rights is still influenced by internal and external factors, such as property market conditions, auction limit value, and debtor reputation. In some cases, the value of the collateral object auctioned cannot cover all the debtor's liabilities, so the bank still has to bear losses or continue efforts to collect the remaining liabilities. This situation shows that auctions are not an absolute solution, but rather part of a series of non-performing loan settlement strategies⁵⁵.

In addition, the effectiveness of auctions as a non-litigation instrument is also closely related to the professionalism and legal understanding of the auction implementers on the bank's side. The readiness of human resources in preparing the completeness of documents, determining realistic limit values, and publishing in accordance with the rules, is a key factor in ensuring the success of the auction process. Therefore, legal training and assistance are an absolute necessity for financial institutions that handle the auction of dependent rights⁵⁶.

From the perspective of banking law, the auction of dependent rights is also considered to have psychological pressure on the debtor. When the debtor realizes that the bank can actually execute the guarantee legally and openly, the potential to renegotiate or restructure the debt becomes more open. This supports a non-litigation approach that does not necessarily terminate the legal relationship between banks and customers, but still

⁵¹ Rahayu, Sinta. *Hak Tanggungan sebagai Instrumen Eksekusi Kredit Bermasalah di Indonesia*. (Malang: Literasi Nusantara, 2020)

⁵² Susanti, Rina. *Hukum Perbankan: Teori dan Praktik Penyelesaian Kredit Bermasalah*. (Jakarta: Sinar Grafika, 2018)

⁵³ Prasetyo, Yudha. *Optimalisasi E-Auction dalam Proses Lelang Jaminan oleh KPKNL*. (Semarang: Pustaka Semesta, 2019)

⁵⁴ Mulyani, Eka. *Perlindungan Hukum bagi Pembeli Objek Lelang Hak Tanggungan*. (Yogyakarta: Genta Publishing, 2021)

⁵⁵ Fitriani, Siti. *Analisis Kredit Bermasalah dan Upaya Penyelesaiannya oleh Perbankan Nasional*. (Bandung: Refika Aditama, 2022)

⁵⁶ Yuliana, Diah. *Peningkatan Kompetensi Hukum Petugas Kredit dalam Penanganan Eksekusi Jaminan*. (Bandung: Mandar Maju, 2023)

maintains the sustainability of credit settlement through deliberative channels⁵⁷. As an alternative to the settlement of non-performing loans, the auction of dependents also supports the principle of fairness in the settlement of economic disputes. In the auction process, all parties are given the same opportunity to follow and get open information, and there is no element of coercion or manipulation in the implementation. This transparency and accountability are in line with the principles of good governance which are the foundation of the modern financial system⁵⁸.

In general, the stronger the coordination between banks, KPKNL, and the National Land Agency (BPN), the higher the effectiveness of the dependent rights auction process. Administrative and legal obstacles that are often obstacles can be minimized through a synergistic and integrated work system. Digital innovation and strengthening regulations are also strategic steps in improving auction performance as a non-litigation solution in the Indonesian banking system⁵⁹.

Auctions of lien rights are not just a means of collateral execution, but have developed into a strategic instrument in banking credit risk management. Its effectiveness as an alternative to non-litigation non-performing loans depends on procedural compliance, institutional readiness, and legal commitment from all parties involved. Therefore, improving the competence of perpetrators, structuring regulations, and community legal literacy is a prerequisite to support the optimal implementation of the auction of dependent rights in the future.

CONCLUSION

The auction of dependents is one of the effective and efficient non-litigation settlement mechanisms in overcoming non-performing loans in the banking sector. This procedure provides an alternative settlement that does not require a court process, as long as it meets formal requirements such as the existence of a deed granting of rights of dependency and a certificate of rights of dependency that contains an execution *parate* clause. The implementation of the auction of dependent rights by banks, which is carried out through the State Wealth and Auction Service Office (KPKNL), provides legal certainty to the parties, accelerates the guarantee execution process, and minimizes bank losses due to non-performing loans. The stages of the auction implementation, starting from notification to the debtor, valuation of collateral assets, submission of auction applications, to the implementation of the auction itself, require good coordination between the bank and KPKNL so as not to cause legal and administrative problems. The role of KPKNL is very central in ensuring transparency and accountability of the auction process, as well as ensuring that the auction is carried out in accordance with applicable regulations. However, in practice, various legal and administrative obstacles are still found, such as objections from debtors, document inconsistencies, to auction values that do not close all credit obligations. Therefore, it is necessary to strengthen regulations, improve the competence of human resources in the field of guarantee and auction law, and optimize the auction digital system to support the effectiveness of this procedure. Auctions of dependents, if carried out professionally and accountably, can be a strategic solution in maintaining banking financial

⁵⁷ Hendrawan, Dedy. *Strategi Bank dalam Menghadapi Kredit Macet Melalui Pendekatan Non-Litigasi*. (Surabaya: Media Hukum Press, 2021).

⁵⁸ Amalia, Nurul & Putra, Aditya Dwi. *Prinsip Good Governance dalam Pelaksanaan Lelang Eksekusi Jaminan*. (Jakarta: Pustaka Hukum Nasional, 2019).

⁵⁹ Ramadhani, Riska. (2022). *Sinergi Lembaga dalam Pelaksanaan Lelang Hak Tanggungan: Perspektif Hukum Administrasi Negara*. Jakarta: Prenadamedia Group, 2022).

stability and protection of creditors' rights without having to go through a lengthy and high-cost litigation process.

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