

INTISARI

PERLINDUNGAN HUKUM TERHADAP PEMBELI LELANG BARANG JAMINAN BERUPA TANAH & BANGUNAN

(Studi Kasus Putusan Pengadilan Negeri No: 126/Pdt.G/2009/PN.SLMN)

Oleh : Muhammad Iqbal Tawakkal¹

Penelitian dalam penulisan hukum ini bertujuan untuk mengetahui dan menganalisis bentuk perlindungan hukum terhadap pembeli lelang barang jaminan berupa tanah dan bangunan atas gugatan dari debitur, penyebab debitur mengajukan gugatan terhadap pembeli lelang atau pemenang lelang dan untuk mengetahui pertimbangan Pengadilan Negeri Sleman memutus gugatan debitur, dengan putusan gugatan tidak dapat diterima (*Niet Ontvankelijke Verklaard*)

Penulisan hukum ini merupakan penelitian yang bersifat yuridis empiris. Jenis data dalam penelitian ini adalah data kualitatif yang bersumber dari data primer (lapangan) dan data sekunder (pustaka). Pengambilan sampel pada data primer menggunakan teknik *non random sample*. Data sekunder yang digunakan meliputi bahan hukum primer dan bahan hukum sekunder. Analisis data dilakukan menggunakan analisis kualitatif. Penyajian data dilakukan secara deskriptif.

Berdasarkan hasil penelitian, diketahui bahwa bentuk perlindungan hukum terhadap pembeli lelang barang jaminan berupa tanah dan bangun adalah adanya kepastian hukum yang diberikan Pasal 4 Peraturan Menteri Keuangan Nomor 27/PMK.06/2016 tentang Petunjuk Pelaksanaan Lelang. Debitur mengajukan gugatan terhadap pelaksanaan lelang karena menilai bahwa Tergugat I melakukan perbuatan melawan hukum. Pengadilan Negeri Sleman memutus gugatan debitur dengan putusan gugatan tidak dapat diterima karena gugatan debitur kabur (*obscuur libel*) dan salah dalam menempatkan kedudukan pihak Tergugat (*error in persona*).

Kata kunci : Perlindungan Hukum , Pembeli Lelang , Hak Tanggungan.

¹ Mahasiswa Program Strata Satu (S-1). Fakultas Hukum Universitas Gadjah Mada.

ABSTRACT

LEGAL PROTECTION AGAINST BUYER OF AUCTION COLLATERAL ON LAND AND BUILDINGS

(The Case Study: Sleman District Court Decision No: 126/Pdt.G/2009/PN.SLMN)

By : Muhammad Iqbal Tawakkal¹

This research aims to find out and to analyze the shape of legal protection to guarantee auction items buyer in field and building based on the claim that debtor made it through the court, the cause of debtor opened claims to guarantee auction items buyer or in other words the person who won auction items, and to find out the considerancy of the Sleman National Court that have made a decision of debtors by an unacceptable claim (*NietOntvankelijkeVerklaar*).

This research belongs to a juridical empiric research. The datum that filled on this research are both qualitative data taken in the research field and secondary data. The samples on the qualitative data were using a *non random sample* technique. The secondary data that researcher had used consisted of both primary law sources and secondary law sources. The datum were analyzed by using both a qualitative analyze technique and served descriptively.

Based on the research, it is known that the form of legal protection to guarantee auction items buyer in field and building is a law certainty that given by article 4 from a rule of Ministry of Finance of Republic of Indonesia number 27/PMK.06/2016 about the instruction of auction items. Debtor opened a claim to the running auction items, because debtor had a self interpretation that the number one defendant did a legal process with breaking rules. Sleman National Court decided to this case by unacceptable claim due to an *Obscuur libel* and took a defendant on the wrong place *Error in persona*.

Keyword : Legal Protection , Auction Items Buyer , Mortgage Right

¹ Student of Faculty of Law University of GadjahMada