

**PERTIMBANGAN HUKUM HAKIM TERHADAP PENOLAKAN
GUGATAN PMH DALAM PELAKSANAAN LELANG HAK
TANGGUNGAN SERTA AKIBAT HUKUMNYA**

(Studi Kasus Putusan Nomor 101/Pdt.G/2023/PN. Kln)

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ABSTRAK

Eksekusi lelang hak tanggungan dalam realitanya sering menghadapi berbagai permasalahan, salah satu permasalahannya adalah adanya gugatan terkait rendahnya Nilai Limit lelang, gugatan tersebut biasanya menjadi dasar bagi debitur untuk mendalilkan petitum Perbuatan Melawan Hukum kepada kreditur. Penelitian pada putusan nomor 101/Pdt.G/2023/PN. Kln bertujuan untuk mengetahui bagaimana pertimbangan hukum hakim dalam menolak gugatan Perbuatan Melawan Hukum terkait Nilai Limit pada lelang hak tanggungan yang diajukan Penggugat serta bagaimana akibat hukumnya terhadap penolakan gugatan Perbuatan Melawan Hukum dalam lelang hak tanggunannya. Penelitian ini menggunakan metode penelitian Yuridis Normatif, dengan spesifikasi penelitian preskriptif analisis, dan sumber datanya adalah data sekunder.

Berdasarkan hasil penelitian pada putusan nomor 101/Pdt.G/2023/PN. Kln ditemukan bahwa pertimbangan hukum Majelis Hakim dalam menolak gugatan PMH terkait rendahnya Nilai Limit adalah karena alat bukti yang digunakan oleh Para Penggugat bukanlah sebuah akta otentik sehingga tidak memiliki kekuatan pembuktian dan juga Majelis Hakim mempertimbangkan bahwa penetapan nilai limit lelang yang dilakukan oleh Para Tergugat sudah menerapkan prinsip kewajaran karena sudah sesuai dengan Pasal 48 ayat (1) Peraturan Menteri Keuangan Republik Indonesia PMK 213/PMK.06/2020 Tentang Petunjuk Pelaksanaan Lelang. Pertimbangan hukum majelis hakim dalam menolak gugatan tersebut berdasarkan kebenaran formil sudah tepat. Namun, masih terdapat cacat materil karena lelang yang dilakukan oleh kreditur dalam prosedur pelaksanaan lelangnya mengandung cacat materiil dalam penetapan nilai limitnya yaitu melanggar ketentuan Pasal 51 PMK 213/PMK.06/2020 Tentang Petunjuk Pelaksanaan Lelang sehingga menyebabkan kerugian bagi Para Penggugat yang memungkinkan untuk dapat diajukan gugatan pembatalan lelang.

Kata Kunci: Lelang, Hak Tanggungan, Nilai Limit, Perbuatan Melawan Hukum

**LEGAL CONSIDERATIONS OF JUDGES REGARDING THE
REJECTION OF THE LAWSUIT OF UNLAWFUL ACTS IN THE
IMPLEMENTATION OF MORTGAGE AUCTIONS AND ITS LEGAL
CONSEQUENCES**

(Case Study of Decision Number 101/Pdt.G/2023/PN. Kln)

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ABSTRACT

The execution of mortgage auction rights often faces various issues in reality. One of the problems is the existence of lawsuits related to the low Auction Limit Value. Such lawsuits are usually used by debtors to assert a claim of Unlawful Acts against creditors. The research on decision number 101/Pdt.G/2023/PN. Kln aims to understand the legal considerations of judges in rejecting the lawsuit of Unlawful Acts related to the Auction Limit Value in mortgage auctions filed by the Plaintiffs, and the legal consequences of rejecting the lawsuit of Unlawful Acts in mortgage auctions. This research uses a Normative Juridical research method, with prescriptive analytical research specifications, and the data source is secondary data.

Based on the research results on Decision Number 101/Pdt.G/2023/PN. Kln, it was revealed that the legal considerations of the Panel of Judges in rejecting the claim of unlawful acts concerning the low Auction Reserve Price were due to the evidence presented by the Plaintiffs, which was not an authentic deed and therefore lacked probative value. Furthermore, the Panel of Judges considered that the determination of the Auction Reserve Price by the Defendants adhered to the principle of reasonableness, as it complied with Article 48 paragraph (1) of the Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020 concerning Guidelines for Auction Implementation. The legal considerations of the Panel of Judges in rejecting the claim were correct based on formal truth. However, there remains a material defect as the auction conducted by the creditor contained material flaws in the determination of the Auction Reserve Price, which violated the provisions of Article 51 of Regulation Number 213/PMK.06/2020 concerning Guidelines for Auction Implementation. This violation caused harm to the Plaintiffs, which may serve as grounds for filing a lawsuit to annul the auction.

Keywords: Auction, Mortgage, Limit Value, Unlawful Act