

Penentuan Harga dan Pelindungan Hukum Debitur atas Eksekusi Hak Tanggungan dengan Harga Tidak Wajar pada PT Bank Rakyat Indonesia, Tbk cabang Mlati Daerah Istimewa Yogyakarta

Oleh:

Amaliah Aisyah Nursyahbani Kamaru¹ dan Dina W Kariodimedjo²

INTISARI

Pelaksanaan lelang eksekusi Pasal 6 Hak Tanggungan sering kali diajukan gugatan melawan hukum oleh debitur. Hal ini dikarenakan ketidakpuasan debitur atas harga lelang yang dicapai dalam penjualan objek jaminan yang telah dibebankan hak tanggungan. Debitur merasa perlu menerima pengembalian sisa dari penjualan tersebut sementara pada praktiknya sangat jarang debitur bisa menerima sisa penjualan jaminan. Oleh karena itu penelitian ini bertujuan untuk mengetahui proses penentuan harga dalam lelang eksekusi hak tanggungan dan bentuk pelindungan hukum debitur dalam pelaksanaan lelang tersebut.

Penelitian ini merupakan penelitian hukum normatif empiris. Pendekatan yang digunakan adalah pendekatan Undang-Undang dan pendekatan kasus. Hasil penelitian menunjukkan bahwa harga lelang dicapai atas tawar menawar dalam pelaksanaan lelang dan harus berada dalam batas nilai limit yang ditentukan penjual. Nilai limit didasarkan laporan penilaian KJPP dengan batas tinggi nilai pasar dan batas bawah nilai likuidasi. Adapun pelindungan hukum dapat tercapai dengan melaksanakan lelang sesuai asasnya, pemberian kesempatan untuk menegosiasikan perjanjian kredit, mendahulukan penjualan dibawah tangan, memberikan kesempatan debitur untuk mengetahui laporan penilaian setelah dinilai oleh KJPP, dan menggunakan penilai yang kompeten dan independen.

Kata Kunci: Lelang Eksekusi Hak Tanggungan, Nilai Limit, Pelindungan Hukum.

¹ Mahasiswi Sarjana (2018), Departemen Hukum Bisnis, Fakultas Hukum Universitas Gadjah Mada.

² Dosen Pembimbing Skripsi, Departemen Hukum Bisnis, Fakultas Hukum Universitas Gadjah Mada.

**PRICE DETERMINATION AND LEGAL PROTECTION OF THE DEBTOR
IN THE IMPLEMENTATION OF LIABILITY RIGHTS AT UNFAIR PRICES
IN PT BANK RAKYAT INDONESIA BRANCH TBK MLATI, YOGYAKARTA
SPECIAL REGION**

Written by:

Amaliah Aisyah Nursyahbani Kamaru³ and Dina W Kariodimedjo⁴

ABSTRACT

The execution auction of Article 6 Mortgage (UUHT) is often filed against the law by the debtor. This is due to the debtor's dissatisfaction with the auction price achieved in the sale of the collateral object that has been charged with the mortgage. The debtor feels the need to receive a refund of the remainder of the sale, while in practice it is very rare for the debtor to receive the remainder of the collateral sale. Therefore, this study aims to determine the process of determining the price in the auction of mortgage execution and the form of legal protection for the debtor in the auction.

This research is empirical normative legal research. The approach used in this research is the statutory approach and the case approach. The results showed that the auction price was achieved by bargaining in the implementation of the auction. The auction price must be within the limit value determined by the seller. The limit value is based on the KJPP assessment report with a high limit of market value and a lower limit of liquidation value. Legal protection can be achieved by conducting auctions according to the principle, providing opportunities to negotiate credit agreements, prioritizing underhand sales, providing opportunities for debtors to find out the appraisal report after being assessed by KJPP, and using competent and independent appraisers.

Keywords: Mortgage Execution Auction, Limit Value, Legal Protection

³ Undergraduate Student (2018), Business Law Department, Faculty of Law Universitas Gadjah Mada

⁴ Undergraduate Thesis Supervisor, Business Law Department, Faculty of Law Universitas Gadjah Mada