The Relevance of The Notarial Deed To The Deed of The Treatise of The Auction Made by The Notary As Class II Auction Officials

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Abstract
The minutes of auction are the minutes of the auction made by the Bidding Officer which is an authentic. Deed and has perfect legal force (Explanation of Article 1 number 35 of the Minister of Finance Regulation Number 27/PMK.06/2016 concerning Bidding Implementation Guidelines). Based on Article 15 paragraph (2) letter g of Law number 2 of 2014 concerning Position of Notary. It is explained that making the minutes of auction treaty is one of the Notary’s authorities. This means it can be interpreted that the Auction Officer to make minutes of auction treaty. But in the implementation of the drafting of the minutes of auction there are 2 (two) rules governing, namely the Notary, while the Auction Officer uses the Vendu Reglement reference, Stbl 1908:289, and in fact not all the Notary can make the auction treatise deed in accordance with the contents of the article, so that question arise regarding the auction treatise deed and the authentic deed make by the Notary the main issue raised in this study is how is the implementation of the authority of the Notary Public as a Class II Auction Officer in conducting the auction? And how is the relevance of the minute of the auction treaty with the Notary Public as Class II Auction Officer? Based on the result of research and conclusions that the Notary who made the auction treatise deed is the Notary in his capacity as a Class II Auction Officer who has followed the appointment process as a Class II Auction Officer, so that for the minutes of the auction tretise produced by a Notary Public in this case as a Class II Auction Officer, likened to authentic deeds as authectic deeds make by a Notaries. In the case of the making of the minutes of the auction treaty, a Notary who serves as a Class II Auction Officer needs to strongly apply the precautionary principle in making the minutes of the auction treaty, because the existing rules do not accommodate the possession of a Notary who serves as a Class II Auction Officer.

Keywords: Deed of Minutes of Auction, Notary Public, Class II Auction Officer.

Introduction
The notary is one of the public officials who have the authority to make an authentic deed as referred to in Article 15 of the Law of the Republic of Indonesia
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No. 2 of 2014 on The Amendment of Law No. 30 of 2004 on the Notary Department (thereby called UUJN) which reads:

(1) The notary is authorized to make an authentic deed concerning all acts, agreements, and provisions required by the laws and/or regulations required by the interested to be stated in the authentic deed, guarantee the certainty of the date of making the deed, save the deed, provide Gross, copies, and quotes of the deed, all of which as long as the making of the deeds is not also assigned or excluded to other officials or others stipulated by law.

(2) Notary authorized also:
   a. Confirm the signature and establish the certainty of the date of the letter under hand by registering in a special book;
   b. Put the letters underhand by registering in a special book;
   c. Make copies of the original letters underhand in the form of copies containing the description as written and described in the letter in question;
   d. Authentic the match of the copy photo and the original letter;
   e. Provide legal counseling in connection with the creation of the deed;
   f. Make a deed relating to the land deed; or
   g. Make a deed of auction minutes.

Pay attention to the article, please note that the Notary is a public official authorized to make an authentic deed. One such authority is the authority based on Vendu Reglement (herein to be called VR) and Vendu Instructie (hereby called VI) i.e. that notary can make a deed of auction minutes. The birth of UUJN also gave birth to new legal developments in the world of notarization one of which is the expansion of notary authority (Haris, 2017). According to Regulation of the Minister of Finance of the Republic of Indonesia no. 27/PMK.06/2016 on The Instructions for The Implementation of Auction Article 1 paragraph (1) states "Auction is the sale of goods open to the public with a written and/or oral price offer that increases or decreases to reach the highest price, preceded by the Auction Announcement". An auction or sale in public is a sale of goods made in front of a crowd where the price of goods offered to the buyer at all times is increasingly remembered. (Salim, 2011)

The obligation to make the deed of the minutes of the auction has been determined in Article 3 paragraph (2) of the Regulation of the Minister of Finance of the Republic of Indonesia No. 27/PMK.06/2016 on the Instructions for The Implementation of The Auction stating that each auction implementation is made by the Auction Official. Notary that has been authorized by law to make the deed of the treatise of the auction in accordance with Article 15 paragraph (2) letter g UUJN, here raises the question that not all Notaries should be able or obtained the
authority to make a deed of the treatise of the auction, when in fact one of the authorities of the Notary is to make a deed of the treatise of the auction. The deed of the treatise of the auction is used as evidence of the auction being conducted by sale.

This is certainly very interesting to research because the enactment of UUJN means notary has the same authority as the Auction Official to make a deed of The Minutes of Auction which is the news of the event made by the Auction Official in an auction implementation. For Notaries, the reference used to make an authentic deed is the Law of the Notary Department, while for the Auction Official the legal reference is the Auction Regulation (Vendu Reglement, Stbl. 1908: 189 as amended by Stbl. 1940: 56). So it can be said that there have been many questions related to the Minutes of Auction and the authentic deed made by the Notary and the clash of rules related to the rules governing Notaries with the rules governing Class II Auction Officials.

Research Problems

Based on the above description, can be formulated the following problems:

1. How is the implementation of Notrais’s authority as a Class II Auction Officer in the execution of the auction?
2. What is the relevance of the deed of auction treatise with Notary as Class II Auction Officer?

Research Method

The method of approach used in this study is a normative juridical approach or research into the law of literature. The research specifications used in this legal research are analytical descriptive which describes the prevailing legislation or statute approach associated with legal theories. In this legal study secondary data is used as the primary data and primary data is used as supporting data. The analysis is done using qualitative data analysis methods based on legal norms and theories, namely the theory of authority and the theory of legal certainty. According to Soerjono Soekanto, qualitative data analysis is a way of analysis that produces analytically scripted data, which is what respondents express in writing or oral as well as real behavior, which is researched and studied as something intact. (Soekanto, 2011)
Discussion

1. Implementation of Notrais Authority as Class II Auction Officer in Auction Implementation

Good governance is a government that can guarantee the rights of its people. One form of guarantee of people's rights is by the government to guarantee the authenticity of an agreement made by a person with an individual or with a legal entity. In order to accommodate it all then this is where the role of the Notary is indispensable for the guarantee of a covenant that has been made. The making of a covenant must be established in an authentic deed in order to have the perfect evidentiary power. The creation of an authentic deed whose contents of the agreement that has been agreed by the parties is the duty of a Notary described in Article 1 number (1) UUJN which reads "Notary is a public official authorized to make an authentic deed and have other authority as referred to in this Law or under other laws".

Looking at the understanding of notaries who make an authentic deed, then please know more about what authority is attached to the Notary listed in Article 15 of the Notary Department Law No. 2 of 2014 which reads:

(1) The notary is authorized to make an authentic deed concerning all acts, agreements, and determinations required by the laws and/or regulations required by the printing to be stated in the authentic deed, guaranteeing the certainty of the date of the deed creation, storing the deed, providing Grosse, copies and quotations of the deed, all of which as long as the making of the deed is not also issued or excluded to other officials or others stipulated by law.

(2) In addition to the authority referred to in paragraph (1), the Notary shall also
a. Ratify the signature and establish the certainty of the date of the letter underhand by registering in a special book;
b. Book a letter underhand by registering in a special book;
c. Make a copy of the original letter underhand in the form of a copy containing the description as written and described in the letter in question;
d. Ratify a copy match with the original letter;
e. Providing legal counseling in connection with the creation of the deed;
f. Make a deed relating to the land; Or
g. Make a deed of auction minutes.
Based on the results of the interview with Mrs. Yullinta Astried Dian Vitalova, S.H., M.Kn as Notary, PPAT, and Class II Auction Officer in Purwokerto conducted on April 15, 2019, said that basically the profession of Notary, Earth Deed Making Officer (hereby called PPAT), and Class II Auction Officer is the same profession independent but different, the statement has also been stipulated as stated in Notary Department Law No. 2 of 2014. These professions are also under the auspices of different ministries. In notaries under the auspices of the Ministry of Law and Human Rights of the Republic of Indonesia, then PPAT which is under the responsibility of the Ministry of Agrarian and Spatial Affairs of Indonesia, and so is the Auction Officer Class II, in each auction implementation in order to comply with the laws and regulations must meet the elements of the auction, namely the number of auction officials. The Auction Office itself is actually divided into two, namely the Class I Auction Officer and the Class II Auction Officer, where the Class I Auction Officer is held by civil servants in the directorate general of state wealth (DJKN), while for the Class II Auction Officer is held by retired Civil Servants in djkn or notary environment, as well as notary and PPAT ministry that houses different, namely Class I Auction Officer and Class II Auction Officer (in this case Notary Class II Auction Officer) under the Ministry of Finance of the Republic of Indonesia.

Therefore Notary, PPAT, and Auction Officer Class II under the auspices of different ministries, the rules that bind each profession are also different. Where if a person serves as a Notary then it must be subject to the Law of the Notary Department namely Number 2 of 2014 and if a person serves as a PPAT then the binding rule of a PPAT namely Government Regulation No. 37 of 1998 on the Regulation of the PPAT Department. Similarly, the Class II Auction Officer must be followed, namely, there is Government Regulation No. 189/PMK.06/2017 on Class II Auction Officials and Government Regulation No. 27/PMK.06/2016 on Auction Implementation Instructions. The different rules are not necessarily overlapping, because they are essentially independent professions, and their positions and authorities must be different. Please note that everything related to the Notary is regulated in UUJN, including its position or its working area covering one province. While the position or working area of a PPAT that only covers the city or district where the office was established. Much different from the Grade II Auctioneer for his work area it is limited. Limited in meaning depending on the division of territory by DJKN.

For example Mrs. Yullinta Astried Dian Vitalova, S.H., M.Kn as a Notary, PPAT, and Class II Auction Office in Purwokerto, initially applied to become a Class II Auction Officer to the Ministry of Finance of the Republic of Indonesia, because
his position or working area as a Notary and PPAT was in Purwokerto Banyumas Regency, so he was automatically appointed to be a Class II Auction Office in the area, which is to adjust to his place of employment as a Notary and PPAT. However, his place of position or working area is not like his position as a Notary and PPAT, to become a Grade II Auction Office he got his place or working area covering Banjarnegara, Purbalingga, Banyumas, Cilacap, and Kebumen, this working area is based on the division of DJKN Semarang Regional Office.

The appointment of the Class II Auction Officer himself is still underway. This is because each DJKN Regional Office wants an improvement in the quality rather than the quantity of the auction officials themselves. The announcement of the formation of Class II Auction Officials is usually only stated on the notice board at the local KPKNL or from the submission of information from person to person only. This aims not to be too many Notaries who participate and are later appointed to be Class II Auction Officers. Basically, if there is a formation for the appointment of a Grade II Auction Officer, from DJKN it prioritizes retired DJKN over Notary to become a Grade II Auction Office. The process of appointing a Notary to be an Auction Officer is also quite long, this has also been explained in Article 2 of the Regulation of the Minister of Finance of the Republic of Indonesia No. 189/PMK.06/2017 on Class II Auction Officials which reads:

(1) The Minister is authorized to appoint and dismiss the Class II Auction Officer.
(2) The Authority of the Minister as referred to in paragraph (1) shall be bestowed upon the Directorate General.
(3) The appointment of the Grade II Auction Officer is carried out by the following stages:
   a. Selection;
   b. Working practices (internships);
   c. Rapture, and;
   d. Swearing-in and inauguration.

After an official Notary is appointed as a Class II Auction Officer and has expired his term, it can be extended again with some provisions as described in Article 3 and Article 23 of the Regulation of the Minister of Finance of the Republic of Indonesia No. 189/PMK.06/2017 on Class II Auction Officials which reads:

Article 3:
(1) The Term of Office of the Class II Auction Officer is valid for 5 (five) years from the date of the Appointment Decision and may be extended again, to the fulfilling of the requirements.

(2) The term of office of the Class II Auction Officer is limited to the age of 65 (sixty-five) years.

Article 23:

A. Any Class II Auction Officer who will end his/her term as referred to in Article 3 paragraph (1) and is eligible, may apply for an extension of his/her term as a Class II Auction Officer.

B. The terms as referred to in paragraph (1) include:
   a. Not yet reached the age of 65 (sixty-five years starting from 6 (six) months after the term ends;
   b. Physically and spiritually healthy;
   c. Never convicted of a crime or not serving a criminal sentence;
   d. It has no bad credit, is not included in the List of Suspected Terrorists and Terrorist Organizations (DOT or DTTOT), is not registered as a member of a prohibited Community Organization (Ormas), and is not bound by Money Laundering and Financial Crimes;
   e. Occupy the Lowest Class II Auction Office of 36 m² (thirty-six square meters), whether owned, leased, or borrowed as a Class II Auction Officer's Office;
   f. It has conducted auctions at least 20 (twenty) times the tenure of 5 (five) years, with the number of auctions selling at least 5 (five) times;
   g. Have a Taxpayer Identification Number (NPWP); and
   h. Paying Non-Tax State Revenue (PNBP) extension of the term of office of the Class II auction official.

It should be noted that the notary profession in its position must act independently honestly and impartially in order to maintain the dignity and dignity of the Notary and ensure the legal certainty of the resulting deed. Similarly, in the case of the deed of the treatise of the auction. The authority of the Notary office described above, which includes the task of making authentic evidence tools (deed) in the field of land, and the minutes of the auction, but in practice, a person who only holds the position of Notary is still not able to make land deed and treatise auction. In the position of PPAT and Auction Officer class II is indeed appointed from a Notary, who first through the requirements will be a Notary such as an intern and take the examination of the code of conduct of office, etc.
The deed of the auction minutes can only be made by the Auction Official who follows the auction process of both the Class I Auction Officer and the Class II Auction Officer. To become an Auction Officer, it takes a process ranging from appointment to the division of the working area. The process of appointing auction officials is explained in Article 12 of Government Regulation No. 189/PMK.06/2017 on Auction Officials, Class II. only holds the position of Notary still can not make land deed and auction minutes. In the position of PPAT and Auction Officer class II is indeed appointed from a Notary, who first through the requirements will be a Notary such as an intern and take the examination of the code of conduct of office, etc.

Implicitly means to be able to make a deed of the minutes of the auction of a Notary shall be a Class II Auction Officer, in other words when the Notary exercises his authority, simultaneously exercising his authority as an Auction Official, whereas according to UUJN a Notary is prohibited from doing multiple positions although expressly that the ban on multiple positions is not included in that, but there are still inconsistencies to the arrangement of both matters Philipus M. Hadjon suggested that authority was obtained through three sources; attribution, delegation, mandate. Another attribution authority is outlined through the division of state power by the Constitution, delegate authority and Mandate is the authority derived from impeachment. The fundamental difference can be seen in Ridwan hr book (p. 107) explaining that Philipus M. Hadjon made the following delegate and mandate differences: (Sovia, 2016)

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<th>Table 1. Delegate and Mandate Differences</th>
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<td><strong>Mandate</strong></td>
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<td>A. Impeachment Procedure</td>
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<td>B. Responsibilities and responsibilities</td>
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<td>C. It’s possible that the giver used that authority again.</td>
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The implementation of the auction is not separated from the parties of the auction that also play an important role in the implementation of the auction. These parties include sellers/auctioneers, buyers/bidders, and auction officials. The seller or auctioneer is a translation of the term owners, sellers, or vendors, which means the owner of the goods. (Ngadijarno, 2009). Notary in exercising its authority as a Notary itself and as a Class II Auction Officer has obtained authority from the government in the form of Attribution to carry out its position as a Notary and Class II Auction Officer. The definition of Attribution according to Philipus M. Hadjon is the authority to make a decision (beluit) that is directly sourced to the law in a material sense. In other words, attribution means the onset of a new authority that was previously the authority, not owned by the relevant government organ or can also be explained the authority obtained based on the original attribution derived from the legislation i.e. the governing organ obtained authority directly from the redaction of a certain article in the legislation. In the case of attribution, the authority recipient may create a new authority or expand the existing authority.

When reviewed more broadly according to the author's frugality, a Notary who is essentially authorized to make an authentic deed including the deed of the auction treatise, it is an authority in the form of attribution given by the government to the Notary in which case the Notary serves as a Class II Auction Office sourced to the law. The granting of such authority is derived from the Law of the Notary Department Article 15 paragraph (3) where the article reads "In addition to the authority as referred to in paragraphs (1) and (2), the Notary has other authority stipulated in the legislation". Further regulating laws and regulations namely Vendu Reglement and Vendu Instructie which are still used as the basis of auction arrangements, which are described in Article 1a which reads "Without reducing the following provisions of alenia in this article, public sale should not be made other than in the presence of the auctioneer".

Notary authority in article 15 paragraph (2) letter g UUJN is not new, or some say an extension of the authority for the Notary and may even assume that notary without the appointment as an auction official can be directly authorized to make a deed of the treatise of the auction with the consideration that the governing authority of the law is hierarchy higher than the ministerial regulations governing the authority of the auction official (lex superior derogat legi inferiori) or Vendu Reglement and Vendu Instructie which ruled out on the grounds of lex posterior derogat lege priori

Based on the results of the author's research during an interview with Mr. Benny Kurniawan, S.H.,M.Kn as Notary, PPAT, and Class II Auction Officer in
Semarang city conducted on April 30, 2019, that basically the position of Class II Auction Officer is an independent or independent position and can stand alone, but UUJN gives "more" authority to a person who serves as a Notary to also serve (concurrently) with other positions included in this case as a Class II Auction Officer and PPAT. The explanation is contained in Regulation of the Minister of Finance of the Republic of Indonesia No. 189/PMK.06/2017 on Class II Auction Officials which is valid 3 (three) months since it was enacted on December 8, 2017.

Reviewing the expansion of authority to notaries to make the deed of auction minutes mentioned in Article 15 Paragraph 2 letter g of the Notary Department Law is not immediately enforceable because based on Article 35 Vendu Reglement Jo. PMK No. 159/PMK.06/2013 only notary has been appointed and appointed as Class II Auction Officer only authorized to lead the implementation of the auction and make the Auction Minutes.

Thus, the Notary is not authorized to make the Deed of The Treatise of Auctions in its capacity as a Notary, as it would be contrary to Article 35 of the Auction Regulation (Vendu Reglement). Notaries can only make the deed of auction minutes and conduct the auction in its capacity as a Class II Auction Officer, as stipulated in Article 7 of the Auction Instruction (Vendu Instructie) Jo Article 1 Paragraph (1) of the Regulation of the Minister of Finance of the Republic of Indonesia No. 159/PMK.06/2013 on Class II Auction Officials.

Based on the above description, it can be justified that the exercise of notary authority as a Class II Auction Officer will not interfere with the implementation of the main duties as a Notary so that in this case there is no double position because a Notary who also serves as a Class II Auction Officer has obtained authority in the form of attribution. Based on the results of the author’s interview with Mrs. Yullinta Astried Dian Vitalova, S.H., M.Kn as Notary, PPAT, and Auction Officer Class II In Banyumas Regency and Mr. Benny Kurniawan, S.H., M.Kn as Notary, PPAT, and Class II Auction Officer in Semarang City, the author concluded the auction process by the Auction Officer Class II:

1) Auction Preparation Stage

According to the provisions of Article 11 of the Minister of Finance Regulation No. 27/PMK.06/2016 on the Auction Implementation Directive that the owner/seller of the goods must submit a letter of application for the auction in writing accompanied by the document of the auction requirement to the head of KPKNL to request the schedule of the auction implementation. The owner or seller of the goods can use the services of the auction hall to provide pre-auction services. Each auction must be preceded by an announcement of the auction made by the
applicant or the owner of the goods to be auctioned, the announcement of the auction is done by visiting daily newspapers both print and electronic media, leaflets or sticky sticks that are easy to see and read and through the internet media in kpknl working area. Based on the experiences of Mrs. Yullinta Astried Dian Vitalova, S.H., M.Kn, and Mr. Benny Kurniawan, S.H., M.Kn the procedure of conducting the auction is quite complicated because the files and documents that must be submitted to kpknl are very numerous and all such files must be appropriate and must be equipped with a land registration certificate from the land office if the auction object is a land or building, the next reason is that if in the auction there are no fans or bidders then the applicant must reapply at a limit price lower than the previous limit value up to the existing bidder.

2) Auction Implementation Stage

According to the provisions in Article 1 number 14 regulation of the Minister of Finance No. 27/PMK.06/2016 on the Instructions for The Implementation of Auctions referred to by the Auction Official is the person who according to the legislation is given special authority to carry out the sale of goods at auction. This means that the auction official is the person who is given special authority by the Minister of Finance to carry out the sale of goods in public at auction. In accordance with the explanation in Article 1a and Article 2 of the Regulation of the Minister of Finance No. 27/PMK.06/2016 on the Instructions, for the Implementation of The Auction, every auction implementation must be conducted by and/or before the auction official means that if the execution of the auction is conducted without the presence of the auction official then it is included in violation of the provisions of the auction rules. When conducting auctions the Auction Official as the leader in the auction is fair, communicative, assertive, and authoritative to ensure the creation of order, smoothness, and security in the implementation of the auction. The auction official can be assisted by the auction guide in accordance with the explanation in Article 63 of the Regulation of the Minister of Finance No. 27/PMK.06/2016 on the Instructions for The Implementation of the Auction in accordance with its terms and conditions. The auction guide may assist in the conduct of the auction conducted by the Auction Officer I or the Class II Auction Officer and notified in writing by the seller or the auction hall to the head of the KPKNL or class II Auction Officer no later than 3 (three) business days prior to the auction. In the event of the execution of this auction, the auction guide gets special power in writing from the Auction Official. In the auction stage, the Auction Official must make a price quote done by oral or in writing with the price increasing. Orally increased auction bidding can be done with or without using the limit value. If the auction bid is orally increased, which
uses the limit value then the calculation starts from at least the limit value. According to Ms. Yullinta Astried Dian Vitalova, S.H.,M.Kn argues that auctions conducted through bidding through electronic media are very easy and efficient because in this auction participants simply look through the computer screen not to have to come to the auction and avoid the intercession with the other participants. The long and complicated process is due in the auction to the management of ownership of the auctioned goods is long and complicated especially for the emptying of objects that are still controlled by the owner of the goods and the owner insists on not willing to hand over the object at auction because it feels the auction conducted is not as desired by the owner of the goods, the complexity of having to make an application for execution through the court.

3) Stage After Auction

Payment of the auction price by the winner of the auction is done in cash or cheque or giro no later than 5 (five) business days after the auction. The repayment of the auction payment is made through a special account on behalf of the Class II Auction Officer. Each auction payment is made a receipt or proof of payment by the Auctioneer. In the event that the buyer does not pay off on that business day, the auction official must cancel his or her endorsement as the winner by making a cancellation statement. The creation of an auction treatise by the authorized Class II Auction Officer. Based on Article 2 of The Minister of Finance Regulation No. 27/PMK.06/2016 on the Auction, Implementation Directive stipulates that each auction must be conducted by and/or before the Auction Official unless otherwise specified by the Government Law or Regulation. Article 3 explains that the auction is held even though only 1 (one) bidder even in the event that no bidder is still performed and made the minutes of the auction, the auction conducted in accordance with the applicable conditions cannot be canceled. The implementation of the auction can solve the problem especially related to the implementation of the auction of liability rights whereby the auction, problems related to the collateral of market credit guarantee can be resolved immediately with the sale on an auction is expected to be a lot of price support for the goods auctioned.

In addition to the above stage, the implementation of a good auction that is the implementation of the auction as stipulated in the Regulation of the Minister of Finance of the Republic of Indonesia No. 27/PMK.06.2016 on the Instructions for The Implementation of The Auction, in the implementation of the auction, must contain several important elements in it, including:

1. Performed at a specified time and place;
2. Done by announcing it first;
3. Done using special offers or price-forming, i.e. by means of a verbal quote or competitive written quote;
4. The participant submits the highest bid will be declared the winner of the auction or the buyer of the auction;
5. The execution of the auction is conducted by interference or in front of or in front of the auction official;
6. Each auction must be made by the auction official who conducted the auction.

2. The relevance of Deed of Auction Treatise with Notary As Class II Auction Officer.

The understanding of relevance according to the Great Dictionary of Bahasa Indonesia is the relationship or relationship between things. The relevance referred to here is that the author wants to find out how far the relevance or relationship of the deed of the treatise of the auction was made by the Notary as a Class II Auction Officer. In the event of other authority, Notary based on Article 35 of the Regulation of the Minister of Finance (PERMENKEU) No. 27/PMK.06/2016 on the Instructions for The Implementation of Auctions, and also regulated in Vendu Instructie contained in Article 7 may be appointed as a Class II Auction Officer. Class II Auction Officers originating from Notaries are regulated in UUJN i.e. Notaries are general officers authorized to make authentic deed and other authority as referred to in this law.

Public officials are state organs that serve the general public in the field of civil law, especially the creation of authentic deed as mentioned in Article 1868 of the Criminal Code. The appointment of a Notary as a Class II Auction Officer is based on the consideration that in such an area, usually a small town, there is no Class I Auction Officer but there are auction activities conducted by the community such as land auctions or corporate inventory in order to remove the company’s inventory.

According to Mr. Benny Kurniawan, S.H.,M.Kn as Notary, PPAT, and Auction Officer Class II in Semarang City, in today’s community life, Notary has become a profession that plays an important role because it has the task of providing service and legal counseling to the community and also has the authority to make an authentic deed that is a written proof of a state, legal event or legal action. The notary pours all the events or wills of the parties into the authentic deed so that the contents of the authentic deed are formal binding on the parties and become the perfect evidence tool for the relevant parties. In The Law of the Republic of Indonesia No. 02/2014 on amendments to Law No. 30 of 2004 on notary
departments, there are several things that are regulated, one of which can be found in the provisions of Article 15 paragraph (2) letter g in which the Notary is authorized to also make the deed of the Auction Minutes.

While it is called authentic because the auction will produce a deed of auction minutes which is an authentic deed that can be used by the seller as proof of the implementation of the sale in accordance with the auction procedure, while for the buyer as proof of purchase that can be used to return the name (Usman, 2015). The deed of the auction minutes in this case means that the Notary also serves as a Class II Auction Officer. Notary in this case the Class II Auction Officer when conducting the auction process where only voluntary non-execution auctions are authorized by the Class II Auction Officer in accordance with Regulation of the Minister of Finance No. 27/PMK.06/2016 on the Instructions for The Implementation of Auction Article 1 number 16.

Grade II Auction Officials are certain people from Notary, Assessor, Graduate of Financial Education, and Training of the Ministry of Finance or Retired Civil Servants (Civil Servants) djkn prioritized who were once Class II Auction Officials. Based on primary data, namely the results of interviews with Mrs. Yullinta Astried Dian Vitalova, S.H., M.Kn as Notary, PPAT, and Auction Officer Class II in Purwokerto, said that the formation that exists to fill as a Class II Auction Officer in a region prioritized to Retired Civil Servants (PNS) DJKN has just been to the Notary. The announcement of formation for filling as a Class II Auction Officer is also limited to leaflets affixed to the local KPKNL information board or through information obtained from fellow Notaries. At the time of the auction, the Auction Official in this case the Class II Auction Officer made an authentic deed in the form of a deed of the auction minutes, as a legal product of the auction official whose nature is likened to the legal product of a Notary i.e. an authentic deed as stipulated in Article 1868 of the Criminal Code. The deed of the treatise of the auction as an authentic deed, is a binding proof in the sense of what is written in it must be trusted by the judge and must be considered true and does not require the addition of proof.

The basis of Article 1 number 35 of the Regulation of the Minister of Finance No. 27/PMK.06/2016 on the Instructions for The Implementation of Auctions, states that:

"The Minutes of Auction is the news of the auction event made by the Auction Official which is an authentic deed and has the power of perfect proof".

This means that every auction, led by the auction office, both the Class I Auction Office and the Class II Auction Office must be made a deed of auction minutes.
However, based on the results of the interview with Mrs. Yullinta Astreid Dian Vitalova that the deed of the minutes of the auction is made it is true if there is an auction event but in this case, the auction held that there is a sale and purchase if in an auction there is no sale and there is only news of the event that stated that on the day of the auction held but there was no sale. Because basically the deed of the auction minutes will be used as proof that the auction object has changed hands from the seller’s side to the buyer’s side, and on the buyer’s side can be used as the basis for returning the name of the auction object.

When associated with the theory of legal certainty. The understanding of legal certainty according to Sudikno Mertokusumo is a guarantee that the law must be carried out in a good way. Legal certainty requires the efforts of legal arrangements in legislation made by the authorities and authorities, so that the rules have a juridical aspect that guarantees the certainty that the law serves as a rule that must be obeyed. Legal certainty is in the State of law that prioritizes the basis of legislation, propriety, and fairness that notaries must adhere to in carrying out their duties and positions relating to all its actions in the creation of authentic deed. From legal certainty brings with it that the authentic deed that has been made must provide the interpretation/certainty of the law something with the rights and obligations of the parties. The principle of legal certainty is one of the most important principles in the State of law. According to Gustav Radbruch, the law has a purpose-oriented towards the following:

1. Legal Certainty.
2. Justice.
3. Usency or benefit. (Notohamidjojo, 2011)

In order to ensure the legal certainty of a deed of auction minutes associated with an authentic deed, it is necessary to know the relevant elements of the deed of the treatise of the auction made by the Notary as a Class II Auction Officer in order to be said to be relevant as an authentic deed that is the legal product of a Notary. The existence of laws that live in society as a guideline in conducting social contracts or relationships with each other.

It should be noted that the Auction Official class II issued an authentic deed in the form of a deed of The Act of Auction must fulfill the elements of the authentic deed as stipulated by Article 1868 and 1870 of the Criminal Order. The Minutes of Auction is made to record the agreement of the seller and the buyer of the auction at the obligatory agreement stage. Obligatory agreement in its understanding is divided into 2 (two) types namely: Unilateral Agreement and Reciprocal Agreement. A Unilateral Agreement is an agreement that imposes
achievements on one side only, while the Reciprocal Agreement is an agreement that imposes achievements on both sides (Tunardy, 2012). Therefore the Class II Auction Officer is responsible for the authenticity of the Act of Auction Minutes made, in connection with the Act of The Act of Auction has three evidentiary powers as contained in the Authentic Deed, namely:

1. The Minutes of Auction has the power of outward proof. The Minutes of Auction that fulfill the elements of the authentic deed as stipulated by Article 1868 and 1870 of the Criminal War, the Minutes of Auction has three authentic elements, which are required by Article 1868 of the Criminal Court, namely:
   a. The Form of The Minutes of Auction has been determined by Articles 37, 38, 39 Vendu Reglement.
   b. The Minutes of Auction is made before the Auction Official as a General Official in accordance with Article 1a Vendu Reglement.
   c. The Minutes of Auction shall be made by the Authorized Auction Officer in his/her territory in accordance with Article 7 of the Vendu Reglement.

2. The Minutes of Auction that has the power of formal proof (formale bewijskracht).

The Class II Auction Officer is responsible for making the auction minutes that guarantee the truth/certainty of the auction date, the signatures of the parties in the treatise, the identities of the persons present in the implementation auctioneers, bidders, and auction buyers, as well as where auction sales are held.

3. The Minutes of Auction that has the power of material proof (materiele bewijskracht).

Materially, the information contained in the minutes of the auction is valid as correct, so that when used as evidence in advance of the court is considered sufficient and the judge is not allowed to ask for any other evidence. (Sianturi, 2009)

Other elements in Article 1868 of the Civil Code if applied in the Auction Minutes then there is proof that the Auction Minutes are authentic deed, namely as follows:

1. The creation of the Auction Minutes is done in front of or by the Auction Official
2. The Auction Official who makes the Deed of The Auction Minutes has authority.
3. Making the Deed he made (Class II Auction Officer authorized to make The Auction Treatise and voluntary non-execution auction type).
4. When the deed is made (still active as an Auctioneer or not).
5. Where the deed is made (related to the territory of the office). For whom the deed was made (for the benefit of the auction service user).

The provisions of the authentic deed as proof tools are contained in the evidentiary law (bewijsrecht) outlined in book IV of the Civil Code, that the evidence tool is written in particular the authentic deed and what the terms look at in Article 1869 and 1870 of the Book of Civil Law. Article 1869 of the Civil Code states "A deed that because of the line power or ine/iciency of the officer referred to above or due to a defect in its form cannot be treated as an authentic deed but has the power as a deed under hand if the act is signed by the parties".

The Auction Minutes are legal products made by the Auction Official. This was then reinforced by Regulation of the Minister of Finance No. 1899/PMK.06/2017 on Class II Auction Officials which states that the Auction Official is a person who under the laws and regulations is given special authority to carry out the sale of goods at auction. Attributed to the general official's understanding in the previous explanation, the auction official can be categorized as a general official intended by Code Civil Article 1868. If the minutes of the auction is made by the Auction Official as a General Officer then the minutes of the auction are including the type of deed or deed of the official.

Reviewing the expansion of authority to notaries to make auction minutes mentioned in Article 15 Paragraph 2 letter g of the Notary Department Law cannot be immediately implemented because based on Article 35 Vendu Reglement Jo. PMK No. 159/PMK.06/2013 only notaries have been appointed and appointed class II Auction Officials who are authorized to lead the conduct of the auction and make the Auction Minutes. Thus, the Notary is not authorized to make the Deed of The Treatise of Auctions in its capacity as a Notary, as it would be contrary to Article 35 of the Auction Regulation (VenduReglement). Notaries can only make the deed of auction minutes and conduct the auction in its capacity as a Class II Auction Officer, as stipulated in Article 7 of the Auction Instruction (Vendu Instructie) Jo. Article 1 number (3) regulation of the Minister of Finance of the Republic of Indonesia No. 189/PMK.06/2017 on Class II Auction Officials.

Besides, legal certainty in the event of the deed of auction minutes made by notaries as Class II Auction Officers may be reflected in Article 32 paragraph (1) letter d of the Regulation of the Minister of Finance No. 189/PMK.06/2017 on Class II Auction Officials i.e. in carrying out their position is obliged to examine the formal legality of the subject and the object of the auction. Article 1 letter 24 regulation of the Minister of Finance No. 27/PMK.06/2016 on the Auction,
Implementation Directive provides a definition of the formal legality of the subject and the auction object is a condition in which the auction requirement document has been fulfilled by the Seller according to the type of auction and there is no difference in data, indicating the legal relationship between the Seller (the subject of the auction) and the goods to be auctioned (the auction object) thus assuring the auction official that the auction subject is entitled to auction the auction object and the auction object can be auctioned.

Based on the results of the author's analysis, the Deed of The Minutes of Auction made by the Notary as a Class II Auction Officer has been relevant because the deed of the treatise of the auction is an authentic deed that has the power of binding and perfect proof, which meets all the requirements set by the applicable Legislation and can be used as a valid evidence tool at the trial and has legal certainty. Binding means that what is listed in the deed must be trusted by the judge which is considered to be true, as long as the untruth is not proven. While what is meant perfectly means that with the proof of an authentic deed, it is enough to prove an event or right without the need to add proof with other evidence tools. While the legal certainty here means that the deed guarantees the rights and obligations of each party that makes an agreement on an event.

**Conclusion**

Based on the results of research that have been conducted with the title "Relevance of The Deed of Treatise in the Implementation of Auctions By Notary As a Class II Auction Officer", it can be concluded that:

1. Notary authority as a Class II Auction Officer in the implementation of the auction is to make the deed of the treatise of the auction is an authority based on attribution as stipulated in Article 15 paragraph (2) letter g of Law No. 2 of 2014 on the Notary Department jo Article 1a Vendu Reglement and Article 7 vendu Instructi. Notary positions serving as Class II Auction Officers cannot be said to be multiple positions as prohibited in Article 17 of UUJN, because the authority to make the deed of the auction minutes is carried out by the Notary in its capacity as a Class II Auction Officer and is owned only by notaries who have gone through the process of appointment and appointment as Class II Auction Officer in accordance with Regulation of the Minister of Finance No. 27/PMK.06/2016 on The Instructions for The Implementation of Auctions and Regulation of the Minister of Finance No. 189/PMK.06/2017 on Class II Auction Officials.
2. The relevance of the deed of the treatise of the auction with the authentic deed based on Article 1868 of the Criminal Code can be seen from the elements of the authentic deed that there is a correlation with the formula of the deed of the treatise of the auction. So the deed of the treatise of the auction is part of the authentic deed made by the Notary so that the deed of the treatise of the auction has legal certainty.

Suggestions

1. The Government should pay attention and make changes to Article 15 paragraph (2) letter g so as not to cause speculation that not all Notaries should have the authority to make a deed of the treatise of the auction. The actual authority to make the deed of the minutes of the auction is notary in its capacity as a Class II Auction Officer who has gone through the process of appointment.
2. For a Notary to carry out his obligations either as a Notary himself or to serve as a Class II Auction Officer shall be able to apply the principle of prudence because the existing rules have not sufficiently accommodated the Notary's position as a Class II Auction Officer.

References


