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Legal Protection for Buyers of Objects Mortgage Rights in Registering Transfers of Land Rights That Become the Object of Auction Collateral

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Abstract: Parate Executive or direct execution, namely the execution of mortgage rights, which is carried out by selling the object of the mortgage right by the first mortgage holder on his power through a public auction and taking the debt payment from the sale proceeds. Protection of mortgage auction has been carried out in a preventive manner by the State Wealth and Auction Service Office (KPKNL) because before the auction, KPKNL notifies the auction participants regarding the documents, conditions, and conditions of the object to be auctioned in truth and as it is as well as the consequences and risks that may arise from the auction object. Regarding repressive protection, namely efforts to obtain legal protection through judicial bodies and obstacles to implementation, there is no agreement on the price of the object being auctioned.

Keywords: Execution Auction; Mortgage Right.

1. INTRODUCTION

Law Number 4 of 1996 concerning Mortgage Rights has replaced the position of land security rights, which were previously in the form of mortgages to mortgage rights. Mortgage rights are security rights imposed on land owned by debtors to pay off debts to creditors. The Mortgage Law grants creditors the right to sell Mortgage Rights objects under their power through a public auction and to take payment of their receivables from the sale proceeds to debtors who have defaulted or are known as Mortgage Rights Execution Auctions. To prevent debtors' rights from being violated, creditors cannot immediately auction off Mortgage Rights objects but are regulated through the Regulation of the Minister of Finance (hereinafter abbreviated as PMK) Number 27/PMK.06/2016 concerning Auction Implementation Guidelines (Mulyono, 2003).

According to Article 1 number 5 of Law No. 213/PMK.06/2020 Execution auction activity is a form of auction activity that implements a court decision/order, where there is another document that is equated with it and/or implements the provisions contained in the laws and regulations. After the auction execution, the creditor holding the mortgage has the full right to collect claims on the collateral from the proceeds of the sale of the mortgage object. The proceeds from the sale of the collateral object, if realized, have exceeded the receivables of the collateral value; the remainder becomes the right of the mortgage grantor (Restu et al., 2021). To ensure a sense of justice for both creditors and debtors, the implementation and sale of the execution auction of Mortgage Rights are carried out by a government agency under the Ministry of Finance, namely the State Assets and Auction Service Office (KPKNL), in its implementation led by a Class I Auction Officer who is a team member of the Directorate General of State Assets under the auspices of the Ministry of Finance who is authorized to carry out Execution Auctions, Mandatory Non-Execution Auctions, and Voluntary Non-Execution Auctions. The auction institution is expected to be one of the efforts to resolve the bad credit problems for creditors and debtors who default. The problem arises when the legislation contained in Article 45 paragraph (1) letter e of Government Regulation Number 24 of



1997 concerning Land Registration states that the Head of the Land Office refuses to register the transfer or encumbrance of rights if the land in question is the object of a dispute in Court (Sutedi, 2010).

The Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning land registration does not provide provisions on the definition of "disputed objects in court" so that this regulation gives rise to multiple interpretations for its readers. If reviewed through dogmatic legal science, then if a text is vague, an interpretation is needed, made in a comment, which can be in the form of an additional or complementary interpretation so that people understand and accept a law. The rejection of registration of the transfer of rights through auction by the National Land Agency (BPN) because there is still a dispute over the land has given rise to a lawsuit from the buyer of the execution auction of Mortgage Rights both in the District Court and the State Administrative Court (PTUN) against the BPN. Furthermore, the procedures for recording blocking, seizure, or disputes and cases regarding land rights are still spread across several provisions, are incomplete, and are not uniform. Some regulations are no longer based on the demands and dynamics of community development. Hence, they need to be compiled in separate regulations. Therefore, the Ministry of Agrarian Affairs and Spatial Planning issued Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 13 of 2017 concerning Procedures for Blocking and Seizure. Article 35, paragraph (3) of this regulation states, "If the land rights requested to be recorded as having a Seizure Case have become the object of an execution auction, then the registration of the transfer of rights can still be carried out by notifying the auction winner of the lawsuit case on the land and recording it in the land book that is the object of the auction" (Jayanti & Darmawan, 2018).

The presence of this article gives buyers of execution auctions of Mortgage Rights the right to register the transfer of rights even though there is still a lawsuit or seizure case on the land. However, contradictorily, paragraph (5) in the old article has eliminated the right of buyers of execution auctions of Mortgage Rights to be able to transfer the land that has been purchased to another party until the case attached to the land has obtained a decision that has permanent legal force, where buyers who act in good faith should be protected by law and get legal certainty (Haprabu & Harahap, 2017). After the auction process is complete and the auction object has been sold, a person will be considered the auction winner when he has fulfilled all obligations as a buyer, including paying the auction price, auction fees, settlement fees, and Land and Building Acquisition Tax (BPHTB). Based on Article 1457 of the Civil Code, as a buyer, the auction winner must pay the agreed price, and the seller must provide the auctioned object to the auction winner. The party commonly referred to as the auction buyer is a person or business entity/legal entity that has purchased the auction object by making the highest bid from among the others and has been determined to be the auction winner by the authorized auction official. Furthermore, it is explained that the auction buyer has the right to receive an excerpt of the auction minutes, which can be used as evidence of the sale and purchase of the auction object. In addition, the auction official will later submit a letter containing information to the auction buyer, which can be used as evidence that there has been a transfer from the original collateral owner to the auction buyer, who has been determined. With this letter, the auction buyer legally becomes a person who has the power to obtain and utilize the auction object. Based on the procedures related to the execution of the auction of mortgage rights, after the auction object has been successfully sold, the auction object will be transferred to the auction buyer who has won the auction.

2. LITERATURE REVIEW

Execution comes from a foreign language, executive, meaning "implementation." Meanwhile, according to the legal dictionary, execution has the meaning of "carrying out a decision" (ten uitvoer legging van von Nissen), which means carrying out "by force" a court decision with the help of general power if the party being executed (the defendant) does not want to carry it out voluntarily. In the

imposition of a mortgage and creditor, which is preceded by the making of a gross deed using the words "In the Name of the Law," then according to Article 224 HIR and emphasized in Article 7 paragraph (2) of the Regulation of the Minister of Agrarian Affairs Number 15 of 1961, the gross deed has the same executorial power as a judge's decision, the matter of which is carried out by order and under the leadership of the head of the district court in whose jurisdiction the debtor resides or lives or chooses his place of residence. For the following process based on Article 200 paragraph (1) HIR, the object of the mortgage or creditor and guarantee is sold through the intermediary of the state auction office. The implementation of the auction based on Article 200 paragraph (1) HIR is also known as a fiat execution auction (fiat executive), which means implementing the auction by first obtaining a determination and order from the head of the local district court (Halim, 2018). The legal basis for the execution of this mortgage right is Article 20, paragraph (1) of the UUHT, which states: "If the debtor defaults, then based on:

- a. The right of the first mortgage holder to sell the mortgage object as referred to in Article 6;
- b. The executorial title contained in the mortgage certificate, as referred to in Article 14 paragraph (2), the mortgage object is sold through a public auction according to the procedures determined in the laws and regulations for the settlement of the mortgage holder's receivables with priority rights over other creditors."

Deviating from the contents of Article 20 paragraph (1) of the UUHT, creditors as holders of mortgage rights and debtors and/or owners of collateral can sell mortgage objects privately or outside of public auction by mutual agreement by the provisions of Article 20 paragraph (2) of the UUHT. The existence of Article 6 of the UUHT states: "If the debtor defaults, the first mortgage holder has the right to sell the mortgage object under his authority through a public auction and take payment of his receivables from the proceeds of the sale." is the primary legal basis for creditors to execute the collateral object belonging to the debtor who has defaulted (Poesoko, 2012).

The implementation of the execution of mortgage rights based on the UUHT itself initially experienced obstacles because Article 26 of the UUHT states: "As long as there are no laws and regulations governing it, by considering the provisions in Article 14, the regulations regarding the execution of hypotheses that exist at the time this Law comes into effect, apply to the execution of Mortgage Rights" causing the execution of mortgage rights to be based on Article 200 paragraph (1) HIR. This mortgage execution mechanism is considered less effective because the auction execution process based on Article 200 paragraph (1) HIR or fiat execution is deemed to require a long process and expensive costs. After all, it must go through a confiscation process by the district court first (Siantri & Tioria, 2013). Implementing the execution of mortgage rights based on Article 6 of the UUHT has changed since the issuance of Circular Letter Number SE-23/PN/2000 June. SE 21/PN/1998 concerning the implementation instructions for Article 6 of the UUHT on November 22, 2000, to provide instructions and confirmation regarding the implementation of mortgage rights auctions as follows:

1. The mortgage holder can conduct an auction without a fiat of execution from the court if the APHT contains a promise as in Article 6 Juncto. Article 11 paragraph (2) letter e UUHT, namely if the debtor is injured. The promise is that the first mortgage holder has the right to sell the mortgage object under his authority through a public auction and take payment of his receivables from the sale proceeds.
2. If the APHT does not contain a promise as referred to in paragraph (1) or there are obstacles/lawsuits from the debtor/third party, then the auction is carried out using an Executorial Title from the mortgage certificate containing the following words: "FOR JUSTICE BASED ON GOD ALMIGHTY" which has the same force as a judge's decision that has permanent legal force so that the sale of the mortgage object requires a fiat of execution from the court.

The existence of this circular provides a legal basis for mortgage holders to execute mortgage rights based on Article 6 of the UUHT by submitting an auction request directly to the State Assets and

Auction Service Office (KPKNL) to carry out the auction without first requesting a determination from the local District Court chairman where this auction procedure is known as the mortgage rights execution auction Article 6 UUHT or parade execution (Luthfi et al., 2016). In line with time, regulations that specifically regulate auctions, both separate execution auctions, fiat execution auctions, court decision execution auctions, and other types of auctions, are regulated in the Regulation of the Minister of Finance, which was last amended by the Regulation of the Minister of Finance Number 27/PMK.06/2016 concerning Auction Implementation Guidelines stipulated on February 19, 2016. With regulations that specifically regulate mortgage rights execution, mortgage holders have two options in carrying out the execution, namely mortgage rights execution by parade execution based on Article 6 of the Mortgage Rights Law or by fiat execution based on Article 200 HIR (Ahinea, 2016).

3. RESULT AND DISCUSSION

Normative legal research is also called library legal research, which is research conducted by examining existing library materials, namely primary legal materials, secondary legal materials, and tertiary legal materials, so that these legal materials are then systematically arranged, studied, and then a conclusion is drawn about the problem being studied (Soekanto, 2018). The intended literature study is inventorying legal materials from various sources. This study uses a normative legal research type that focuses on legal protection for buyers of mortgage execution auctions, both reviewed based on national legal provisions that regulate regulations on auctions in general and legal protection for buyers of mortgage execution auctions in terms of registering the transfer of rights through auctions at the National Land Agency reviewed from before and after the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017 in particular.

1. Secondary data to be used in this study consists of:

- a. Primary legal materials in the form of applicable laws and regulations, including the Civil Code.
- b. Law Number 5 of 1960 concerning Basic Agrarian Principles.
- c. Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land.
- d. Government Regulation Number 24 of 1997 concerning Land Registration.
- e. Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997.
- f. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017 concerning Blocking and Confiscation Procedures.
- g. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of Land Case Assessment and Handling.
- h. Regulation of the Minister of Finance (PMK) Number 27/PMK.06/2016 Juncto. PMK Number 106/PMK.06/2013 Juncto. PMK Number 93/PMK.06/ 2010 concerning Auction Implementation Guidelines; Court decisions that have become jurisprudent.

2. Secondary legal materials consist of all publications on law that are not statutory regulations, including:

- a. Library books related to civil, mortgage, auction, and land law.
- b. Legal dictionaries.
- c. Legal journals.

4. RESULT AND DISCUSSION

4.1. National Legal Provisions on the Implementation of Mortgage Execution Auctions

Mortgage execution auctions are activities carried out and supervised by state-owned institutions. As a legal product of a state-owned institution, the state should provide legal protection for users of services or legal products issued by the state. Legal protection in this study is in the scope of buyers' rights of mortgage execution auctions in registering the transfer of land rights that are the object of auction collateral. Land certificates issued and regulated by the National Land Agency (BPN) are a form of legal certainty for their owners that a person is the legitimate owner of land and/or building object. Legal provisions regarding mortgage auctions are regulated to provide legal certainty for related parties in debt transactions that use mortgage rights as collateral (Azzahra & Badriyah, 2023).

Article 6 of Law No. 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (Mortgage Rights Law), if the debtor defaults, the first Mortgage Rights holder has the right to sell the Mortgage Rights object under his authority through a public auction and take payment of his debts from the proceeds of the sale. Based on Article 13, paragraph (1) and paragraph (2) of the Mortgage Rights Law, Mortgage Rights must be registered at the Land Office no later than 7 (seven) working days after signing the Deed of Granting of Mortgage Rights (APHT). The Land Deed Making Officer (PPAT) must send the relevant APHT and other required documents to the Land Office. The Land Office issues a Mortgage Rights Certificate (Article 14 paragraph [1] of the Mortgage Rights Law) as proof of Mortgage Rights. This Mortgage Rights Certificate has the same executorial power as a court decision that has obtained permanent legal force (Article 14 paragraph [3] of the Mortgage Rights Law) (Tobing, 2013). Based on Article 10 paragraph (1) of the Mortgage Law, the granting of mortgage rights is preceded by a promise to provide mortgage rights as collateral for the payment of certain debts, which is stated in and is an inseparable part of the relevant debt agreement or other agreement that gives rise to the debt. The granting of Mortgage Rights is done by making an APHT by the PPAT (Article 10 paragraph [2] of the Mortgage Law). So, if the APHT has been registered at the Land Office and has obtained a mortgage certificate, the creditor can conduct a sale by auction if the debtor defaults.

Article 13 paragraph (1) of the Regulation of the Minister of Finance No. 93/PMK.06/2010 of 2010 concerning Guidelines for the Implementation of Auctions as last amended by the Regulation of the Minister of Finance of the Republic of Indonesia No. 106/PMK.06/2013 of 2013 concerning Amendments to the Regulation of the Minister of Finance No. 93/PMK.06/2010 concerning Auction Implementation Guidelines*, in the event of a lawsuit against the object of the mortgage auction from a party other than the debtor/executee, the husband or wife of the debtor/executee related to ownership, the auction is carried out based on the executorial title of the Mortgage Certificate which requires a fiat of execution. The clause contained in the Deed of Granting of Mortgage Rights states that if the debtor does not fulfill the obligation to pay off his debt, based on the debt agreement, the creditor, as the holder of the First Rank Mortgage Rights, is given and stated to receive the authority, and for that reason the power, too:

1. Sell or order to sell in public through auction the Mortgage Right Object in whole or in part.
2. Arrange and determine the time, place, method, and conditions of sale.
3. Receive the sales money, sign and submit the receipt.
4. Submit what is sold to the relevant buyer.
5. Take the proceeds of the sale in whole or in part to pay off the debtor's debt by Article 6 of the UUHT, which states, "If the debtor defaults, the holder of the first Mortgage Right has the right to sell the Mortgage Right object under his authority through a public auction and take payment of his receivables from the proceeds of the sale" (Pradiksa, 2019).

The legal basis used by the BPN in registering land rights is in Law Number 5 of 1960 concerning Basic Agrarian Principles, where Article 19 paragraph (1) states, "To guarantee legal certainty, the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations." The government regulation that

specifically regulates land registration procedures is in Government Regulation Number 10 of 1961, which was amended by Government Regulation Number 24 of 1997 concerning Land Registration. If, in general sales transactions, authentic evidence of the sale and purchase of a plot of land is a deed of sale and purchase made by a Land Deed Making Officer (PPAT), then in sales transactions through auction, the authentic evidence is in the form of an Auction Minutes Extract made by an Auction Officer from the KPKNL under the auspices of the Ministry of Finance. The legal basis for transfers by auction is regulated in Article 41 of Government Regulation Number 24 of 1997.

The problem that generally occurs in implementing land rights transfer through auction is the existence of land blocking, either individual applications or disputes over land that is the object of collateral. This is based on Article 45 paragraph (1) letter e of Government Regulation Number 24 of 1997, which gives the Head of the local Land Office the right to reject registration of transfer of land rights if the land in question is the object of a dispute in Court. From the results of research conducted by the author, both from the explanation section regarding Government Regulation Number 24 of 1997 and the UUPA, there is no further explanation regarding disputes such as in court, such as what can cause rejection of registration of transfer of land rights by the BPN against applications made by auction buyers.

The practice that generally occurs is that every dispute over a land object that has been registered at the local District Court and has been recorded in the land book at the BPN will cause the BPN to reject the registration of the transfer of land rights either through a PPAT deed or an extract of the auction minutes. Registration of the transfer of land rights can only be carried out after the land that is the object of the dispute has obtained a court decision with permanent legal force in favor of the applicant for the transfer of rights. This is a legal loophole for debtors who object to the execution of the mortgage rights of their collateral objects by filing a civil lawsuit through the local district court and registering it with the local BPN to be recorded in the land book so that it indirectly intimidates prospective auction participants to buy the collateral object because later the auction winner will experience a rejection of the registration of the transfer of land rights through auction until a court decision that has permanent legal force is obtained in favor of the auction winner or creditor.

4.2. Legal Protection for Auction Winners for Mortgage Right Execution Objects

Legal protection provided in mortgage proper auction execution is divided into 2 (two) forms, namely preventive legal protection and repressive legal protection. The preventive form of legal protection is preventive protection. At the same time, the repressive form of legal protection is legal protection to resolve a dispute, including settlement in a judicial institution (Yusuf, 2021). Preventive legal protection for auction winners is regulated in the provisions of *Vendu Reglement* Article 42, which states that the winner of the mortgage right execution auction has the right to be given an excerpt of the auction minutes. The auction minutes are authentic evidence as a substitute for the Sale and Purchase Deed so that it is equated with a sale and purchase deed made by the Land Deed Making Officer (PPAT), which is then used for the name change process for the mortgage proper auction execution object of immovable property (Putri, 2020).

The Civil Code provides preventive legal protection contained in Article 1491 of the Civil Code in the form of 2 (two) forms of protection for auction buyers. First, it relates to the ownership of the object being sold safely and peacefully. Second, there is no potential for hidden defects in the goods or properties that are such that they give rise to reasons for canceling the purchase. This will provide legal certainty and reduce the doubts of auction participants about participating in auction activities if, in the auction process, there are obstacles such as interference from third parties in the future. Still, auction participants have participated in the auction by applicable laws and regulations; the auction that has been carried out cannot be canceled. The KPKNL also provides preventive legal protection before the auction takes place. At this stage, the KPKNL informs all auction candidates regarding the notification of documents, the condition and condition of the auction object truthfully and as is, and even the consequences and risks that will arise. In addition, the land office will provide information

regarding the land area to be auctioned to the Auction Officer; the notification will be made no later than 7 days before the auction is held (Setiawan, 2019).

Meanwhile, the form of repressive legal protection for auction buyers is contained in SEMA Number 7 of 2012 concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, point IX, which states "Protection must be given to buyers who act in good faith even if it is later discovered that the seller is a person who is not entitled (to the object of the land sale and purchase)." The above provisions are emphasized in the provisions of Article 25 of the Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020 concerning Auction Implementation Guidelines, that "Auctions that the provisions of laws and regulations have carried out cannot be canceled." 14 From this quote, it can be seen that if the auction process has been carried out based on the applicable provisions, meets the requirements, and gets an auction winner in good faith, then the auction cannot be canceled, and the auction winner is given legal protection to obtain legal certainty.

Protecting good faith auction buyers can be done through the court system (litigation). If there is a rebuttal, the buyer can take legal action through an appeal and cassation (Jufri, 2020). This is regulated in the provisions of Article 200 paragraph (11) HIR, which contains the execution of vacating, also known as accurate execution, where the goods have been purchased by the auction winner legally based on applicable laws and regulations. Still, if the owner cannot control the goods, the party who won the auction has the right to apply to the local District Court to vacate the auction goods (Pratama, 2018). Legal protection for buyers of mortgage auction rights before issuing the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13 of 2017 can be understood through several aspects of the law that were in effect previously. Legal Aspects Applicable Before 2017:

1. Basic Agrarian Law (UUPA) No. 5 of 1960: UUPA is the primary legal basis for regulating land rights in Indonesia. UUPA regulates land rights and protection for parties with valid land certificates in the context of auctions.
2. Government Regulation No. 24 of 1997: This regulation regulates land registration, including the procedures that must be followed to ensure legal certainty of land rights. Before the Permen ATR No. 13 of 2017 issuance, the procedures for registering and blocking land certificates still referred to this provision.
3. General Legal Protection: Auction buyers are entitled to legal protection based on general principles in civil law, including the principle of good faith and legal certainty. If buyers have made transactions by existing provisions, they are entitled to the protection of their rights, even if there is a dispute in the future.

Before the issuance of ATR Regulation No. 13 of 2017, there were many obstacles faced by buyers of mortgage auctions, including:

1. Legal Uncertainty: The irregular and unclear certificate blocking process caused uncertainty for buyers regarding the status of land rights purchased.
2. Land Disputes: Many land dispute cases were not appropriately resolved, thus burdening auction buyers with high legal risks.
3. Complicated Registration Procedures: Registration procedures that are not uniform and sometimes take a long time make it difficult for buyers to obtain legal certainty for the rights obtained.

Legal obstacles that can be encountered in the implementation of the execution auction of mortgage rights in Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land are contained in the provisions of Article 6 of Law Number 4 of 1996 concerning Mortgage

Rights on Land and Objects Related to Land, which includes provisions that if the debtor does not fulfill his performance or breaches his promise, then the first mortgage holder has the right to sell the mortgage object under his authority through a public auction and then take payment of his receivables from the proceeds of the sale. The provisions of Article 6 provide rights to creditors (Dheboa, 2021).

The rights granted by the mortgage holder to exercise his rights are solely granted by law. The power rights granted have also been regulated in the provisions of the Civil Code (KUHPer), known as the power to sell by oneself (*eigenmachtich verkop*). However, the right is not born scientifically but must first be agreed upon by the parties in the Deed of Mortgage of Land Rights (Asuan, 2021). The rights granted are given strongly as the first mortgage holder. However, because the right is only given to the first right holder. Therefore, in addition to the first creditor (second and subsequent creditors), if they want to make a sale, the execution is carried out by filing a civil lawsuit in court (Windajani, 2017).

The provisions in Article 11 paragraph (2) letter (e) regulate, as in Article 6 above, that the first Mortgage Right holder has the right to sell under his authority the object of the Mortgage Right that is used as collateral when the debtor defaults. Once again, this article is related to the statement in Article 6 above, namely that only the first Mortgage Right holder has the authority to sell the object of the Mortgage Right under his rule through a public auction if the debtor is declared in default. By Article 6 of the UUHT, in conjunction with Article 20 paragraph 1 letter (a), the execution of the Mortgage Right can be carried out by the Mortgage Right holder under his authority through a public auction. This means that the auction implementation based on Article 6 of the UUHT is an authority granted by law (*ex-lege*) to the first Mortgage Right holder to carry out sales through a public auction of assets used as collateral if the debtor defaults. Thus, the law gives creditors the authority to execute the Mortgage Right without requiring the approval of any party. So, the implementation of Article 6 of the UUHT (in the Regulation of the Minister of Finance referred to as the auction of execution of Article 6 of the UUHT) is not directly related to the executorial titled on the Mortgage Certificate (*vide* Article 14 of the UUHT). In the implementation of mortgage execution, execution (*para te* execution) must be based on a promise to sell under one's authority as regulated in Article 1178 paragraph (2) of the Civil Code so that it is an implementation of an agreement and is equipped with a gross deed of mortgage which contains the words "For Justice Based on the Almighty God." The grosse deed of mortgage is made by a Notary. Therefore, the promise to sell under one's authority must be agreed upon in advance; it is appropriate that the Chief Justice must lead the execution of the mortgage (*vide* according to 1178 BW). In the Mortgage Law, the Executorial title "For Justice Based on the Almighty God" is stated on the Mortgage Certificate, which is an order of the Law (Article 14 paragraph (3) UUHT), not made in the grosse deed of Mortgage.

According to PMK number 27 of 2016, the type of auction in question is an Execution Auction of Article 6 of the UUHT, not a Mortgage Auction (because there are three ways to execute Mortgage Rights as described above. The auction requirement documents the creditor must fulfill as the Seller includes a credit Agreement, Mortgage Deed, APHT, and statement of default (Bonar, 2024). The execution based on the executorial title is carried out if the Execution Auction of Article 6 of the UUHT, as referred to above, cannot be carried out considering the existence of a condition/legal problem in the form of a lawsuit in court from a third party related to the ownership rights of the collateral to be executed. In this case, the creditor can request an Auction determination through the Chief Justice. Article 26 is intended to execute Mortgage Rights through Article 14 of the UUHT (through the executorial title). It is not designed for the execution of Article 6 of the UUHT. Article 26 of the UUHT reads, "As long as there are no laws and regulations governing it, by considering the provisions in Article 14, the regulations regarding the execution of the mortgage that exist at the time this Law comes into effect, apply to the execution of the Mortgage Rights". This means that Article 26 of the UUHT, in conjunction with Article 14 of the UUHT, intends to state that the execution of the Mortgage Rights carried out based on the executorial title, is carried out by the Chief Justice by following civil procedural law as the execution of the Mortgage era if no new provisions have been made for it. As for the stages of legal procedures related to the implementation of auction execution *vide* article 224 HIR, for example, the Chief Justice must carry out unmanning and confiscation (*vide*

articles 196-200 HIR). Furthermore, the Chief Justice will issue an auction determination and submit a request for the auction implementation time to KPKNL. Therefore, the implementation of this execution can indeed be understood to be carried out under the leadership of the Chief Justice of the District Court, who will then act as the Seller. In PMK No. 27 of 2017, such an auction is called a Court Execution Auction (not also called a Mortgage Auction), and the auction requirement documents that must be completed have followed civil procedural law/HIR, including court decisions, anmanning, Seizure Orders, Seizure BA, and Auction Determination.

5. CONCLUSION

Legal protection is provided to the auction winner to execute mortgage rights, namely preventive protection and repressive protection. The preventive form of protection is given to the auction winner as a form of legal certainty that their rights will be protected when someone purchases through an auction. Meanwhile, the repressive form of protection is given to the auction winner after making an auction purchase, namely in the form of accurate execution/emptying execution, which illustrates that the auction cannot be canceled if it is by the regulations and has permanent legal force, these provisions are contained in the Regulation of the Minister of Finance Number 213/PMK.06/2020 concerning Guidelines for the Implementation of Article 25 Auctions, Jurisprudence of Supreme Court Decision Number 1068K/Pdt/2008, Jurisprudence of Supreme Court Decision Number: 323/K/Sip/1968. Furthermore, accurate execution/emptying execution is regulated in the provisions of Article 200, paragraph (11) HIR. Accurate execution can be submitted to the Head of the District Court if the executed party or the party providing the mortgage guarantee is known to be reluctant to vacate and to leave the object of the guarantee.

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