

LAW & SOCIAL POLICY | RESEARCH ARTICLE

Comparative Study of Mortgage Auctions in Indonesia and Singapore

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ARTICLE HISTORY

Received: November 19, 2025

Revised: December 21, 2025

Accepted: February 01, 2026

DOI

<https://doi.org/10.52970/grlspr.v5i2.1870>

ABSTRACT

Auction practices in Indonesia have been known since 1908 through the *Vendu Reglement* and have evolved from conventional to digital mechanisms. Singapore also has a tradition of auctions dating back to the British colonial period in the 19th century. This study aims to compare mortgage foreclosure auction practices in Indonesia (a civil law tradition) and property foreclosure in Singapore (a common law tradition), focusing on efficiency, transparency, and legal certainty. The method used is normative legal research with a regulatory and comparative approach, grounded in a literature review. The results of the study show that Indonesia has a strong legal basis through PMK No. 213/PMK.06/2020, which provides formal legal certainty, including through Auction Reports as authentic deeds. However, the effectiveness of auction digitisation via lelang.go.id remains constrained by inter-agency integration. In addition, there is the potential for third-party objections to auction results (*derdenverzet*, i.e., resistance or objections from third parties), which can hinder the finality of auction results. In contrast, Singapore implements an integrated digital auction system supported by strict regulations, including the Auctioneers' Licences Act. Legal certainty is strengthened by the finality of transactions under the fall of the hammer principle, which enables rapid contract binding. Overall, Singapore's auction system demonstrates higher efficiency and accountability and can serve as a reference for Indonesia in strengthening end-to-end integration and consistency in the implementation of national auctions.

Keywords: Enforcement Auctions, Security Interests, Legal Certainty, Civil Law, Common Law.

I. Introduction

Indonesia is a state based on the rule of law (*rechtsstaat*), as affirmed in its constitution. The principle of a constitutional state requires that all actions of public authorities, public policies, and socio-economic relations among citizens be grounded in transparent, predictable, and consistently enforceable legal norms. Within this framework, legislation plays a central role as an instrument for establishing norms and regulating legal relationships between legal subjects, including in the private sphere, such as creditor–debtor relations. However, the function of legislation does not stand alone: the effectiveness of legal norms depends heavily on the quality of implementation, institutional capacity, and the consistency of judicial decisions that reinforce legal certainty. The rule of law literature emphasizes that legal certainty and the enforcement of rights

(including proprietary rights and contractual rights) are essential prerequisites for market confidence and transactional stability, because economic actors assess risk not only from the text of legal rules but also from the predictability of enforcement and the reliability of institutions responsible for their application (Haggard & Tiede, 2011).

In the context of agrarian affairs and security rights, one of the most sensitive areas concerns the enforcement of collateral over land and/or land-related objects. In Indonesia, the principal legal instrument is the Mortgage Right, regulated under Law No. 4 of 1996. Through Mortgage Rights, creditors obtain a preferential position and an enforcement mechanism in the event of debtor default. The sale of collateral objects is commonly conducted through enforcement auctions, which at the normative level are designed to ensure the efficient resolution of non-performing loans, preserve recovery value, and provide certainty of title transfer to auction winners. From a legal perspective, enforcement auctions also require strict procedural safeguards to ensure that the transfer of rights over high-value assets occurs in an orderly and transparent manner, without prolonging disputes. Indonesian legal scholarship repeatedly identifies the protection of auction winners and post-auction certainty as vulnerable points that determine the credibility of the enforcement regime (Azzahra & Badriyah, 2023; Andriawan et al., 2022).

Recent developments indicate that Indonesia has been promoting the digitalization of auctions through a government online platform. This transformation aligns with global trends suggesting that electronic systems can enhance transparency, reduce transaction costs, broaden public participation, and minimize opportunities for irregularities. In the e-government literature, electronic systems are often understood as mechanisms that "shorten information chains" and increase traceability, thereby strengthening process accountability (Hochstetter et al., 2023). Nevertheless, digitalization does not automatically resolve the core problems of enforcement auctions. Many challenges arise in the end-to-end phase: inter-agency data synchronization, verification of object status (such as certificate validity or other encumbrances), and certainty of eviction or physical possession after the auction winner has been determined. Practical studies on e-auctions also note that technical constraints, human resource readiness, and institutional coordination continue to affect the effectiveness of electronic auction systems (Noviandra et al., 2020). From the perspective of legal certainty theory, enforcement auction issues relate not only to formal certainty (*de jure*), but also to substantive certainty (*de facto*). Formal certainty is generally associated with procedural completeness, the validity of auction documentation, and the evidentiary strength of auction minutes. However, for auction winners, the most decisive form of certainty lies in the ability to enjoy and control the auctioned object without disproportionate obstacles. In many jurisdictions, post-auction risks have tangible effects on buyer interest, foreclosure discounts, and the strategies of professional investors. Empirical research on forced sales shows that foreclosure auctions often result in price discounts and different buyer dynamics compared to ordinary market transactions, indicating that perceptions of risk and uncertainty significantly influence auction outcomes (Donner, 2020; Donner, 2017). Although the context differs from Indonesia, these findings remain relevant in demonstrating how institutional design and post-enforcement certainty affect both the economic value of auctions and public confidence.

A comparison with Singapore is particularly instructive because Singapore inherits a common law tradition and places transactions in a framework that strongly emphasizes contractual finality and procedural compliance. Auction practices in Singapore have been established since the British colonial period in the nineteenth century, when port trade activities encouraged the use of commodity auctions as mechanisms for price formation and distribution. The evolution of Singaporean law subsequently developed a regulatory framework that emphasizes auction governance, including licensing requirements for auctioneers and strong supervisory mechanisms. Such regulations aim to maintain auction integrity, reduce informational asymmetry, and ensure that auction processes remain transparent and secure for all parties. In addition, Singapore has developed a regulatory ecosystem supporting electronic transactions and consumer protection, which, in principle, reduces fraud risks, increases information disclosure, and strengthens enforcement of business conduct standards. In the global context, studies on e-procurement suggest that electronic systems can enhance transparency and accountability when supported by strong institutional

quality and adequate infrastructure, and may be associated with reduced vulnerability to corruption in public transactions (Khorana et al., 2024; Inderscience study on e-procurement and corruption, 2025). Although government procurement is not identical to mortgage enforcement auctions, the central argument remains relevant: technology is only effective when institutions and governance structures reinforce data integration, control, and accountability.

Thus, although Indonesia and Singapore both recognize auctions as important instruments for enforcing security rights and/or selling distressed assets, differences in legal traditions (civil law versus common law), institutional design, and the level of system integration can significantly affect the achievement of efficiency, transparency, and legal certainty. In the context of investment and credit markets, legal certainty is directly linked to risk perceptions, including legitimate expectations that state mechanisms will operate consistently and non-arbitrarily. Investment literature positions legal certainty as the foundation for protecting legitimate expectations, particularly when state actions or enforcement processes affect the security of rights and the economic value of assets (Henckels, 2023). Because enforcement auctions involve the transfer of high-value assets and are closely tied to the resolution of non-performing loans, the quality of legal certainty in this domain has important implications for investment climate, buyer participation, and the effectiveness of distressed asset recovery.

Based on this background, the central issue examined in this study is how differences in the regulation and practice of mortgage enforcement auctions in Indonesia and the related foreclosure sale mechanisms in Singapore affect efficiency and legal certainty, and to what extent Singaporean practices may provide lessons for strengthening Indonesia's national auction system. This focus not only evaluates whether legal rules exist, but also assesses whether those rules function effectively to produce genuine finality and certainty for auction winners, while maintaining a balance of protection for creditors, debtors, and third parties.

II. Literature Review and Hypothesis Development

2.1. Basic Concepts of Security Law and Auction Implementation

In Indonesia, property security regulations focus on Mortgage Rights (HT), which are specifically regulated in Law No. 4 of 1996. The main advantage of HT lies in the Title of Execution stated on the Mortgage Rights Certificate. This concept is fundamental because the certificate has the same enforcement power as a court decision with permanent legal force (*inkracht*), allowing creditors to carry out Direct Execution or Parate Executive (Article 6 of the HT Law) without obtaining a court decision. However, in practice, the District Court is often involved. HT implementation is carried out through an Enforcement Auction, which is strictly regulated by PMK No. 213/PMK.06/2020 and conducted by the KPKNL (DJKN). The results of this auction are recorded in the Auction Minutes, which serve as an Authentic Deed (Article 1868 of the Civil Code), providing substantial legal certainty for the auction winner (Liono, 2018; Azzahra & Badriyah, 2023). However, the literature shows a 'gap between formal certainty and practical certainty': even though the auction deed is legally binding, the auction winner may still face obstacles to taking possession of the object due to post-auction disputes. In practical terms, investment certainty is not only determined by auction documents, but also by the finality of enforcement and the consistency of court decisions in subsequent disputes. However, the principle of finality of auction results is often questioned by third-party objections (*derdenverzet*, i.e., opposition/objections from third parties to the execution of the auction), which can disrupt the certainty of physical control over the auctioned object (Setyawan, 2021). This explanation is important because it shows that the main risk in Indonesia is not the 'availability of a legal basis', but rather 'post-implementation uncertainty', which directly affects the time, cost, and certainty of ownership for auction winners.

In Singapore, which adopts a standard law system, property security is regulated through the concept of mortgages, based on contract law. The enforcement of property security here is known as foreclosure or right of sale. Creditors generally have the right to sell the property (the right of sale) under a clause in the

mortgage agreement, but licensed private auction houses strictly supervise this process. Auctions in Singapore are based on two pillars: first, the principle of the Fall of the Hammer, a key contractual principle stating that a sale-and-purchase contract is valid and binding as soon as the auction hammer falls, providing certainty and speed in transactions (Kwan, 2018). Second, there are strict institutional regulations requiring private auctioneers to be licensed by state authorities (Auctioneers Licensing Act) to ensure the integrity and professionalism of auctioneers. The practical implication is that transaction certainty is more 'front-loaded': the contract's finality occurs very quickly, reducing the room for uncertainty after the winner is determined. At the same time, licensing oversight places accountability on the auctioneer, making risk management more measurable for buyers, including cross-border buyers.

2.2. Comparative Legal Framework and Legal Principles

This study uses a comparative legal framework to analyze differences in the application of legal principles in the two jurisdictions. The philosophical differences between Civil Law (Indonesia) and Common Law (Singapore) are the primary focus. Civil Law tends to emphasize the power of written law (codification) and gives high executive power to state laws, placing power in formal executive titles. In contrast, Common Law emphasizes precedent (jurisprudence) and contract law, basing executive power on contractual agreements and the integrity of proven executors (Sunaryati Hartono, 1994; Hart, 1994). To clarify the practical implications of this distinction, this study places the 'centre of certainty' differently: Indonesia tends to place certainty in formal state instruments (executive titles and authentic deeds), while Singapore places certainty in contractual finality and executive governance (licensed auctioneers). This difference in the 'centre of certainty' is expected to affect the duration of the process, transaction costs, and the risk of post-auction disputes.

This difference in systems greatly influences the application of the Theory of Legal Certainty. According to Gustav Radbruch (1973), Legal Certainty (*Rechtssicherheit*) is a fundamental legal value that must be achieved. In the context of auctions, Legal Certainty is measured not only by Formal Certainty (the power of Authentic Deeds and the clarity of PMK 213/2020), but also by Substantive Certainty, namely the guarantee that auction results can be executed without interference (de facto finality). This comparison helps explain why Indonesia faces challenges with (*derdenverzet*). At the same time, Singapore focuses on the integrity of the executor and the speed of the contract, effectively reducing the substantive risk dimension for auction winners (Harahap, 2022). Several references explicitly support this argument: Liono (2018) and Azzahra & Badriyah (2023) reinforce the basis of formal certainty through document and procedure design, while Setyawan (2021) highlights post-auction vulnerabilities that affect finality. On the Singaporean side, Kwan (2018) explains the 'moment of finality' through the fall of the hammer as a mechanism for locking in contractual certainty, which practically suppresses post-award uncertainty. Therefore, this literature review provides a basis for analyzing not only procedural differences in auctions, but also the implications of legal system differences for investment guarantees and protection.

Beyond doctrinal aspects, these differences in legal systems are relevant to investors and international stakeholders (e.g., banks, cross-border buyers, or distressed asset holders). Investors generally assess investment destination countries based on the predictability of execution, certainty of eviction/possession, and the cost and duration of dispute resolution. Thus, the focus on substantive legal certainty and de facto finality is important because it is directly related to risk premiums, buyer interest, and asset recovery value in auction transactions. This literature review also points to implications for future practice and research. From a practical perspective, comparative findings can inform end-to-end improvements (e.g., data synchronization, institutional coordination, and standardization of post-auction dispute handling). From an academic perspective, further research could examine variations in court decisions in post-auction disputes or assess the impact of procedural reforms on increased participation and auction prices.

2.3. Hypothesis Development

2.3.1. Procedural Efficiency and Institutional Accountability

This first hypothesis tests the system's effectiveness in ensuring speed, transparency, and accountability through institutional structures and technology. In Indonesia, despite digitisation through lelang.go.id, efficiency is often hampered by institutional fragmentation between the KPKNL, BPN, and the courts. On the other hand, Singapore relies on a strictly regulated private auction model that operates within a fully integrated GeBIZ ecosystem. The institutional fragmentation and post-auction disputes highlighted by Setyawan (2021) have the potential to prolong the duration and reduce predictability, while contractual finality and auctioneer accountability (Kwan, 2018) accelerate completion and clarify the responsibilities of the implementers. A standard law-based property auction system supported by comprehensive cross-institutional digital integration and a decentralised yet strict executive oversight model (Singapore) will yield significantly higher levels of procedural efficiency and accountability compared to a civil law-based auction system with centralised state institutions (KPKNL) that face end-to-end data synchronisation challenges in Indonesia. This hypothesis is practically significant because efficiency affects transaction costs, auction participants' interest, and asset recovery value, ultimately impacting the credit market and investor confidence.

H1: Procedural Efficiency and Institutional Accountability

2.3.2. Substantial Legal Certainty and Finality of Auction Results

This second hypothesis tests the quality of legal certainty provided by auction results (finality) and investment risk. Formally, Indonesian Auction Minutes have the force of a superior Authentic Deed (*de jure*), but are prone to disputes. For consistency with previous terminology, Auction Minutes/Auction Reports are positioned as authentic deeds that form the basis of formal certainty, but are not the sole determinant of substantive certainty. Although formally, the Indonesian Auction Minutes (Civil Law Authentic Deed) provide strong *de jure* guarantees, substantive legal certainty, and the finality of physical ownership for auction winners, in Singapore, these tend to be higher. This is due to the Indonesian system's vulnerability to cancellation or postponement of execution in the face of third-party objections (*derdenverzet*, i.e., resistance/objections from third parties) supported by judicial inconsistency. This risk is inherently minimised by the principle of contract finality (*fall of the hammer*) in the Singapore Common Law system. This hypothesis is also relevant to international stakeholders because '*de facto* finality' is directly related to the buyer's ability to immediately take control of and utilise assets, thereby influencing forum preference, NPL/distressed asset resolution strategies, and cross-jurisdictional risk perceptions.

H2: Substantial Legal Certainty and Finality of Auction Results

III. Research Method

The research method in this article is based on normative legal research. Normative legal research is an approach that views law as a system of norms, rules, and principles (law in books), with the primary focus on written law (Soekanto & Mamudji, 2010). The choice of a normative approach strengthens the authenticity of the research because the comparison does not stop at the inventory of rules, but assesses the 'workability' of norms through indicators of efficiency, transparency, and legal certainty (formal and substantive) derived from the literature on legal certainty and auction practices. Thus, this study complements previous studies, which tended to be descriptive-regulatory in nature, by adding a mapping of post-auction risks (*de facto* finality) and their implications for buyers/auction winners across jurisdictions. This research is comparative in

nature, examining in depth the regulatory framework and implementation mechanisms of mortgage foreclosure auctions in Indonesia (a country with a civil law system) and the equivalent property foreclosure process in Singapore (a country with a common law system). To strengthen the methodological foundation, normative legal research references should not rely solely on classical literature but also be supported by more recent legal methodology works (e.g., discussions of the development of interpretive methods, comparative approaches, and the use of digital legal materials). In the final draft, the author will add current methodological references to strengthen methodological arguments.

3.1. Research Approach

To achieve depth in comparative studies, a statistical approach and a comparative approach are used. The statutory approach involves analyzing all laws and regulations that form the legal framework for the enforcement of guarantees, including Law No. 4 of 1996 in Indonesia and mortgage and auction regulations in Singapore (Marzuki, 2017). The comparative analysis focuses on three fundamental aspects, namely (1) Procedural Aspects, comparing the mechanisms for executing enforcement; (2) Institutional Aspect, comparing the roles and authorities of auction implementing agencies (KPKNL vs. Private Auction Houses and courts); and (3) Legal Protection Aspect, comparing legal certainty for creditors, debtors, and auction winners in both jurisdictions. The selection of these two countries is relevant because their different legal systems provide a rich perspective on legal transplantation and the effectiveness of legal norm implementation (Sunaryati Hartono, 1994; Hart, 1994). To make it more concrete and easier to trace, the three aspects of comparison are operationalized into the following indicators: (a) procedural: pre-auction, implementation, and post-auction stages (including vacating/taking possession of the object); (b) institutional: division of authority, coordination flow, and points of vulnerability to fragmentation between institutions; (c) legal protection: forms of formal certainty (e.g. the power of auction documents/deeds) and substantive certainty (de facto finality, i.e. the ability of the winner to enjoy their rights without the obstacle of post-auction disputes). These indicators maintain consistency in terminology and directly link the analysis to the research questions.

3.2. Data Sources and Legal Material Selection Techniques (Sampling)

The data used in this study are legal materials collected through systematic library research techniques. Legal materials are classified into primary legal materials (laws and regulations), secondary legal materials (scientific journals, textbooks, and comparative research results), and tertiary legal materials (dictionaries and indexes) (Marzuki, 2017). To address the reviewer's comments on 'sampling', this study applied the following criteria for the selection (purposive selection) of legal materials:

1. Direct relevance to mortgage/security rights execution auctions and property execution;
2. Authority of the source (regulations, official decisions/provisions, and reputable academic literature);
3. Timeliness (the latest literature is prioritised to capture developments in auction digitalisation and current judicial practices);
4. Relevance to research indicators (efficiency, transparency, and formal-substantive legal certainty).

Examples of application: for Indonesia, primary materials include the UUHT, auction execution provisions, and technical regulations governing auction procedures and documents; for Singapore, primary materials include auctioneer licensing regulations, auction contractual principles, and supporting rules for electronic transactions/consumer protection that affect transparency and accountability. If court decisions are used, the criteria are decisions related to: (i) post-auction disputes, (ii) third-party objections, (iii) cancellation or postponement of execution, or (iv) obstacles to taking possession of auctioned objects. These criteria ensure that the examples used are relevant for assessing de facto finality.

3.3. Legal Material Analysis Techniques and Analysis Flow

The inventoried legal materials are then processed and analyzed using qualitative-descriptive methods with inductive-deductive reasoning. After the description to find *das sollen* (what should be), the analysis continues with systematic interpretation to understand the relationship between auction norms and the civil and agrarian legal systems in each jurisdiction. The final stage is a comparative analysis to find convergence and divergence between the two systems, which is then used to draw prescriptive conclusions (providing ideal suggestions) to answer the research questions. For clarity, the qualitative-descriptive analysis in this study was conducted through the following operational steps:

1. Inventory of key norms per jurisdiction and mapping of process stages (pre-auction, implementation, post-auction);
2. Thematic coding of legal materials and literature based on indicators: efficiency, transparency, formal certainty, and substantive certainty/de facto finality;
3. Interpretative analysis (grammatical and systematic) to assess the intent of norms, the relationship between norms, and the consequences of their application;
4. Structured comparison to assess convergence–divergence and explain the 'practical implications' for creditors, debtors, auction winners, and third parties;
5. Prescriptive conclusions in the form of recommendations for improving auction governance and institutional integration design.

Concrete examples of the application of indicators in comparative analysis: efficiency is measured through the identification of bottlenecks (e.g., the need for inter-agency coordination and the potential for post-auction disputes), and transparency is assessed based on the openness of the process and the accountability of the implementers. At the same time, legal certainty is differentiated into formal certainty (the strength of auction documents) and substantive certainty (the winner's ability to control and use the object without disproportionate obstacles). The transition from legal material to analysis is maintained by the principle of 'norm → mechanism → implication': each presentation of rules is followed by an explanation of the implementation mechanism and its implications for the research indicators, so that the discussion always returns to the research questions.

3.4. Contribution, Originality, and Practical Implications

The research findings are expected to contribute to the literature by offering an evaluation framework that links differences in legal traditions to the practical outcomes of auctions (efficiency, transparency, and de facto finality). The originality of the research lies in its emphasis on substantive legal certainty as a relevant measure for auction winners and investors, rather than merely formal certainty based on documents. From a practical perspective, the research results are intended to: (1) assist policymakers in formulating end-to-end integration reforms (data, authority, and post-auction coordination), (2) provide a reference for practitioners (KPKNL/auctioneers, advocates, curators, banks) in mitigating dispute risks and improving procedural compliance, and (3) provide information for cross-border buyers/investors regarding the predictability of the process and the risks of finality. The findings can also serve as a basis for recommendations on future legal and practice reforms, particularly to strengthen post-auction mechanisms and ensure consistency in dispute handling.

3.5. Methodological Limitations

As this research is normative and based on a literature review, it does not quantitatively measure the duration, actual costs, or success rate of vacating/taking possession of objects in practice. Limited access to

operational data and variations in institutional practices may limit generalisation. These limitations will be offset by recommendations for further empirical-based research, such as case studies, stakeholder interviews, or systematic analysis of court decisions to map post-auction dispute patterns.

IV. Results and Discussion

4.1. Comparison of Auction Procedures: Digitalization, Institutionalization, and Efficiency

The enforcement auction of mortgage collateral constitutes one of the most essential mechanisms in secured credit systems, as it determines not only the effectiveness of debt recovery but also the credibility of property security rights and the confidence of market participants. Mortgage enforcement auctions represent a critical intersection between private contractual obligations and public enforcement authority, because they transform security rights into executable processes of ownership transfer. Both Indonesia and Singapore recognise auctions as indispensable instruments for enforcing collateral rights. However, the procedural design, institutional governance, and technological integration of auction systems in both jurisdictions demonstrate significant differences shaped by their respective legal traditions.

In Indonesia, the enforcement auction process is governed through a strong statutory framework, particularly PMK No. 213/PMK.06/2020, which provides detailed procedural guidance for auction execution under the authority of the Directorate General of State Assets (DJKN). Auctions are conducted by the State Assets and Auction Service Office (KPKNL), reflecting a centralised, state-driven enforcement model. In recent years, Indonesia has introduced digitalisation through the official online platform lelang.go.id, which aims to enhance transparency, broaden access to auction participation, and reduce procedural inefficiencies. This reform aligns with broader global trends in electronic governance, where digital systems are expected to increase accountability, reduce corruption risks, and improve procedural openness (Hochstetter et al., 2023). However, despite these reforms, the Indonesian auction system continues to face structural constraints that limit the full realisation of procedural efficiency. Digitalisation alone does not automatically eliminate systemic inefficiencies, particularly when institutional fragmentation persists. In Indonesia, the enforcement auction process involves not only KPKNL but also the National Land Agency (BPN), which manages land registration and certificate transfers, as well as the courts, which often become involved in post-auction disputes and in providing enforcement assistance. The lack of real-time integration among these institutions generates informational asymmetry, especially regarding the legal status of property certificates, pending disputes, and the feasibility of physical possession after auction completion. Such fragmentation illustrates that procedural transparency alone is insufficient if the enforcement ecosystem remains institutionally disconnected.

By contrast, Singapore's auction system reflects a familiar legal environment characterised by decentralised execution and strict professional accountability. Mortgage enforcement in Singapore is typically conducted through foreclosure sales or the creditor's right of sale, often implemented through licensed private auction houses regulated under the Auctioneers' Licences Act (Cap. 16). Unlike Indonesia's state-centred execution model, Singapore relies on professional auctioneers whose legitimacy derives from licensing, compliance standards, and regulatory oversight. This institutional design places accountability on auction professionals while maintaining state oversight to ensure integrity and consumer protection. The procedural divergence between the two jurisdictions reflects more profound philosophical differences between civil law and common law systems. Indonesia's civil law tradition locates legal certainty primarily in statutory authority and authentic state documentation, such as Auction Minutes (Risalah Lelang), which function as authentic deeds with full evidentiary power. Singapore's common law tradition, on the other hand, emphasizes contractual finality and transactional closure, locating certainty in the binding force of contract formation at the moment of auction conclusion. This distinction has significant implications for procedural speed, accountability, and investment confidence.

Table 1. Comparison of Institutional Frameworks and Legal Bases

| Aspect | Indonesia (Mortgage Enforcement Auction) | Singapore (Mortgage / Foreclosure Sale) |
|--------------------------|--|--|
| Basic Legal System | Civil Law | Common Law |
| Main Implementing Agency | KPKNL (State Institution) | Licensed Private Auctioneer |
| Digitalisation Platform | lelang.go.id | Integrated auction environment supported by licensed professionals |
| Legal Basis of Transfer | Auction Minutes as Authentic Deed (Art. 1868 Civil Code) | Contractual Finality ("Fall of the Hammer") |
| Regulatory Framework | PMK 213/PMK.06/2020 (DJKN) | Auctioneers' Licences Act (Cap. 16) + contract law |

This comparison demonstrates that Indonesia adopts a centralized state-driven enforcement model, while Singapore operates through a regulated private-professional execution model. Each has implications for procedural efficiency, institutional accountability, and investor risk perception.

4.2. Auction Digitalization and Institutional Efficiency

4.2.1. Indonesia: Formal Digitalization with Institutional Fragmentation

Indonesia's adoption of electronic auctions through lelang.go.id represents an important governance reform aligned with international trends in digital public service delivery. E-auctions are widely recognised as mechanisms that can improve procedural transparency, reduce transaction costs, and limit opportunities for corruption or collusion (Hochstetter et al., 2023). Digital governance is often associated with enhanced traceability and reduced discretionary abuse in enforcement processes. However, the Indonesian experience illustrates that digitalization alone does not guarantee systemic efficiency. The auction process remains institutionally fragmented across multiple agencies, including KPKNL as the auction executor, BPN as the land registration authority, and the courts as dispute settlement institutions. This fragmentation creates informational asymmetry, particularly regarding certificate validity, encumbrances, pending litigation, and the feasibility of eviction. Such asymmetry undermines auction predictability and increases transaction risk.

International governance research confirms that efficiency gains from digital systems depend heavily on end-to-end institutional integration rather than mere procedural automation. Khorana et al. (2024) argue that transparency and efficiency in electronic governance are maximized when institutions share synchronized data systems and enforcement responsibilities are clearly aligned. Without real-time integration, auctions remain procedurally transparent but substantively uncertain. Thus, Indonesia's challenge is not the absence of regulation, but the "implementation gap" between the legal design and the reality of enforcement. Auction winners frequently encounter delays and disputes, reducing confidence in auction mechanisms.

4.2.2. Singapore: Professional Accountability and Integrated Governance

Singapore's auction framework reflects a governance culture characterized by administrative discipline and regulatory accountability. Auctions are conducted by licensed private auctioneers operating under strict supervision. This model ensures professionalism, integrity, and enforceable responsibility. Unlike Indonesia's centralized state auction monopoly, Singapore's regulated private execution distributes authority while maintaining oversight. Singapore's success demonstrates that auction efficiency depends not only on technology but on institutional synchronization. Professional auctioneers are accountable for disclosure, compliance, and the integrity of execution. Low (2019) highlights that Singapore's governance efficiency arises from institutional coordination and strong enforcement capacity rather than technology alone.

Therefore, Singapore illustrates that auction efficiency is structural: it requires alignment between digital infrastructure, institutional oversight, and professional accountability mechanisms.

4.3. Comparison of Legal Certainty: Formal versus Substantive Finality

Legal certainty (*Rechtssicherheit*) constitutes one of the fundamental objectives of law (Radbruch, 1973). However, the operationalisation of legal certainty differs significantly between Indonesia and Singapore due to their contrasting legal philosophies and enforcement mechanisms.

4.3.1. Indonesia: Certainty Through Authentic Deeds (Formal Certainty)

Indonesia guarantees the validity of auction outcomes through the legal force of Auction Minutes as authentic deeds. Under Article 1868 of the Civil Code, authentic deeds possess full evidentiary power, providing auction winners with strong *de jure* protection. Scholars emphasise that Auction Minutes serve as key instruments of formal certainty, ensuring auction transactions are legally valid and enforceable (Azzahra & Badriyah, 2023). However, Indonesian practice reveals a persistent gap between formal certainty and substantive certainty. Auction winners often face barriers to obtaining physical possession due to post-auction litigation, debtor resistance, and third-party objections (*derdenverzet*). Setyawan (2021) notes that inconsistent judicial decisions exacerbate uncertainty, forcing auction winners to bear risks that formal ownership does not translate into effective control. This creates a "finality paradox": auction results are formally final, yet execution remains vulnerable. Such vulnerability increases transaction risk and discourages participation. Empirical studies confirm that foreclosure auctions often suffer from discounted prices when buyers incorporate litigation uncertainty into bidding strategies (Donner, 2020).

4.3.2. Singapore: Contractual Finality and "Fall of the Hammer."

Singapore's standard law system places certainty at the moment of contract formation. Under the Fall of the Hammer principle, a binding contract is formed immediately once the auctioneer accepts the highest bid (Kwan, 2018). This front-loaded certainty reduces the scope for post-auction challenges that could disrupt ownership transfer. Disputes arising from auction sales are generally resolved through compensation rather than cancellation, thereby preserving transaction stability. Henckels (2023) argues that legal certainty is crucial not merely as formal legality but as predictability that safeguards legitimate expectations in economic transactions. Singapore's auction framework enhances predictability by reducing post-auction litigation risk. Thus, Indonesia locates certainty in state evidence, while Singapore locates certainty in contractual closure. These contrasting approaches shape perceptions of investment risk.

4.4. Auction Efficiency and Institutional Integration Challenges

The centralization of auctions under KPKNL represents a reform step toward standardization and good governance (Maramis, 2020). However, efficiency challenges primarily emerge in the post-auction stages. Delays in certificate transfer, eviction resistance, and litigation uncertainty undermine end-to-end enforcement effectiveness. Informational asymmetry persists because auction participants cannot fully assess the risks associated with possession or pending disputes. Governance research confirms that transparency requires complete institutional information flow, not merely open procedures (Hochstetter et al., 2023). Singapore's integrated governance reduces these bottlenecks through professional accountability and streamlined enforcement. Khorana et al. (2024) emphasize that integrated governance reduces procedural risks and increases transaction speed, supporting Singapore's success.

4.5. Policy Implications and Reform Recommendations

The comparative findings generate several reform implications for Indonesia:

1. Judicial Consistency: Supreme Court guidance must limit baseless *derden verzet* cases and uphold auction finality (Harahap, 2022).
2. End-to-End Digital Integration: Real-time integration between KPKNL, BPN, and courts is essential to eliminate informational gaps and reduce procedural disputes.
3. Accountability Standards: Professional certification, strict sanctions, and enhanced transparency obligations should strengthen auction officer accountability, inspired by Singapore's governance model.

Ultimately, Indonesia has a firm legal foundation, but reforms must focus on executive governance to ensure formal legal certainty becomes substantive certainty, thereby strengthening investment confidence and credit market stability.

V. Conclusion

The implementation of property collateral auctions in Indonesia and Singapore reflects the shared objectives of enforcement mechanisms for secured transactions: efficiency, transparency, and legal certainty. Auctions serve as a critical instrument for creditors to recover debts, for markets to allocate distressed assets, and for the legal system to uphold the enforceability of security rights. Nevertheless, although both jurisdictions recognize auctions as an essential enforcement tool, the comparative findings demonstrate significant differences in institutional design, procedural finality, and the practical realization of legal certainty. These differences are primarily shaped by the contrasting legal traditions of Civil Law in Indonesia and Common Law in Singapore, as well as by the degree of institutional integration and governance capacity supporting auction execution.

In Indonesia, legal certainty in mortgage enforcement auctions is primarily guaranteed through formal legal instruments. The Auction Report functions as an Authentic Deed with full evidentiary force, as recognised under Article 1868 of the Indonesian Civil Code and reinforced through PMK Regulation No. 213/PMK.06/2020. This framework provides substantial *de jure* certainty, meaning that auction outcomes are formally protected by written law and state-issued documentation. From the perspective of Civil Law philosophy, certainty is located in codification, statutory authority, and the executive power of state institutions. The Indonesian system, therefore, emphasizes legality through procedural compliance and documentary strength, ensuring that auction winners possess formally valid titles. However, the effectiveness of this formal certainty is often undermined by challenges in practical enforcement. The Indonesian auction system continues to face structural obstacles, particularly in the post-auction phase. One of the most prominent issues is the lack of end-to-end institutional integration among key agencies involved in auction execution, including KPKNL, the National Land Agency (BPN), and the courts. Although digitalization through lelang.go.id represents a significant reform aimed at transparency and procedural modernization, the absence of real-time coordination across these institutions generates informational asymmetry and administrative bottlenecks. Auction participants may not have complete certainty regarding certificate validity, pending disputes, or the feasibility of physical possession after auction completion. Consequently, procedural transparency does not always translate into substantive certainty.

Moreover, the Indonesian system is particularly vulnerable to post-auction procedural disputes, most notably third-party opposition cases (*derden verzet*). These objections, filed either by debtors or external claimants, frequently delay execution and weaken the finality of auction outcomes. Although Auction Reports are legally binding, the practical enjoyment of ownership rights may remain uncertain when disputes arise after the auction has been concluded. This creates a gap between formal and substantive legal certainty. In other words, while Indonesian law provides strong documentary protection, the system does not always

ensure de facto finality—namely, the ability of auction winners to immediately control and utilise the auctioned property without disproportionate legal or procedural obstacles. Such uncertainty increases transaction costs, reduces buyer confidence, and potentially discourages participation in enforcement auctions, thereby diminishing asset recovery value and weakening the effectiveness of secured lending markets.

In contrast, Singapore's auction system demonstrates greater procedural efficiency and substantive finality. As a Common Law jurisdiction, Singapore locates legal certainty not primarily in authentic state documentation but in contractual closure and transactional finality. The Fall of the Hammer principle ensures that a binding contract is formed immediately upon the auctioneer accepting the highest bid, providing rapid certainty of contract formation. This front-loaded certainty reduces the scope for prolonged post-auction challenges that could undermine transaction stability. Furthermore, Singapore's auction framework is supported by strict institutional accountability, as set out in the Auctioneers' Licences Act, which requires auction organisers to be professionally licensed and supervised by state authorities. This regulatory design strengthens professionalism, integrity, and enforceable responsibility among auctioneers, thereby reducing systemic risks.

Singapore has also developed a highly integrated digital governance environment, exemplified by platforms such as GeBIZ, which are internationally recognized for automation, transparency, and institutional coordination. While GeBIZ is primarily associated with government procurement, Singapore's broader digital infrastructure demonstrates advanced capabilities for integrating verification processes, compliance monitoring, and transaction finality. This integrated governance model ensures that auctions operate within a coherent enforcement ecosystem, minimizing institutional fragmentation and significantly reducing post-transaction procedural risks. As a result, Singapore provides greater physical certainty of ownership for auction winners and lower investment risk, making its system an important benchmark for best practices in auction governance. Overall, the comparative findings suggest that although Indonesia possesses a strong statutory foundation for mortgage enforcement auctions, its primary challenge lies in transforming formal legal certainty into substantive execution certainty. Singapore, by contrast, demonstrates that efficiency and accountability are achieved through institutional integration, professional governance, and contractual finality. These insights offer valuable lessons for strengthening Indonesia's auction system, particularly regarding investor confidence, credit market stability, and the effectiveness of distressed asset resolution.

Based on the challenges identified, several prescriptive recommendations can be formulated for Indonesia. First, the Indonesian government, through the Directorate General of State Assets (DJKN), should accelerate comprehensive end-to-end digital transformation. The lelang.go.id platform must be integrated in real time with BPN land registration systems and court enforcement mechanisms. Such integration would reduce informational asymmetry regarding certificate status, encumbrances, and pending disputes, thereby enhancing transparency not only procedurally but also substantively. Real-time data synchronisation would also enable faster ownership transfer processes and reduce administrative delays that currently hinder auction efficiency.

Second, judicial consistency must be strengthened to uphold auction finality. The Supreme Court and District Courts should develop more straightforward jurisprudential guidelines for handling third-party objections (*derdenverzet*), ensuring that baseless or abusive claims do not undermine the enforceability of auction outcomes. Consistency in judicial decisions is essential for maintaining legal certainty, protecting bona fide purchasers, and reducing systemic litigation risk. Without such consistency, the credibility of enforcement auctions as reliable mechanisms of debt recovery will remain fragile.

Third, DJKN should strengthen the competence, professionalism, and accountability of Auction Officers through continuous training, certification standards, and improved transparency obligations. Singapore's model demonstrates that strict supervision and enforceable professional responsibility are key pillars of auction integrity. Enhancing auction officials' capacity will ensure that efficiency does not compromise fairness and that public trust in auction governance is maintained. Additionally, improved public disclosure mechanisms will enable effective external oversight, reducing opportunities for irregularities and

reinforcing accountability. In conclusion, while Indonesia has established a robust legal basis for mortgage enforcement auctions, reforms must focus on institutional integration, judicial consistency, and professional accountability to ensure that formal certainty evolves into substantive certainty. By adopting lessons from Singapore's integrated and accountable auction governance, Indonesia can strengthen the finality of auction outcomes, reduce investment risks, and create a more predictable enforcement environment that supports economic development and credit market resilience.

References

- Azzahra, S. F., & Badriyah, M. S. (2023). Legal protection for auction winners of enforced mortgage objects. *Lex Renaissance Journal*, 8(1), 67–84. <https://doi.org/10.20885/JLR.vol8.iss1.art10>
- Andriawan, N., Marjo, M., & Utama, K. (2020). Pelaksanaan lelang online (e-auction) di KPKNL Kota Semarang. *Diponegoro Law Journal*, 9(2). <https://doi.org/10.14710/dlj.2020.27006>
- Andriawan, N., et al. (2022). Legal protection of the auction winner in parate executie: A juridical analysis. EAI (Proceedings). <https://doi.org/10.4108/eai.4-11-2022.2329678>
- Auditor-General's Office (AGO). (2020). Audit of public procurement practices in Singapore. <https://www.ago.gov.sg/docs/default-source/reports/audit-of-public-procurement-practices-in-singapore.pdf>
- Auctioneers Act (Cap. 16, Revised Edition 2014). (2014). Singapore Statutes Online. <https://sso.agc.gov.sg/Act/AA1906>
- Consumer Protection (Fair Trading) Act (Cap. 52A). (n.d.). Singapore Statutes Online. <https://sso.agc.gov.sg/Act/CPFTA1999>
- Donner, H. (2017). Foreclosures, returns, and buyer intentions. *Journal of Real Estate Research*, 39(2), 189–214. <https://doi.org/10.1080/10835547.2017.12091469>
- Donner, H. (2020). Determinants of foreclosure discount. *Journal of Housing and the Built Environment*, 35, 1079–1097. <https://doi.org/10.1007/s10901-020-09757-1>
- Electronic Transactions Act (Cap. 88, 2021 Rev. Ed.). (2021). Singapore Statutes Online. <https://sso.agc.gov.sg/Act/ETA1998>
- Haggard, S., & Tiede, L. (2011). The rule of law and economic growth: Where are we? *World Development*, 39(5), 673–685. <https://doi.org/10.1016/j.worlddev.2010.10.007>
- Harahap, M. Y. (2022). Consistency of Supreme Court decisions in the enforcement of mortgage rights (HT): Legal certainty of property guarantees. *Ius Quia Iustum Law Journal*, 29(4), 721–740.
- Hart, H. L. A. (1994). *The concept of law* (2nd ed.). Oxford University Press.
- Henckels, C. (2023). Justifying the protection of legitimate expectations in international investment law: Legal certainty and arbitrary conduct. *ICSID Review*, 38(2), 347–358. <https://doi.org/10.1093/icsidreview/siac027>
- Hochstetter, J., Vásquez, F., Diéguez, M., Bustamante, A., & Arango-López, J. (2023). Transparency and e-government in electronic public procurement: a sustainable development approach. *Sustainability*, 15(5), 4672. <https://doi.org/10.3390/su15054672>
- Inderscience. (2025). Implementation of e-procurement policy and corruption in public procurement. *International Journal of Electronic Government Research*. <https://doi.org/10.1504/IJEG.2025.148167>
- Khorana, S., Caram, S., & Rana, N. P. (2024). Measuring public procurement transparency with an index: Exploring the role of e-GP systems and institutions. *Government Information Quarterly*, 41(3), 101952. <https://doi.org/10.1016/j.giq.2024.101952>
- Kwan, P. (2018). Contractual certainty and property sales in Singapore's common law: Analysing the "Fall of the Hammer" rule. *Singapore Law Review*, 40, 120–145.
- Lee, M. (2020). Regulation of auctioneers in Singapore. *Singapore Law Review*, 38, 75–78.
- Liono, A. S. (2018). Legal protection for buyers of mortgage auctions. *De'Jure Scientific Law Journal: Scientific Legal Studies*, 3(1), 1–23.

- Low, K. F. (2019). E-government and public procurement efficiency: A comparative study of Singapore's GeBIZ. *Asian Journal of Public Administration*, 41(3), 255–270.
- Maramis, S. E. (2020). Reform of state auction policy in realising good governance in the Directorate General of State Assets. *Public Policy Journal*, 11(1), 1–15.
- Marzuki, P. M. (2017). *Legal research* (Revised ed.). Kencana.
- Ng, K. (2010). *The trading port of Singapore: A colonial history*. Singapore University Press.
- Radbruch, G. (1973). *Legal philosophy* (8th ed.). C.F. Müller.
- Ristyawati, A., Utama, Y., Wardhani, L., & Hanum, W. (2025). Rethinking legislative term limits: Safeguarding democratic renewal in the constitutional state of Indonesia. *Diponegoro Law Review*, 10(1), 16–28. <https://doi.org/10.14710/dilrev.10.1.2025.16-28>
- Setyawan, D. (2021). Inconsistency of court decisions in the legal protection of auction winners against third-party claims. *Journal of Law and Development*, 51(2), 481–500.
- Singapore Police Force. (2023). Auctioneer licence guidelines. <https://www.police.gov.sg/docs/default-source/default-document-library/auctioneer-licence-guidelines.pdf>
- Soekanto, S., & Mamudji, S. (2010). Normative legal research: A brief review. RajaGrafindo Persada.
- Sukmaya, M. A., Abubakar, L., & Handayani, T. (2020). Legal protection for auction winners of collateral objects in cases where lawsuits hinder execution from the perspective of collateral law. *Galuh Justisi Scientific Journal*, 8(2), 203–216. <https://doi.org/10.25157/justisi.v8i2.3605>
- Sukwanto, J. H. (2020). Legal protection for buyers with underhand agreements. *Lex Journal: Legal & Justice Studies*, 162–180. <https://doi.org/10.25139/lex.v6i2.5673>
- Sunaryati Hartono. (1994). *Comparative civil law*. Sinar Harapan.
- Supreme Court of Judicature Act (Cap. 322, 2020 Rev. Ed.). (2020). Singapore Statutes Online. <https://sso.agc.gov.sg/Act/SCJA1969>
- Tan, K. Y. L. (2019). *The development of Singapore law*. Academy Publishing.
- Tag, J. (2020). Judicial institutions and property rights protection in relation to foreign direct investment inflows. *International Review of Law and Economics*, 64, 105975. <https://doi.org/10.1016/j.irl.2020.105975>
- Taylor & Francis. (2024). Investment decision, legal certainty, and its determinants: Evidence from Indonesia. *Cogent Business & Management*, 11. <https://doi.org/10.1080/23311975.2024.2332950>
- Taylor & Francis. (2024). Procurement governance in reducing corruption in public governance: Evidence and implications. *Cogent Business & Management*, 11. <https://doi.org/10.1080/23311975.2024.2393744>