

Legal Protection for Auction Winners Regarding Objects of Encumbrance

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KEYWORDS	ABSTRACT
Regulation; Legal protection for auction winners	After the payment for the auction object is made by the buyer to the auction seller, the purpose is to repay the debtor's debt to the creditor. This study examines the Auction Regulation for the Execution of Guarantee Rights and its alignment with the principles of fairness, focusing on the obstacles faced by auction winners when debtors refuse to vacate the collateral property. The research uses the constructivism paradigm, which views legal science as dealing primarily with laws and regulations. The research approach is social legal research, employing a normative legal research method—also known as literature law research or doctrinal law research—because this study is conducted through library research consisting of legal materials and supported by secondary legal sources. The research findings show that the regulation of the execution of rights of dependents has not been fair due to Article 20 of the Law on the Rights of Dependents and Articles 200 and 224 of the HIR. Article 6 of Law No. 4 of 1996 and the Regulation of the Minister of Finance, as well as Law No. 12 of 2011, are also relevant. Furthermore, weaknesses in the regulations include the contradiction between the legal substance of Article 6 of the HT Law and the explanation of Article 26 of the Law on the Rights of Dependents. The implementation of execution is also based on Article 224 of the HIR.

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INTRODUCTION

The State of Indonesia is a state of law (Juanda, 2023; Suwadi et al., 2024). The affirmation of this constitutional provision means that all aspects of life in society, statehood, and government must always be based on the law (Panjaitan, 2021). The State of Indonesia is a state of law. The affirmation of this constitutional provision means that all aspects of life in society, statehood, and government must always be based on the law. To realize a state of law, legal instruments are needed to regulate balance and justice in all areas of life and livelihood of the people through laws and regulations without overriding the function of jurisprudence (Anshar & Netrivianti, 2024; Omozue, 2025). This shows that laws and regulations have an important role in the Indonesian state of law (Akmal, 2023; Fauzia et al., 2021; Widiarto et al., 2025).

The Regulation of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning the Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration does not provide provisions on the definition of “object of dispute in court.” As a result, this regulation gives rise to multiple interpretations for its readers (Brown & Pressley, 2023). From the perspective of dogmatic law, when a text is ambiguous, interpretation is needed through commentary. Such interpretation may be additional or complementary to ensure that people understand and accept the law correctly, avoiding misunderstanding or double meaning (Marin, 2022; Morgan, 2022).

Law Number 4 of 1996 concerning Dependent Rights on Land and Objects Attached to Land (UUHT) declares that all provisions regarding Creditverband in Book I of the Civil Code,

which were enforced based on Article 57 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), are invalid. Article 20 of UUHT regulates various implementations of execution, namely: parate execution of dependent rights; execution of executory title of dependent rights; and voluntary sales under hand (Muslim et al., 2021; Pontoh & Sudirman, 2024; Retnowati et al., 2023).

In addition to the executions mentioned above, the Law on Dependent Rights also provides protection to creditors in cases of debtor default, as stipulated in Article 6 (Handitya, 2021; Handoko, 2021; Hendrawan et al., 2023; Sahda et al., 2025). According to Retnowati (2023), if the debtor defaults (injury of promise), the holder of the dependent rights has the right to sell the object of such rights through a public auction and receive repayment of receivables from the proceeds of the sale. Article 224 HIR, as referred to in Articles 6 and 20 of Law Number 4 of 1996, grants authority to creditors as holders of dependent rights to execute those rights (Al Ghani & Tanawijaya, 2024; Komara & Adjie, 2023). However, the execution of auctions often creates legal problems for both auction winners and debtors (Rusmana et al., 2025; Soman, 2025; Soraya, 2021). When debtors feel their rights are violated, it becomes a legal problem for the auction winner who seeks possession of the auctioned object, as the debtor often refuses to vacate it (Octavian, 2024; Rusmana et al., 2025).

Recent studies have critically examined the legal framework surrounding land disputes and the execution of dependent rights (Fuad et al., 2023; Iqbal et al., 2025). For instance, Pertiwi (2024), in her study on challenges in the implementation of land dispute settlements in Indonesia, suggests that existing laws, including those regulating dependent rights, lack clarity—resulting in confusion during the auction execution process. Pertiwi asserts that ambiguities in interpreting certain terms within the Regulation of the Minister of State Agrarian Affairs Number 3 of 1997 have led to multiple interpretations and, consequently, disputes among stakeholders involved in land transactions, particularly creditors and debtors. This study clarifies how such ambiguities undermine legal certainty and fairness but stops short of proposing concrete solutions to bridge this legal gap (Tampubolon, 2025).

Similarly, Sianipar (2024), in their research on the enforcement of dependent rights in land and buildings, emphasize the creditor's role in protecting their interests, especially in cases of debtor default. They discuss how the laws related to voluntary sales, underhand transactions, and public auctions have a well-defined structure but face implementation challenges due to debtor resistance. They also highlight the tensions between debtor and creditor rights, particularly when disputes arise during the auction process. Although they acknowledge the need for legal amendments to improve clarity, they do not explore how the law could be reinterpreted or restructured to ensure the protection of all parties involved.

This research aims to clarify legal interpretations surrounding the execution of dependent rights and propose amendments to strengthen legal certainty in land transactions and auctions. By examining the intersection of creditor rights and debtor protection, this study seeks to offer practical recommendations to enhance the law's effectiveness. The expected benefits include clearer legal guidelines, stronger protection for stakeholders in land transactions, and a reduction in legal conflicts arising from the execution of dependent rights.

RESEARCH METHOD

This research adopted the constructivism paradigm, which viewed legal science as primarily concerned with laws and regulations. The research approach was social legal research, employing a normative legal research method conducted through library research using primary and secondary legal materials. The data collection technique involved literature and document analysis, focusing on reviewing and interpreting legal texts and scholarly works to identify relevant principles, norms, and interpretations. Data were analyzed using a descriptive-qualitative method by interpreting statutory provisions and comparing them with relevant case

law to draw conclusions about their application and implications for fairness and justice. The study aimed to explain how legal norms were shaped by social contexts and how legal interpretations evolved in response to societal changes.

RESULTS AND DISCUSSION

Legal Provisions on the Implementation of Auction for the Execution of Dependent Rights In the context of the Basic Agrarian Law (UUPA) No. 5 of 1960, the auction of dependent rights (security rights) is regulated in Law No. 4 of 1996 concerning Dependent Rights several important provisions regarding the auction of dependent rights based on this regulation: 1. Definition of Dependent Rights Dependent Rights are security rights charged on land and/or movable objects related to land as security for debt repayment. This right gives the creditor the right to execute the guarantee if the debtor fails to pay the debt. 2. Parties Involved - Creditors: Parties who have the right to execute the right of dependency and are entitled to the auction proceed for debt repayment Debtors: Parties who borrow money and pledge land or movable objects as dependents Court: Institutions that issue decisions and orders for auction execution in the event of default. 3. Procedures and Procedures - Auction Execution: The auction procedure must comply with the applicable legal provisions, including notification to the relevant parties, the determination of the time and place of the auction, and the execution of the auction by the authorized auction official. Disbursement of Auction Proceeds: The proceeds of the auction are used to pay debts in order of interest, after the auction fees and secured debts are paid, the rest of the auction proceeds are handed over to the debtor

Legal provisions regarding the auction of dependent rights are regulated with the aim of providing legal certainty for related parties in debt and receivables transactions who use dependent rights as collateral. This process ensures that the creditor's right to get debt repayment is protected, while the debtor's rights are also taken into account with fair procedures. Legal protection for buyers of the auction of dependent rights Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) regulates legal protection for buyers in the auction of dependent rights. Some of the important points related to this legal protection include:

- 1) Registration Basis: The dependent rights must be registered to obtain enforceability against third parties. Buyers who buy in the auction of registered dependent rights obtain legal certainty.
- 2) Protection of Buyers: Buyers who acquire dependent rights in a legitimate auction have the right to enforce such rights against other parties, provided that the transaction complies with the provisions of the UUPA.
- 3) Obligations and Responsibilities: The buyer in the auction of the right of dependency is obliged to fulfill the obligations arising from the right of dependency, such as paying debts secured by the right of dependency.
- 4) Legal Certainty Check: Before making a purchase transaction, prospective buyers are advised to carefully check the legal status of the dependents they will buy to avoid problems in the future.
- 5) This legal protection aims to provide legal certainty to the buyer of the auction of dependent rights, so that the transaction is carried out smoothly and in accordance with applicable law.

CONCLUSION

The study found that the execution of dependent rights, whether through fiat or parate execution, was carried out by auction officials under the authority of KPKNL, in accordance with Law Number 6 of 1996 and Minister of Finance Regulation Number 27/PMK.06/2016. This process ensured legal protection and certainty for auction winners, particularly in obtaining land ownership certificates. Article 35 paragraph (3) of the Minister of Agrarian Affairs Regulation Number 13 of 2017 guaranteed legal protection for auction buyers by allowing them to register the transfer of rights with BPN, although Article 35 paragraph (5) restricted them from selling disputed land until the legal process concluded—sometimes over several years. This limitation created obstacles for creditors and reduced interest among potential buyers due to uncertainties in certificate transfer and security of ownership. Legal protection for auction winners included both preventive measures, which safeguarded buyers during the purchasing process, and repressive measures, which ensured their rights were upheld after purchase. Future research should focus on developing more efficient legal mechanisms to expedite dispute resolution and enhance legal certainty for auction participants.

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