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Reg No. 690K/Pdt/2005

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LEGAL PROTECTION FOR THE AUCTION WINNER IN THE IMPLEMENTATION OF "PUPN" AUCTION EXECUTION AS A RESULT OF A NON PERFORMED MATERIAL DEBT MORTGAGE

(Case Study of Cassation Decision of Supreme Court Reg.No.690K/Pdt/2005)

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ABSTRACT

The purpose of this study is to determine the legal protection for the auction winner in the implementation of "PUPN" auction execution as a result of a non performed material debt mortgage toward the Supreme Court decision No.690K/Pdt/2005 Jo. No.30/Pdt/1999/PT.Y Jo. No.46/Pdt.Plw/1998/PN.SLMN and also to discover the obstacles faced in the "PUPN" auction executions.

Research method applied in this research is juridical normative method, which is conducted by the research literature to obtain secondary data. Field research is also conducted, in order to equip and strengthen up the secondary data. The data that obtained will be analyzed using qualitative descriptive methods without ignore the existing facts.

The result of this research showed that the legal protection for the auction winner in Cassation decision of Supreme Court Reg. No.690K/Pdt/2005 has effectively well performed. According to the facts found in the district court, the implementation of the auction was in accordance with the existing legal rules and regulations, as stated in Financial Minister Regulation No. 40/PMK.07/2006 about The instruction of auction implementations, the auction conducted in accordance with existing legal rules and regulations cannot be undone. However, in general the legal protection it self is not maximized because in practice, the auction winners meet resistance from the third party, the court order is required prior to the *incracht*, and it took a long time so that the auction winner impaired in material and immaterial, because they are not be able to own the goods that they already bid until *incracht*. The form of resistance is filed suit to Sleman District Court, further to Yogyakarta High Court, and at the last effort, the Supreme Court rejected the appeal. The first execution was not succeeding, and it is done at the second execution.

Keyword: Legal Protection, Auction Winner, Execution, PUPN.

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