

Legal Protection and Legal Certainty for Purchasers of State-Confiscated Movable Property: Resolving Regulatory Disharmony between Minister of Finance Regulation No. 122 of 2023 and National Police Regulation No. 7 of 2021

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Abstract

The execution of auctions for state-confiscated movable property serves as a legal instrument aimed at optimizing state asset recovery while providing legal certainty over assets confiscated based on court decisions with permanent legal force (*inkracht van gewijsde*). Problems arise when auction winners face administrative barriers in registering and transferring rights over auction objects due to the absence of original ownership documents, despite holding an Auction Minutes Summary (*Kutipan Risalah Lelang*) as valid evidence of acquisition. This study analyzes the form of legal protection for auction winners and examines the horizontal disharmony between Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines and Indonesian National Police Regulation Number 7 of 2021 concerning Motor Vehicle Registration and Identification. By employing a normative legal research method with statutory and conceptual approaches, this study reveals that auction winners hold the status of good-faith buyers entitled to absolute legal protection and certainty. However, institutional ego and regulatory antinomy between the Ministry of Finance and the Indonesian National Police paralyze the transfer of rights at the operational level. Therefore, systematic synchronization and regulatory reform are urgently required to ensure the effectiveness of the legal rights of auction winners.

INTRODUCTION

The sovereignty of criminal law enforcement in Indonesia does not only stop at the imposition of corporal sanctions against criminals, but also focuses on coercive actions in the form of confiscation and confiscation of assets affiliated with criminal acts. The manifestation of this repressive action leads to the birth of a court decision that has acquired permanent legal force (*inkracht van gewijsde*), where the status of ownership of the confiscated property legally changes to state property. This transformation of juridical status requires an accountable, transparent, and effective asset management mechanism by law enforcement officials as state executors. Based on the applicable fiscal regulatory framework, the state is obliged to optimize the economic value of these public commodities, one of which is through a public auction mechanism. This auction was officially organized by the State Wealth and Auction Service Office (KPKNL) as a vertical agency authorized to liquidate the problematic assets.¹

Doctrinally, the execution auction of state booty is qualified as an act of public law that has perfect juridical legitimacy. The main characteristic of the winner of the auction in this open forum is his position as a legal subject who derivatively acquires civil rights through the intermediary of state authorities. As a logical consequence of the fulfillment of all financial obligations, the auction official publishes a fundamental document in the form of an Auction Minutes Excerpt. This document absolutely qualifies as an authentic deed that has perfect evidentiary power before the law. The document serves as a *titulus* or legal basis for processing the submission (*levering*) as well as transferring property rights from the state to a third party of the auction buyer.²

The existence of this Auction Minutes theoretically carries a very strong binding power, which should position the auction winner at the highest degree of legal security to control the public property he purchases. However, empirical portraits in the field often eliminate these idealistic expectations, especially in the context of auctions of movable objects looted by the state. The complexity of criminal cases often has implications for the loss, damage, or even deliberate concealment of authentic documents of ownership of movable objects by previous defendants. This reality triggered administrative paralysis that harmed the civil interests of the auction winners massively.³

¹ Indah Sari, "Confiscation and Forfeiture of Assets Resulting from Corruption Crimes in the Perspective of Criminal Law in Indonesia," *Dirgantara Legal Scientific Journal* 10, no. 1 (2019): p. Sec. 15.

² Adrian Sutedi, *Auction Law in Indonesia* (Jakarta: Sinar Grafika, 2012), p. Sec. 89.

³ Indonesia, Regulation of the Minister of Finance of the Republic of Indonesia Number 122 of 2023 concerning Guidelines for the Implementation of Auctions, State Gazette of the Republic of Indonesia Year 2023 Number 1028, Article 42.

Faced with the constellation of the unavailability of the original document, the Ministry of Finance of the Republic of Indonesia issued an affirmative policy through Minister of Finance Regulation Number 122 of 2023. This regulation legalizes the implementation of auctions of confiscated objects that are not equipped with ownership documents, on the condition that the seller issues a statement letter regarding the absence of such documents. Although this rule has succeeded in cutting the knot of bureaucratic impasse at the upstream level so that the auction can continue to roll, the policy actually leaves an administrative time bomb at the downstream level. The auction winner who wins the object is often positioned as the most vulnerable party to civil rights harm.⁴

This law enforcement anomaly began to crystallize when the auction winner attempted to carry out administrative legalization and name change registration at the relevant agency. Authorities that are authorized to register often apply rigid operational standards by requiring the existence of old ownership documents as an absolute requirement for the issuance of new documents. As a result, the Auction Minutes document issued by the vertical agency of the Ministry of Finance is often seen as not strong enough to break through the barriers of administrative formalities in other sectoral institutions. The implications of this cross-sectoral bureaucratic resistance cause the auction winners to be stuck in the *status quo*.

Various studies have examined the legal aspects of state auction implementation and legal protection for auction buyers. Previous research has generally focused on the validity of auction minutes as evidence of ownership, legal protection for buyers in good faith, and the legal consequences of canceling auctions by the courts. The study shows that the auction mechanism carried out in accordance with the provisions of laws and regulations basically provides legal legitimacy for the transfer of rights to the auction winner. However, most of the research still places the problem on the aspect of the validity of the auction implementation and has not specifically examined the post-auction administrative obstacles that arise due to the disharmonization of regulations between the auction law regime and the motor vehicle registration regime.

This fundamental problem essentially stems from the existence of an empty space or clash of norms (*antinomy norms*) between the material law of auction implementation and the formal law of sectoral administration. The National Police Regulation of the Republic of Indonesia Number 7 of 2021 concerning the Registration and Identification of Motor Vehicles, for example, has not adopted a holistic simplification mechanism for objects sourced from the auction of execution of state loot. This inter-institutional misalignment

⁴ Gustav Radbruch, *Legal Philosophy*, terj. Kurt Wilk (South Hackensack: Rothman & Co., 1999), hal. 72.

creates sectoral ego barriers that force the auction winner to bear the burden of prolonged and inefficient bureaucracy. This phenomenon confirms the disconnection of regulation in governance.⁵

Theoretically-philosophically, this chaotic synchronization of regulation is diametrically opposed to the pillars of legal certainty (*rechtssicherheit*) as initiated by Gustav Radbruch. Radbruch underlined that the law must contain the nature of usefulness, justice, and no less important is certainty, where the law must be positive, clear, and does not open gaps for mutually affirming interpretations. When a state organizes a system of public sales but fails to guarantee the fulfillment of post-sale rights for its citizens, then the legal authority is degraded. The winner of the auction should already receive absolute protection from the state.⁶

Furthermore, if analyzed using the analysis knife of the legal protection theory developed by Philipus M. Hadjon, the protection for citizens must be proportionally divided into preventive and repressive forms. Preventive legal protection requires the state to design a harmonious and integrative regulatory infrastructure so that potential disputes can be eliminated from the beginning. Meanwhile, the fact that the auction winner had to struggle with administrative rejection showed the destruction of the preventive protection system. The status of the auction winner as a *good faith purchaser* seems to have lost its spurs when faced with regulatory impasse at the real execution level.⁷

The protection of buyers in good faith through the auction mechanism has actually become a universal legal principle that is consistently adopted in the jurisprudence of the Supreme Court of the Republic of Indonesia. The highest judicial institution in its various rulings emphasized that public auctions organized by the state are legal and buyers in good faith must be protected by law from all forms of demands and legal obstacles. This normative strengthening is also emphasized in the Minister of Finance Regulation Number 213/PMK.06/2020 which proclaims that auctions that have been executed according to procedures cannot be canceled unilaterally.⁸ However, the normative

⁵ Philipus M. Hadjon, *Legal Protection for the Indonesian People* (Surabaya: Bina Ilmu, 1987), p. Sec. 38.

⁶ Supreme Court of the Republic of Indonesia, Decision No. 821 K/Sip/1974.

⁷ Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020 concerning Guidelines for the Implementation of Auctions, Article 25.

⁸ Johnny Ibrahim, *Theory and Methodology of Normative Law Research* (Malang: Bayu Media Publishing, 2006), p. Sec. 57.

guarantee on paper is massively distorted in the practical implementation (*law in action*) level due to the unilateral *as is* clause.⁹

In contrast to previous researches, this research departs from the problem of legal implementation that arises after the auction is completed. The main problem is no longer about the validity or not of the implementation of the auction, but about the ineffectiveness of the implementation of the rights of the auction winner when registering motor vehicles due to the insynchronization of regulations between PMK Number 122 of 2023 and Perpol Number 7 of 2021. Thus, there is a research gap in the form of the absence of a study that specifically analyzes the relationship between the two regulations from the perspective of legal certainty and state administrative law.

Based on these gaps, this study offers an analysis of the form of disharmonization of regulations between PMK Number 122 of 2023 and Perpol Number 7 of 2021 and its implications for the legal certainty of the winners of the auction of movable goods confiscated by the state. This research also offers the construction of regulatory harmonization through the recognition of Auction Minutes Quotes as an adequate legal basis in the process of registering auctioned motor vehicles, so that it is expected to strengthen legal protection for buyers in good faith while contributing to the development of auction law and state administrative law.

The urgency of resolving this legal problem is real and contemporary, considering that the auction of state booty continues to run massively as an instrument of criminal law enforcement. As a real example, the execution of large-scale auctions of various movable goods assets confiscated in criminal cases continues to be consistently carried out by District Attorney's institutions in various regions, such as the Tanjung Perak District Attorney's Office in collaboration with KPKNL Surabaya through an electronic bidding system (*open bidding*). An in-depth study of the guarantee of legal certainty and the formulation of legal protection for auction winners of movable objects confiscated by the state are very crucial to be carried out in order to produce a harmonious settlement formulation.¹⁰

METHODS

This research is a normative legal research that uses a statute approach, a conceptual approach, and a case approach. The legislative approach is used to review regulations regarding the implementation of auctions of state booty and motor vehicle registration,

⁹ Soerjono Soekanto, *Normative Law Research: A Brief Review* (Jakarta: RajaGrafindo Persada, 1985), p. Sec. 23.

¹⁰Civil Code (*Burgerlijk Wetboek*), Staatsblad of 1847 Number 23, Article 1977.

especially the Regulation of the Minister of Finance Number 122 of 2023 concerning Guidelines for the Implementation of Auctions and the Regulation of the National Police of the Republic of Indonesia Number 7 of 2021 concerning Registration and Identification of Motor Vehicles. The conceptual approach is used to analyze the theory of legal certainty, the theory of legal protection, and the doctrine of **good faith purchaser** as a basis for assessing legal protection for auction winners. Meanwhile, the case approach is used to analyze Supreme Court rulings related to legal protection of good-faith auction buyers in order to obtain consistency in the application of norms in judicial practice.¹¹

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the Civil Code, the Criminal Procedure Code, the Regulation of the Minister of Finance Number 122 of 2023 concerning Guidelines for the Implementation of Auctions, Regulation of the Minister of Finance Number 213/PMK.06/2020 concerning Guidelines for the Implementation of Auctions, Regulation of the National Police of the Republic of Indonesia Number 7 of 2021 concerning Registration and Identification of Motor Vehicles, as well as Supreme Court rulings related to legal protection for auction buyers. The secondary legal materials are in the form of books, articles from national and international journals, the results of previous research, as well as the opinions of experts relevant to auction law, state administrative law, and legal certainty, while tertiary legal materials are in the form of legal dictionaries, legal encyclopedias, and other reference sources that support the interpretation of primary and secondary legal materials.

The collection of legal materials is carried out through *library research*. Furthermore, all legal materials are analyzed qualitatively through the process of inventory, classification, and systematization to identify synchronization and disharmonization of arrangements regarding legal protection for the winners of the auction of movable goods confiscated by the state. The analysis was carried out using grammatical interpretation, systematic interpretation, and teleological interpretation in order to obtain a comprehensive legal argument regarding the relationship between auction regulations and motor vehicle registration regulations, as well as to formulate a construction of a settlement to the disharmonization of these regulations.¹²

¹¹ Peter Mahmud Marzuki, *Legal Research*, Revised Edition (Jakarta: Kencana, 2021), pp. 133–173.

¹² Johnny Ibrahim, *Theory and Methodology of Normative Legal Research* (Malang: Bayumedia Publishing, 2006), pp. 295–310.

RESULTS AND DISCUSSION

1. Legal Protection for Auction Winners of Movable Goods Confiscated by the State

The implementation of auctions for movable goods sourced from state loot is essentially the upstream of a series of coercive and final criminal law enforcement. When a criminal court decision has acquired permanent legal force (*inkracht van gewijsde*), the ownership status of the seized evidence automatically shifts from convict to state property. At the level of execution, the state represented by the Prosecutor's Office of the Republic of Indonesia acts as the executing prosecutor who holds the legal mandate to restore the situation. In order to realize the economic value of the assets under management, the Prosecutor's Office synergizes with the Office of State Wealth and Auction Services (KPKNL) as the implementing institution for the execution of public sales. The sale through this public auction instrument is aimed at converting non-tax assets into legitimate Non-Tax State Revenue (PNBP).¹³

The existence of public auctions initiated by government agencies bears the moral and juridical burden of upholding the principles of certainty for the people who participate in them. The legal subject who is declared the winner of the auction in the open forum is the buyer who obtains his rights legally based on the principles of openness and fair price competition. As compensation for the fulfillment of all financial achievements, including the payment of auction prices and auction duties, the Auction Officer issues a fundamental document in the form of an Auction Minutes Quote. This document is absolutely qualified as an authentic deed that has perfect evidentiary power before the law. Normatively, the position of this Auction Minutes carries out a dual function, namely as a valid civil transition minutes as well as a *titulus* or absolute right for the auction winner to control the object.¹⁴

Based on the theory of legal protection by Philipus M. Hadjon, legal protection is not only interpreted as the provision of a dispute resolution mechanism (*repressive*), but also as the state's obligation to build a legal system that is able to prevent disputes from arising (*preventive*). In the context of this research, the state has actually provided preventive protection at the auction implementation stage through the issuance of Auction Minutes Citations as authentic deeds that prove the acquisition of the auction winner's rights. However, this protection does not continue at the motor vehicle registration stage because the administrative system regulated by Perpol Number 7 of 2021 has not accommodated the characteristics of vehicles from the auction of state spoils.

¹³ Regulation of the Minister of Finance Number 122 of 2023, *op. cit.*, Article 42.

¹⁴ Regulation of the National Police of the Republic of Indonesia Number 7 of 2021, *op. cit.*, Articles 15-17.

This condition shows that the problem faced by the auction winner does not lie in the validity of the acquisition of his rights, but in the insynchronization of the administrative system between state institutions. As a result, the legal protection provided is still partial because it only guarantees the legality of the transaction, but does not guarantee the effectiveness of the exercise of rights after the transaction is completed. Thus, according to Hadjon's theory, the state has not fully fulfilled the function of preventive legal protection because it still allows administrative obstacles that have the potential to create new disputes for citizens who have obtained their rights legally.

Therefore, legal protection for auction winners should not stop at the recognition of the validity of the Auction Minutes as proof of ownership, but also be realized through the synchronization of administrative regulations so that the rights obtained through the auction mechanism can be implemented effectively. Such legal protection reflects the principle of legal certainty while providing a guarantee that government actions at every stage of the auction will produce consistent legal consequences.

The legal position of an auction winner is doctrinally closely attached to the status of a *good faith purchaser*. This status was born because the person concerned made a transaction to acquire rights not through a speculative underhand engagement, but through an official state institution whose legality guarantee is guaranteed by law. Legal protection for buyers in good faith through this auction route has gained very strong jurisprudence legitimacy, one of which is through the Supreme Court Decision Number 821 K/Sip/1974. The monumental decision affirms that every purchase made through the state auction office must receive absolute legal protection from all forms of lawsuits or operational obstacles in the future, because the buyer has put full confidence in the validity of the procedures held by the state.¹⁵

protection against a buyer in good faith is not absolute, but is provided as long as the buyer meets the elements of good faith as developed in the doctrine and jurisprudence of the Supreme Court. These elements include the acquisition of rights through a legitimate mechanism, carried out openly, without knowledge of the legal defect of the object obtained, and the existence of reasonable confidence in the legality of the actions of the authorized official. In the implementation of state auctions, all of these elements have basically been fulfilled because the transaction is carried out through the authorized auction official, announced to the public, and based on a court decision that has permanent legal force.

¹⁵ Hans Kelsen, *General Theory of Law and State*, terj. Anders Wedberg (New York: Russell & Russell, 1961), hal. 110.

This view is in line with the jurisprudence of the Supreme Court which has consistently provided protection to auction buyers in good faith. In addition to the Supreme Court Decision Number 821 K/Sip/1974, the Supreme Court through SEMA Number 4 of 2016 also emphasized that buyers who obtain objects through public auctions held in accordance with the provisions of laws and regulations must obtain legal protection. Thus, the status of the auction winner as *a good faith purchaser* has not only gained doctrinal legitimacy, but has also been strengthened through judicial practice in Indonesia.

Strengthening the stability of the rights of auction winners is also firmly positioned in ministerial-level regulations, precisely in Article 25 of the Minister of Finance Regulation Number 213/PMK.06/2020. The provision expressly proclaims the principle of auction immutableness, which states that auctions that have been held in accordance with the procedures and provisions of applicable laws and regulations cannot be canceled or annulled unilaterally. This norm is deliberately constructed to fortify the civil rights of the auction winner from future unilateral intervention or claims. With such a layered normative foundation, logically and legally the auction winner should be in a very safe position to take all legal actions, including renaming ownership documents for the object he won without bureaucratic distortion.¹⁶

Although the normative infrastructure has designed such robust protection, the empirical reality (*law in action*) actually shows the opposite anomaly. The legal protection promised by these public legal instruments is often paralyzed when dealing with auction objects in the form of movable objects, especially motor vehicles that are executed without original ownership documents such as Motor Vehicle Owner's Book (BPKB) and Vehicle Number Registration Letter (STNK). This acute problem began to crystallize downstream when the auction winner with good intentions tried to register his rights or carry out the name change process at the One-Stop Manunggal Administration System (SAMSAT) office. The local registration administrative authority often flatly refuses to accept the Auction Minutes as a single document, and still insists on requiring the existence of the original physical documents left by the old owner as an absolute condition for the issuance of new documents.

The rejection made by the registration agency instantly reduces the usefulness value of the auction object that has been officially purchased by the public. The winner of the auction suddenly finds himself in a dilemma that is very detrimental to them in their physical control of the movable object, but is legally and administratively paralyzed to

¹⁶ Philipus M. Hadjon, *Legal Protection for the Indonesian People* (Surabaya: Bina Ilmu, 1987), p. Sec. 40.

operate it in a public space. This loss is multiplied considering that the buyer has vacated his civil rights in order to fulfill his payment obligations to the state, but the state has failed to hand over the benefits of the auction object in its entirety. This phenomenon is a tangible portrait of the state's failure to provide effective and consequential legal protection to its citizens who have acted in good faith in supporting the state's asset optimization program.

If this phenomenon of post-auction obstacles is dissected using the lens of legal protection theory initiated by Philipus M. Hadjon, it will be seen that there is an inequality of protection function at the practical level. Hadjon divides legal protection into two forms of manifestation, namely preventive legal protection that is preventive and repressive legal protection that is oriented towards conflict resolution. Within the scope of this study, preventive legal protection should manifest in the form of the availability of integrative and harmonious regulations, which automatically open a special path for auction winners to process the administration of their ownership. The state bears a fundamental obligation to ensure that any legal product sold through its mechanism can be directly recognized by other institutional subsystems without structural barriers.¹⁷

On the other hand, the absence of adequate preventive channels forces aggrieved auction winners to take the path of repressive legal protection to demand their civil rights. These repressive efforts are generally pursued through lawsuits for unlawful acts by the rulers (*onrechtmatige overheidsdaad*) in the judiciary or through laborious bureaucratic complaint mechanisms. However, the use of this repressive instrument is considered very inefficient and actually gives birth to new injustice for the auction winner, considering that the dispute process in court demands large cost consequences, long time sacrifices, and uncertainty of the final result. Therefore, the focus of legal reconstruction should be shifted to strengthening preventive protection aspects through cross-sectoral regulatory synchronization.

The administrative obstacles experienced by the auction winner in transferring rights to movable goods also directly hurt the principle of universal legal certainty. According to the thought of the legal philosophy of Gustav Radbruch, legal certainty is not just a rigid written rule, but a rational guarantee that the law can be implemented consistently and that the outcome can be predicted from the beginning by the legal subject. When the state acts as a legitimate seller under public law but fails to guard the effectiveness of the buyer's civil rights in downstream administrative institutions, then that is when legal

¹⁷ Gustav Radbruch, *Legal Philosophy*, terj. Kurt Wilk (South Hackensack: Rothman & Co., 1999), hal. 75.

certainty collapses. The state must not only stop at fulfilling the legality of the formalities of the upstream auction implementation, but must be fully responsible for the functioning of the buyer's rights downstream.¹⁸

The long-term impact of this lack of preventive legal protection will extend to a decrease in public interest and enthusiasm to be involved in the government's asset auction program. When the public begins to realize that winning a state auction of loot actually brings new legal complexity, they will choose to avoid such transactions. This will certainly be counterproductive to the agenda of criminal law enforcement and *asset recovery* that is being promoted by law enforcement officials. The public distrust that crystallizes due to this uncertainty will ultimately harm the authority of the government itself as an institution that should be an example in enforcing legal certainty in the eyes of its citizens.

2. The Problem of Regulatory Dualism and Efforts to Synchronize the Law of Motor Vehicle Regident Results of Execution Auctions,

The root cause of the fragility of legal protection for the winners of the auction of movable goods confiscated by the state comes from the phenomenon of horizontal disharmony of laws and regulations that occur between sectoral agencies. This normative inconsistency triggers a *jurisdictional conflict* between the ministry that organizes the auction and the law enforcement agency that controls the domestic registration function. This disharmonization is not just a technical operational problem in the field, but a fundamental problem in the field of state administrative law because it gives birth to a *gray area* that is full of unclear norms. The direct impact of this regulatory clash is borne entirely by the auction winner whose civil rights are held hostage by the sectoral ego of the institution.¹⁹

When examined from the perspective of state asset management regulations, the Ministry of Finance of the Republic of Indonesia has issued a progressive legal instrument in the form of Minister of Finance Regulation Number 122 of 2023 concerning Guidelines for the Implementation of Auctions. This policy was created in response to the classic constraints in criminal execution, where the original ownership documents of confiscated movable goods are often not controlled by the executing prosecutor due to being destroyed or hidden by the convict. Through the PMK, the state provides legal relaxation

¹⁸ Johnny Ibrahim, *Theory and Methodology of Normative Law Research* (Malang: Bayu Media Publishing, 2006), p. Sec. 112.

¹⁹ Indonesia, Regulation of the Minister of Finance of the Republic of Indonesia Number 122 of 2023 concerning Guidelines for the Implementation of Auctions, State Gazette of the Republic of Indonesia Year 2023 Number 1028, Article 42.

in the form of the legality of the auction implementation which can still be rolled out even without original documents, as long as the selling agency issues a statement explaining the logical reason behind the absence of ownership documents. Internally, the auction law, this provision places the auction process at a legal and binding degree.²⁰

However, the legal breakthrough regulated in the Regulation of the Minister of Finance did not go hand in hand with the formal regulations that apply to the National Police of the Republic of Indonesia (Polri). In carrying out the function of domestic security and administrative supervision, the National Police adheres to the Regulation of the National Police of the Republic of Indonesia (Perpol) Number 7 of 2021 concerning Registration and Identification of Motor Vehicles. This internal police regulation rigidly and strictly still places the submission of original physical ownership documents (such as the old BPKB) as the main non-negotiable prerequisite for issuing new vehicle identities, as stipulated in the provisions of Articles 15 to 17. This contradiction shows that alternative documents in the form of statements from the prosecutor's office and Auction Minutes have not been absolutely recognized in the registration system.²¹

The paradigm difference in looking at the validity of this evidentiary document gives birth to a situation of partial legal vacuum (*rechtsvacuum*) at the technical implementation level. Perpol Number 7 of 2021 does not contain an exceptional clause that explicitly regulates the procedures for standardizing special registration for movable objects from the auction of confiscated criminal cases that have lost their original documents. The absence of this explanatory norm made the implementing officers in the field (Samsat office) choose to be safe by rejecting the name change request submitted by the auction winner to avoid accusations of maladministration. As a result, the principle of usefulness and legal certainty carried out by the law has become paralyzed due to the absence of implementing rules.

Based on Law Number 12 of 2011 concerning the Establishment of Laws and Regulations as amended by Law Number 13 of 2022, Ministerial Regulations and Police Regulations are not included in the hierarchy of laws and regulations as stipulated in Article 7 paragraph (1). However, the existence of these two types of regulations is still recognized as having binding force as long as they are formed based on the authority

²⁰ Indonesia, Regulation of the National Police of the Republic of Indonesia Number 7 of 2021 concerning Registration and Identification of Motor Vehicles, State Gazette of the Republic of Indonesia Number 720 of 2021, Articles 15-17.

²¹ Hans Kelsen, *General Theory of Law and State*, terj. Anders Wedberg (New York: Russell & Russell, 1961), hal. 110.

granted by higher laws and regulations or based on attribution authority as affirmed in Article 8 paragraph (1) and paragraph (2) of Law Number 12 of 2011.

Thus, Regulation of the Minister of Finance Number 122 of 2023 and Regulation of the National Police of the Republic of Indonesia Number 7 of 2021 have an equal position as implementing regulations in their respective fields of authority. The PMK regulates the holding of auctions as part of the management of state wealth, while the Perpol regulates the administration of motor vehicle registration as part of the police function. The problem arises when the two regulations are applied to the same legal object, namely motor vehicles from the auction of state booty, but produce different legal consequences.

If this phenomenon of regulatory insynchronization is tested using *Stufenbaulehre* or the theory of the order of legal norms developed by Hans Kelsen, it will be seen that there is a violation of the principle of the unity of the legal system. Kelsen emphasized that law is a hierarchical arrangement of norms, where lower norms must be submissive, sourced, and in harmony with the norms that are above them, in order to create orderliness in the application of law in the state. In a horizontal context, regulations issued by ministers and heads of state institutions at the same level should be integrated with each other and should not contain mutually affirming provisions. The disharmonization between PMK and Perpol reflects the dualism of legal recognition of the same object.²²

When analyzed using the principle of norm conflict resolution, the conflict between PMK Number 122 of 2023 and Perpol Number 7 of 2021 cannot be resolved through the principle of *lex superior derogat legi inferiori* because the two regulations do not have a hierarchical relationship. Both are implementing regulations that are formed based on their respective authorities so that there is no hierarchically higher norm between the two.

Similarly, the principle of *lex posterior derogat legi priori* cannot be applied automatically, even though PMK Number 122 of 2023 was issued after Perpol Number 7 of 2021. This is because the two regulations regulate different areas of authority so that the change in the formation time does not remove the applicability of the norms in the Perpol.

Meanwhile, the principle of *lex specialis derogat legi generali* also cannot be the basis for settlement because each regulation is a special rule in a different legal regime. The PMK specifically regulates the mechanism for the implementation of state auctions, while the Perpol specifically regulates the motor vehicle registration system. Thus, the relationship between the two regulations is not a relationship between general rules and

²² *ibid*

special rules, but a relationship between government sectors that has not been normatively integrated.

The juridical implications of dualism and insynchronization of inter-institutional regulations put the auction winner in a position of great disadvantage both civilly and criminally. Confiscated motor vehicles purchased through official state auctions are threatened to be categorized as vehicles without a valid legal identity if forced to operate on the highway, because new STNK and BPKB cannot be issued. The auction winner who has invested a certain amount of capital to support state programs is actually overshadowed by concerns about legal action in the form of fines by traffic police officers in the field. This fear is the greatest irony in a rule of law, where official legal products from one government agency are considered invalid by another law enforcement agency.

In addition to triggering financial and psychological losses at the personal level of the community, this insynchronization of inter-institutional regulations on a macro scale has great potential to undermine the dignity and trust of the public in the credibility of the state-managed auction system. The public will develop a negative stigma that auction transactions organized by government agencies are met by administrative defects that trap the people. If this negative perception spreads and crystallizes in the community, then public interest in participating in the auction of the execution of state loot will certainly decline sharply. This reduction in principle will automatically thwart the targets of optimizing the recovery of state assets and hoarding the spoils into worthless goods.

Based on the complexity of the impact it causes, the agenda of harmonizing laws and regulations between the auction procedures of the Ministry of Finance and the registration administration of the National Police of the Republic of Indonesia is an urgent necessity. A strategic and concrete step that can be taken to end this norm dispute is to revise or addendum to the National Police Regulation of the Republic of Indonesia Number 7 of 2021. The state needs to insert a special article or clause that expressly and imperatively states that the Auction Minutes Citation for state booty has an absolute status as a document in lieu of the original lost ownership document, in order to cut the bureaucratic complexity at the operational level of SAMSAT.

In addition to reconstructing norms at the Police Regulation level, the establishment of a *Memorandum of Understanding* involving the Ministry of Finance, the Attorney General's Office, and the National Police of the Republic of Indonesia is also urgently needed. This tripartite cooperation is important to unite the frequency of the perspective of law enforcement officials in looking at the legal status of state booty after the auction. Through this joint agreement, an integrated data integration system can be born that connects the database of loot at the Prosecutor's Office, auction minutes at KPKNL, and

the vehicle registration information system (*Electronic Registration and Identification*) managed by the Police Traffic Corps.

In the end, the resolution of the disharmonization between the auction regulation and the Police Regulation will be clear evidence of Indonesia's commitment as a legal state (*rechtsstaat*) that is consistent in practicing constitutional values. The harmonious, integrative, and visionary drafting of the law will restore the essence of the law to its *khitah* as an instrument that brings order, justice, and certainty that makes the community happy. When the synchronization of this rule is perfectly realized, the auction system for the execution of state spoils will not only succeed in becoming an effective state financial recovery machine, but also become a means of safe, reliable, and high-certainty public transactions for all levels of Indonesian society.

CONCLUSION

The winner of the auction of movable goods confiscated by the state is a *good faith purchaser* who is entitled to legal protection and legal certainty for the object obtained through the auction mechanism organized by the state. However, the protection has not been implemented effectively because there are still administrative obstacles in the registration process and the transfer of rights due to the unavailability of original ownership documents. This condition causes the auction winner to only gain factual control, but has not obtained juridical control that can provide legal certainty in the use or transfer of the auction object.

The disharmonization between the Regulation of the Minister of Finance Number 122 of 2023 and the Regulation of the National Police of the Republic of Indonesia Number 7 of 2021 is the main factor that hinders the effectiveness of legal protection for auction winners. Based on the analysis of the position of the two regulations in the system of laws and regulations, the problem is more accurately understood as administrative disharmonization between sectors than as an antinomy of norms in the formal sense. Therefore, it is not enough to solve it through the application of *the principles of lex superior, lex specialis, and lex posterior*, but requires the harmonization of regulations that integrate the auction implementation system with the motor vehicle registration system.

This research provides an academic contribution in the form of strengthening the construction of the relationship between auction law and state administrative law through the affirmation that legal certainty for auction winners is not only determined by the validity of the auction implementation, but also by the effectiveness of administrative recognition of rights obtained through auctions. Practically, the results of this study can be considered for the Ministry of Finance, the National Police of the

Republic of Indonesia, and the Prosecutor's Office of the Republic of Indonesia in developing a mechanism for harmonizing regulations and special registration procedures for motor vehicles resulting from the auction of state spoils. Further research is expected to develop an empirical study on the implementation of the harmonization and evaluate its effectiveness in providing legal certainty and increasing public trust in the state auction system.

REFERENCES

Books:

- Ali, Achmad. "Menguak Tabir Hukum Suatu Kajian Filosofis dan Sosiologis." 2002.
- Bakri, Muhammad. *Pengantar Hukum Indonesia Jilid I: Sistem Hukum Indonesia Pada Era Reformasi*. Universitas Brawijaya Press, 2011.
- Berridge, G. R. *Talking to the Enemy How States without 'Diplomatic Relations' Communicate*. Palgrave Macmillan, 1994.
- Nitibaskara, Ronny. *Tegakkan Hukum Gunakan Hukum*. Penerbit Buku Kompas, 2006.
- Hadjon, Philipus M. *Perlindungan Hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu, 1987.
- Ibrahim, Johnny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayu Media Publishing, 2006. Kelsen, Hans. *General Theory of Law and State*. Translated by Anders Wedberg. New York: Russell & Russell, 1961.
- Radbruch, Gustav. *Legal Philosophy*. Translated by Kurt Wilk. South Hackensack: Rothman & Co., 1999. Soekanto, Soerjono. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: RajaGrafindo Persada, 1985.

Legislation:

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana.
- Undang-Undang Nomor 1 Tahun 1946 tentang KUHP.
- Kitab Undang-Undang Hukum Perdata (*Burgerlijk Wetboek*), Staatsblad Tahun 1847 Nomor 23.
- Peraturan Menteri Keuangan Republik Indonesia Nomor 122 Tahun 2023 tentang Petunjuk Pelaksanaan Lelang, Berita Negara Republik Indonesia Tahun 2023 Nomor 1028.
- Peraturan Menteri Keuangan Republik Indonesia Nomor 213/PMK.06/2020 tentang Petunjuk Pelaksanaan Lelang.

Peraturan Kepolisian Negara Republik Indonesia Nomor 7 Tahun 2021 tentang Registrasi dan Identifikasi Kendaraan Bermotor, Berita Negara Republik Indonesia Tahun 2021 Nomor 720.

Journals:

Mahkamah Agung Republik Indonesia. Putusan Nomor 821 K/Sip/1974. Sari, Indah. "Penyitaan dan Perampasan Aset Hasil Tindak Pidana Korupsi dalam Perspektif Hukum Pidana di Indonesia." *Jurnal Ilmiah Hukum Dirgantara* 10, No. 1 (2019)

Kejaksaan Negeri Tanjung Perak. *Pengumuman Lelang Barang Rampasan Negara* (melalui Portal Resmi Lelang Indonesia/lelang.go.id).

Kurniawan, Faizal, Xavier Nugraha, Ardhana Christian Noventri, dan Qona'Aha Noor Maajid. "Auction Winner as a New Criteria in The Concept of Good Faith Buyer in Indonesia." *Jambe Law Journal* 4, No. 2 (2021):

Soman, Merlin. "Review of Legal Protection Against Auction Winners in Good Faith Against Auctions of Lien Assets Sued by Debtors." *Fox Justi: Jurnal Ilmu Hukum* (2025).

osita, Amaynia Anggun, dkk. "Legal Uncertainty of Auction Winners Regarding The Non-Execution of Eviction Due To Lawsuits." *Journal of Law, Politic and Humanities* 6, No. 4 (2026): 2677-2685.